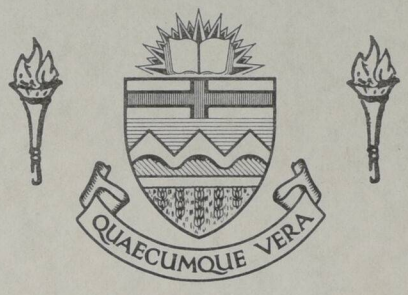
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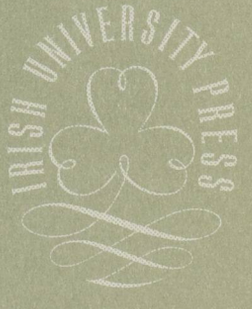
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CORRESPONDENCE RELATING TO CANADA AND LORD DURHAM'S VISIT THERETO

1839

Colonies

Canada

10

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TWENTY-ONE VOLUMES.

—*(3.)*—

COLONIES:

BRITISH NORTH AMERICA.

Session

5 February——*27 August* 1839.

VOL. XXXII.

1839.

956279

ACCOUNTS AND PAPERS:

1839.

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BRITISH NORTH AMERICA.

COPIES OR EXTRACTS

OF

CORRESPONDENCE

RELATIVE TO THE

AFFAIRS OF BRITISH NORTH AMERICA.

(PRESENTED BY HER MAJESTY'S COMMAND).

Ordered, by The House of Commons, *to be Printed,*
11 *February* 1839.

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BRITISH NORTH AMERICA.

COPIES or EXTRACTS of CORRESPONDENCE relative to the Affairs of BRITISH NORTH AMERICA.

From Lord Glenelg.

—No. 1.—

(No. 28.)

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

Sir, Downing-street, 19 February 1838.

No. 1.
Lord Glenelg to Sir J. Colborne, 19 February 1838.

I HAVE the honour herewith to transmit to you an Act of Parliament which received the Royal Assent on the 10th instant, intituled, "An Act to make temporary Provision for the Government of Lower Canada."

In pursuance of the 7th section of this statute, you will cause the Act to be publicly proclaimed in the province on an early day after it reaches your hands.

In exercise of the powers vested in The Queen by the second section of the Act, Her Majesty, with the advice of Her Privy Council, has been pleased, by instructions under Her Majesty's signet and sign manual, which I herewith transmit to you, to constitute a Special Council for the affairs of Lower Canada, and for this purpose to authorize the Governor of the province to appoint any number of special councillors, not less than five, subject to the condition that they should all be natural born or naturalized subjects of the Crown, of approved loyalty, and that no person should be so appointed under the age of twenty-one years.

The eighth section declares, that for the purposes of this Act, any person authorized to execute the commission of Governor of Lower Canada, shall be taken to be the Governor thereof; and as some legislative enactments will be required within the province in the interval which will elapse between the proclamation of this Act and the arrival of the Earl of Durham, it will devolve on you in the first instance to carry these instructions into effect, so far as it may be necessary to do so, during your provisional administration of the government. You will therefore at once appoint a Special Council in pursuance of Her Majesty's instructions, carefully selecting for this office individuals in whom public confidence can be placed.

Various Acts of the provincial legislature of great importance to the interests of the inhabitants will, if not renewed, expire on the 1st day of May next. A list of these Acts is contained in Lord Gosford's despatch of 9th November 1836. You will propose to the council the continuance for a limited time of such of these Acts as ought not to be allowed to expire.

With regard to the persons who have been apprehended for political offences and are now in confinement, Her Majesty's Government desire that such of them as you may not think it right at once to liberate should not be brought to trial, unless they can be tried by the ordinary tribunals of the country. In case, therefore, a reference to the ordinary tribunals should not, in your judgment, be yet advisable, a law ought to be passed for the suspension of the

No. 1.
Lord Glenelg to Sir J. Colborne, 19 February 1838.

Habeas Corpus Act, which will enable you to detain such persons in prison till the arrival of Lord Durham. You will propose to the council this measure, if, for the reason I have stated, or for any other reason, you may think it expedient. You will thus be enabled immediately to revoke the proclamation of martial law in the district of Montreal, if still in force. You will also propose to the Council any other measure which the circumstances of the province may render necessary, and which cannot safely be postponed until the arrival of the Governor-general; and you will submit to it an ordinance in conformity with the 4th clause of the enclosed Act, authorizing the repayment out of the monies in the hands of the Receiver-general of the sums advanced from the Imperial Treasury, under the Act of the last Session of Parliament, for services connected with the administration of justice, and of the civil government of Lower Canada.

As you will avail yourself of the Crown revenues for the ordinary purposes of the government during your provisional administration, Her Majesty's Government recommend that, with the exception above-mentioned, you should not propose to the council any law for the appropriation of the public monies of the province, unless in the event of any urgent necessity for expenditure which cannot be defrayed from other sources.

It is the intention of Her Majesty's Government that the Earl of Durham should enter on the discharge of the duties with which he is entrusted wholly unfettered as to the choice of councillors; and with this view you will cause it to be distinctly understood by every gentleman whom you may nominate to the special council, that his appointment will be entirely provisional, and that the Royal instructions which I now send will be revoked and superseded by the commission and the instructions under the sign manual and signet, of which Lord Durham will be the bearer. It is of the utmost importance that, with the responsibility which will attach to the discharge of the important functions of the Governor-general, he should be wholly unrestricted by any previous selection in the composition of the council with which he will act. The tenure of the office of special councillor under the accompanying instructions will therefore be clearly understood as only temporary. There are some other topics affecting chiefly the manner of proceeding under this Act, to which it is necessary that I should direct your attention.

You will observe that, in the event of the delegation by The Queen to the Governor, of the power of appointing the special councillors, no particular form of making that appointment is prescribed. You will act in this respect under the opinion of the provincial law officers of the Crown. But I would suggest, that the proper form would be that of addressing to each special councillor a commission in Her Majesty's name, under the public seal of the province.

In conducting the business of a legislative body, novel in its constitution, many questions of form will present themselves which it is desirable to anticipate. The Crown, in the exercise of its prerogative, has repeatedly, of late years, established councils possessing legislative authority in other British colonies. It has been customary on such occasions to require, as a preliminary to any other proceeding, that some fixed rules should be laid down for regulating the procedure of the legislature, for the purpose of maintaining order and regularity, and for the prevention of possible abuses.

As an example, I may refer to the case of the Cape of Good Hope, where, in obedience to the Royal instructions, the Governor, with the assistance of his legal advisers, framed and proposed to the council, at their first meeting, a short code of rules, which, with a few subsequent alterations, have continued to the present day to form the guide of their legislative proceedings.

I enclose a copy of them, as they may be found useful in suggesting some corresponding regulations to be recommended to the special council of Lower Canada. I need hardly say that they are not to be regarded as precedents for exact imitation, some of them being obviously inapplicable to the special council in Lower Canada, but merely as affording an example which you will use so far, and only so far, as it may appear to you adapted to the case and the circumstances of the province. The rules adopted should likewise be provisional only.

The

No. 1.
Lord Glenelg to Sir J. Colborne, 19 February 1838.

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

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

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

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

I have, &c.

(signed) *Glenelg.*

—No. 2.—

(No. 50.)

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

Sir, Downing-street, 19 March 1838.

No. 2.
Lord Glenelg to Sir J. Colborne, 19 March 1838.

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

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

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

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

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

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To any change of the tribunal for the trial of offences previously committed, infringing as it would the principles by which the administration of the criminal law is guided throughout the British dominions, Her Majesty's Government are not prepared to give their sanction without previously submitting to a practical test the anticipations as to the issue of trials by the ordinary tribunals.

Her Majesty's Government are gratified to find that you have already been able to release more than 200 prisoners. It does not clearly appear what is the number now awaiting their trial, but it is probably considerable. I presume that, before the arrival of this despatch, a careful scrutiny will have been instituted, for the purpose of ascertaining whether there are others who may safely be discharged. I observe that this course is recommended by the Attorney and Solicitor-general, who " deem it advisable, for the ends of justice, that all the cases of the prisoners now confined should be examined into; and if upon such examination it should be found that any of the prisoners should have erred from ignorance or intimidation, they should be released."

Before the commencement of any trials, it will be necessary to reduce the number of prisoners to those only whose offences could not be overlooked without serious danger to the future tranquillity of the province. Even amongst these there will be distinctions to be made. Some might perhaps be safely arraigned and permitted to plead guilty, if they should be willing to adopt this course, upon an assurance that the judgment recorded against them should not be executed if they would voluntarily withdraw from Her Majesty's dominions in British North America, and continue absent. In such cases, it will be necessary to require some security against their return. This species of exile, not being wholly unattended with hope of restitution to their homes at some future period, might not only relieve Lower Canada from the presence of the offenders, but might afford some security against their plotting against the public peace while resident in the adjacent states.

Supposing this preliminary process to be completed, you will then, from the remaining number, select four or five cases, and bring them for trial before the ordinary courts of the province, with juries convened according to the existing practice. The choice should be made from those prisoners against whom the evidence appears to be free from all reasonable doubt; while, at the same time, it will be desirable to avoid selecting those in whose behalf the greatest degree of the sympathy of the disaffected would be called forth. If the verdicts shall be pronounced impartially, you will then proceed to try the rest in the same manner. If, on the contrary, the juries on these trials shall, in fulfilment of the predictions of the magistrates and Crown lawyers, act under the influence of manifest partiality, it will then be your duty not to proceed further in bringing offenders to trial, but to detain in custody all those untried prisoners whose liberation would, in your judgment, endanger the safety of the province. The law which you have already been authorized to propose to the special council for the suspension of the Habeas Corpus Act will enable you legally to effect their detention.

It appears desirable that the prosecutions which may be brought to trial should be conducted with the utmost possible solemnity, and therefore if the statute law of Lower Canada has not superseded the power of the Crown to issue a special commission for the purpose, addressed to all the judges of the supreme courts of the province, or to the majority of them, that course ought to be taken. If there is any statutory impediment to this mode of proceeding, you will consider of the expediency of removing it by a law to be passed for the purpose by the special council.

The objections to changing the place of trial to any district of the province in which the juries would be drawn exclusively from the political opponents of the accused parties are evident and insuperable. But there would be no valid objection to transferring the trials from Montreal to Quebec, if such a change should afford a reasonable prospect of greater impartiality in the administration of justice.

You will not bring to trial any person charged with murder, in the ordinary sense of the term. Trials for murder committed in cold blood, and not under the incitement

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incitement of actual warfare, should be postponed until the excitement of the public mind has in some degree subsided. It is of great importance that criminals guilty of such an offence should not be confounded in public estimation with offenders who are chargeable with merely political offences.

In the contingency of any capital convictions taking place for political offences, you will reserve such cases for the consideration of Her Majesty's Government.

I am, &c.

(signed) *Glenelg.*

—No. 3.—

—No. 3.—

(No. 1.)

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

No. 3.
Lord Glenelg to the Earl of Durham, 20 January 1838.

My Lord, Downing-street, 20 January 1838.

ALTHOUGH it will be necessary to reserve, until the approach of the period of your proceeding to Canada, the full instructions which it will be my duty to address to your Lordship, with respect to the important mission which you have undertaken, Her Majesty's Government feel it incumbent on them to take the earliest opportunity of briefly explaining to you, in an official communication, the general line of policy which appears to them best calculated to affect a permanent settlement of the various questions which will demand your attention.

I abstain here from adverting to the measures which may be requisite in order to suppress any remaining symptoms of resistance to Her Majesty's authority; because, from the information which I at present possess, I am induced to hope that, before your arrival in Lower Canada, all open attempts to disturb the public peace, or to impede the due administration of the law, will have been effectively put down; and I trust that the large increase which will be made to the military force in the province on the opening of the navigation will render hopeless any further designs of an insurrectionary character.

Tranquillity having been restored, it will be your duty to enter on the more arduous part of the task committed to you, and to consider what steps should be adopted in order to prepare the way for a return to a system of government founded on those principles of liberty which form the basis both of the British constitution and of that which was given to Canada by the Imperial Act of 1791.

It is upon such a system alone that, in the opinion of Her Majesty's advisers, the colony can be permanently governed with advantage either to its inhabitants or to the mother country; but, after the disturbances by which the province has been convulsed, it can scarcely be expected that it will at once be restored to such a state of calmness as to allow a regular constitutional mode of government to come into beneficial operation immediately on the suppression of the insurrection; it is therefore proposed that for a limited time Parliament should authorize a different method of administering the affairs of the province. This, however, is but a temporary expedient, intended only to meet the actual crisis, and to afford time for removing the obstacles which have of late years prevented the successful working of a more regular and liberal system of government. It will be your chief aim to prepare the way for the earliest practicable return to such a system, and for this purpose you will use every means in your power to undeceive those who have been betrayed into disaffection, and to reconcile the different classes of the population to each other and to the Government. Your personal influence, and your prompt and impartial attention to every real grievance and every well-founded complaint, Her Majesty is persuaded will have a powerful effect in contributing to this most desirable result.

I need not here advert to the differences which have so long prevailed between the executive government and the legislature of the province. You are already acquainted with their history and character; and you are also aware that, in the year 1835, Commissioners were sent out by the Government of his late Majesty for the purpose of ascertaining the causes which had led to these differences, and of inquiring what alterations it would be right to make in the laws and constitution of the colony with a view to their adjustment. Early in the last year the final reports of the Commissioners were received, and measures founded upon the information which they afforded, and the suggestions they contain were in the course of being submitted to Parliament, when the execution of this design was unavoidably interrupted by the demise of his late Majesty.

The events which have since taken place in Lower Canada, and the degree to which they have exasperated the contending parties in that colony, have rendered it inexpedient, in the opinion of Her Majesty's Government, again to bring forward propositions which were calculated to meet a very different state of hings from that which at present exists.

More extensive changes in the Act of 1791 than were then in contemplation seem now to be required, since it is hardly to be hoped that when an actual conflict must have so greatly inflamed those mutual jealousies and animosities between

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between different classes of the population which before obstructed the working of that Act, it could, without very material alterations, be brought again into beneficial operation.

The necessity which has thus arisen of looking to more important amendments of the Act of 1791 than were originally contemplated is a sufficient reason for not at once recommending these amendments to Parliament, with a view to their immediate adoption, since the authority of the Imperial Legislature could not with advantage be employed in carrying into effect changes of this description before the wishes and opinions of those whom they would more immediately affect could be ascertained, especially as the interests of Upper Canada must of necessity be influenced in a greater or less degree by whatever may be done with respect to the Lower province.

In looking back to the history of the now long-continued dissensions of Lower Canada, it may be remarked that one prominent topic of complaint from the party opposed to the majority of the Assembly has been the anti-commercial spirit of legislation attributed to that body, and their alleged indifference to measures calculated to promote the industry of the colony, and the development of its natural resources. This disposition of the representatives of the French population of Lower Canada has been also urged as a most serious grievance by the inhabitants of the Upper province, which by its situation is rendered in great measure dependent, in all that relates to its foreign trade, on the legislation of the former colony. To meet these complaints it has, as you are aware, been frequently proposed, that the two provinces should be united under a common legislature, and some years ago a Bill for effecting that object was actually introduced into Parliament, where, however, upon discussion, it was abandoned. So recently as the beginning of last year, both branches of the legislature of Upper Canada concurred in representing, by a joint address to the Crown, the grievance which they suffered in being denied a freer access to the ocean, and the House of Assembly in another address prayed that the evil might be remedied by the annexation of the island of Montreal to the Upper province.

In order to lay the ground for the permanent settlement of the questions which agitate Lower Canada, and also of those which create divisions between Upper and Lower Canada, it will probably be found necessary to resort to some legislative measures of a comprehensive nature; but before such measures can be framed and submitted to Parliament, it would be highly desirable to ascertain the wishes and opinions of the people of both provinces regarding them.

This object could best be attained by a personal communication on your part with such persons selected from each province as may be presumed, from their station, character and influence, to represent the feelings of their fellow-countrymen in general. It seems advisable, therefore, to authorize your Lordship, if you should so think fit, to call around you a certain number of such persons, with whom you might take counsel on the most important affairs of the two provinces, the time of meeting of such a committee of advice being left entirely to your discretion.

You are therefore empowered to select three members from the legislative council of Upper Canada to attend such meeting, and to invite the House of Assembly of Upper Canada to nominate ten of its members for the same purpose. Under ordinary circumstances the same course would be pursued with respect to the legislature of Lower Canada. But if the Bill now before Parliament should be passed into a law, recourse must be had, during the suspension of that legislature, to another mode of supplying the deficiency.

You will accordingly, during such suspension, select three members of the body at present composing the legislative council, and will take measures for calling on the electors in each of the five districts into which Lower Canada is now divided to elect two persons to sit in the committee. Your Lordship can obviate any difficulty which may stand in the way of holding such elections by an ordinance for this purpose to be passed by the authority of the Governor in council.

The committee will thus consist of twenty-six members, over whose deliberations you will of course preside.

The committee being thus formed, you will bring before them the subjects on which you desire to receive their opinion and advice. Among the most important of these are the questions in debate between the two Canadian provinces.

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In the last session, both Houses of Parliament passed a resolution, "That great inconvenience has been sustained by His Majesty's subjects inhabiting the provinces of Lower Canada and Upper Canada, from the want of some adequate means for regulating and adjusting questions, respecting the trade and commerce of the said provinces, and divers other questions wherein the said provinces have a common interest, and it is expedient that the legislatures of the said provinces respectively be authorized to make provision for the joint regulation and adjustment of such their common interests."

It is clear that some plan must be devised to meet the just demands of Upper Canada.

It will be for your Lordship, in conjunction with the committee, to consider if this should not be done, by constituting some joint legislative authority, which should preside over all questions of common interest to the two provinces, and which might be appealed to in extraordinary cases to arbitrate between contending parties in either; preserving, however, to each province its distinct legislature, with authority in all matters of exclusively domestic concern.

If this should be your opinion, you will have further to consider what should be the nature and limits of such authority, and all the particulars which ought to be comprehended in any scheme for its establishment.

The Constitutional Act of 1791 will supply another subject of deliberation, with a view to determine what measures may safely be taken to correct the defects which have hitherto interfered, at least in the Lower province, with its successful working.

The constitution of the legislative council has formed the chief topic of complaint with the House of Assembly of Lower Canada, and they have insisted that the only remedy is to be found in making the council elective.

On this subject the following resolution was last year passed by both Houses of Parliament: "That, in the existing state of Lower Canada, it is unadvisable to make the legislative council of that province an elective body, but it is expedient that measures be adopted for securing to that branch of the legislature a greater degree of public confidence."

It will be for you and the committee to consider in what manner the judgment thus pronounced by Parliament can best be carried into effect.

There are other very important subjects regarding which you will probably think it right to consult the same advisers; such, for example, as the provision that should be made to meet the necessary expenses of the civil government in Lower Canada; the state of the law affecting the tenure of landed property in that province; the establishment of a court for the trial of appeals and impeachments. There is, in truth, not one of the many interesting questions relating to the good government and well-being of the two Canadas which might not very properly engage the attention of the committee.

On all the subjects which I have specified, and on others which may come under the notice of the committee, your Lordship will probably have to recommend the adoption of some legislative measures in this country: you will transmit to me an explanation of such measures in the fullest detail, in order that the Government may consider of the propriety of submitting them to Parliament.

You are authorized to fix the times and places of the meetings of the committee, to adjourn from time to time, and to frame all regulations necessary for the despatch of business. You are also empowered to dissolve the committee at your pleasure.

It is obvious that such a body could not be assembled with advantage during the prevalence of disturbance, or while the passions excited by recent conflict are still unallayed; but should a calmer period succeed, the same tranquillity which would render the meeting of such a committee expedient would make it practicable to provide for the election of representatives for the purpose of forming part it of.

Your Lordship, however, will understand that although, with a view to ascertain the opinions of the people, Her Majesty's Government have thought it right to convey to you a distinct authority to convene such a committee as that which I have described, should your own deliberate judgment confirm the view which they at present entertain of its probable expediency, they are fully aware that other modes may hereafter suggest themselves to you by which the same end could be attained, and to which you may give a preference, as being more acceptable to the inhabitants of the respective provinces, or less liable to any objection which may arise

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

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

I have, &c.

(signed) *Glenelg.*

—No. 4.—

(No. 4.)

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

No. 4.
Lord Glenelg to the Earl of Durham, 13 March 1838.

My Lord, Downing-street, 13 March 1838.

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

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

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

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

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whom the Sovereign is represented, may fall. This is a very ancient maxim of the law of England, which, as it is founded on sound considerations of national policy, cannot be regarded as obsolete.

For these reasons, I am disposed to attach to the admitted irregularities of the transaction in question, much greater weight than the memorialists are willing to give them.

On the other hand, it is asserted by the memorialists that some of those irregularities had, in fact, been sanctioned by the local government, inasmuch as the Government had acquiesced in them habitually, with full knowledge of their existence. This is instanced especially in the practice of proceeding to sales without advertisements in the public newspaper, and the practice of accepting bills of exchange as cash in payment of the deposits. If this be truly stated, the Government is, I think, bound by its own conduct. I do not think it of any real importance that the bills were delivered three days after the sale, or even that they were drawn by one of the purchasers upon another of them, and then protested. The paper was actually received in payment, and the amount was ultimately tendered in cash before the maturity of the bill.

But there is another informality, to which much more weight is due. The late Mr. Felton had, as Commissioner of Crown lands, authority to sell 46,000 acres of land, in certain specified quantities, in six different townships. In point of fact, he put up to sale 96,000 acres, all of which appear to have been situate in two of those townships, namely, Cox and Hamilton. Mr. Felton thus took upon himself to sell, not only a quantity exceeding by nearly one-half what he was authorized to dispose of, but a quantity exceeding by nearly two-thirds the amount of which he was authorized to dispose in the townships of Cox and Hamilton. This was not a mere irregularity: it was the unlawful assumption of a power which the Crown land Commissioner did not possess; and the Government could no more be bound by such an assumption on his part, than any private man would be bound by the unauthorized act of his agent. It is not proved, nor even alleged by the memorialists, that the Government had sanctioned, or had any notice or knowledge of this extension of the sale of Crown lands.

It appears to me, therefore, that, on this ground, the Earl of Gosford was right in refusing to recognize or complete the transaction. It is said, indeed, by the memorialists, that they are, in any event, entitled to be received as purchasers to the extent of the authority actually vested in Mr. Felton, and, therefore, they claim 46,000 acres. But it is to be observed, first, that the utmost extent of authorized sales in the townships of Cox and Hamilton was not 46,000, but 35,000 acres; and, secondly, that by throwing into the market, at the same moment, twice as much land in the district as the Government, at that time, proposed to sell, the value of the whole and of each acre was depreciated.

For these reasons the claim of right appears to me to be inadmissible. But, as the memorialists urge that the transaction is beneficial to the public, and that the public interest would be promoted by the confirmation of it, I have thought it advisable to refer the decision of the question to your Lordship.

Your Lordship will not be able to form any final judgment until you shall have had an opportunity of inquiring into the facts on the spot; but I have thought it right to place you at once in possession of the case, as Mr. Bruce, one of the parties interested, is at present in this country, and has offered to wait on your Lordship to give any explanations in his power, should you desire to receive them previously to your arrival in Lower Canada.

I have, &c.

(signed) *Glenelg.*

(No. 7.) — No. 5.—

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

No. 5.
Colonial Office, 19 February.
Treasury, 8 March.

My Lord, Downing-street, 25 March 1838.

I TRANSMIT herewith, for your Lordship's information, the copies of a correspondence which has passed between this department and the Treasury on the subject of an application from Mr. Reid, Chief Justice of the Court of Queen's Bench for the district of Montreal, to be permitted to retire from that situation

on

No. 5.
Lord Glenelg to the Earl of Durham, 25 March 1838.

on a pension. In conformity with the decision of the Lords Commissioners of the Treasury, your Lordship will be at liberty, should you be of opinion that no inconvenience will thence arise to the public, to accept Mr. Reid's resignation in the event of its being again tendered, and to grant to him a retired allowance of 732*l.* per annum. On Mr. Reid's retirement it will devolve on your Lordship to select, from the members of the legal profession in Lower Canada, the person who may appear to your Lordship the best fitted to succeed to the situation now held by Mr. Reid, subject, of course, to Her Majesty's confirmation of his appointment.

I have, &c.

(signed) *Glenelg.*

Enclosure 1, in No. 5.

Sir, Downing-street, 19 Feb. 1838.

I AM directed by Lord Glenelg to transmit to you herewith, for the consideration of the Lords Commissioners of the Treasury, the copy of a despatch from the Earl of Gosford, dated 14 November 1836, enclosing a memorial from Mr. Reid, chief justice of the district of Montreal, praying to be allowed to retire from that situation on a pension. Encl. 1, in No. 5.

At the time when this despatch was received, the situation of the government in Lower Canada made it impossible to comply with Mr. Reid's request, and an intimation to that effect was communicated to him through the Earl of Gosford.

Lord Glenelg, however, is convinced that Mr. Reid's long services, and his present advanced age and infirmities, entitle his claim to retirement to favourable consideration, and that it would be very conducive to the public interests that it should be conceded.

I am therefore to request that you will move the Lords Commissioners of the Treasury to sanction the grant to Mr. Reid, out of the casual and territorial revenues of the Crown in Lower Canada, of such a retiring allowance as his services may entitle him to receive.

The length of Mr. Reid's services as judge is stated in the petition accompanying Lord Gosford's despatch to have amounted at that date to nearly 30 years, and the salary which Mr. Reid would resign, on retiring from office, amounts to 1,100*l.* sterling per annum.

I have, &c.

A. Y. Spearman, Esq., &c. &c &c. (signed) *J. Stephen.*

Enclosure 2, in No. 5.

Sir, Treasury Chambers, 8 March 1838.

THE Lords Commissioners of Her Majesty's Treasury having had under their consideration the despatch from Lord Gosford of the 14th November 1836, covering a memorial from Mr. Reid, chief justice of the district of Montreal, setting forth his advanced age and services, transmitted with your letter of the 19th ultimo, I am commanded by their Lordships to request you will acquaint Lord Glenelg that they are prepared, in concurrence with his Lordship's recommendation, to sanction the issue to Mr. Reid of such allowance on his retirement, not exceeding 732*l.* per annum, as his Lordship may see fit to authorize the Governor of Lower Canada to grant, out of the casual and territorial revenue of the Crown in that province. Encl. 2, in No. 5.

I am, &c.

James Stephen, Esq., &c. &c. &c. (signed) *A. Y. Spearman.*

—No. 6.—

(No. 8.)

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

No. 6.
Lord Glenelg to the Earl of Durham, 3 April 1838.

My Lord, Downing-street, 3 April 1838.

I HAVE the honour herewith to transmit to your Lordship four commissions under the great seal, by which Her Majesty has been pleased to appoint you to be the Governor and Captain-general of the provinces of Lower Canada and Upper Canada, of New Brunswick and of Prince Edward Island. A similar commission, appointing your Lordship to the corresponding offices in Nova Scotia, has already been transmitted to the Lieutenant-governor of that province. I also transmit a separate commission, by which your Lordship is constituted Governor-general of all Her Majesty's North American provinces, including the island of Newfoundland, and Her Majesty's High Commissioner for the investigation of certain questions depending in the Canadian provinces.

Instructions for N. Brunswick and for Prince Edward Island. Those for Upper and Lower Canada sent in subsequent despatch, No. 20, of 21 April.

In my despatch (No. 1) of the 20th of January last, I thought it my duty to record the motives which had induced Her Majesty's Government to advise The Queen to invest your Lordship with unusual and extensive powers, and I then stated the general principles by which you are to be guided in the discharge of your high and arduous duties. My immediate object is to explain what are the powers thus intrusted to your Lordship by your commissions, and by the instructions under the royal sign manual and signet which accompany them.

The deviations from former precedents which will be found in these commissions, though to a considerable extent suggested by the existing crisis in the affairs of British North America, are not all referable to considerations of an occasional or transitory nature. The usual practice has hitherto been to address to the Governor of Lower Canada a single commission for the government of the two Canadian provinces; a second single commission for the government of Nova Scotia and Prince Edward Island, and a third and separate commission for the government of New Brunswick. With the title of Governor-general, he has, in fact, been Governor of the province of Lower Canada only, and has been prohibited from resorting to any of the other provinces, lest his presence should supersede the authority of the respective Lieutenant-governors to whose administration they have been confided.

It is difficult to assign any other motive for this practice of issuing three commissions for the government of five distinct provinces to an officer whose functions were to be confined exclusively to one of them, except that this arrangement may have diminished the expenses attendant upon the issuing of such instruments. This advantage, such as it was, has, however, been far more than overbalanced by the inconvenience that two of the five provinces have been invariably left destitute of the original document upon which the powers of the local government may in a certain sense be said to have entirely depended. If any question arose at Toronto or in Prince Edward Island as to the terms of the royal commission, it could be answered only by a reference to Quebec or to Halifax.

But while the number of these instruments was thus reduced, they were filled with a multitude of superfluous words and redundant clauses, which appear to have been transcribed from ancient precedents, without any attention to subsequent changes of the law, or of the state and circumstances of the provinces.

In the accompanying commissions these inconveniences are obviated. For each separate government there will henceforth be a distinct commission, which will be found to contain no provisions but such as are necessary to impart and to define the powers which are to be exercised by the Governor, or, in his absence, by the officer charged with the administration of the government.

On your Lordship's arrival at Quebec, you will open your commission as Governor of that province, and your commission as Governor-general and Lord High Commissioner. The first of these instruments will then be deposited amongst the archives of the province; the second will remain in your Lordship's personal custody, and will accompany you to every part of British North America to which you may have occasion to resort.

The commissions for Upper Canada, for New Brunswick, and for Prince Edward Island, your Lordship will transmit to the respective Lieutenant-governors of those provinces, to be deposited amongst the archives of their respective governments. You will at the same time transmit to each the accompanying commissions under the royal sign manual and signet, renewing their several offices, which would otherwise be superseded by the revocation of Lord Gosford's commissions.

As Lower Canada is that part of British North America in which the necessity for your Lordship's presence will be chiefly felt, your residence will be principally fixed in that province; but it will probably be convenient, if not indispensable, that you should occasionally resort to all or to some of the adjacent provinces. As often as such an occasion shall arise, and your Lordship shall pass into Upper Canada, New Brunswick, Nova Scotia or Prince Edward Island, you will, by virtue of the commissions there awaiting your arrival, assume the administration of the government of the province in which you may be, and retain it during your residence in such province. During that period, the functions of the Lieutenant-governor will be altogether suspended. It is almost superfluous to suggest, that, with a view to the maintenance of the deference due to the Lieutenant-governor, and to the unimpaired revival of his authority on the resumption of

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Lord Glenelg to the Earl of Durham, 3 April 1838.

of his functions, your Lordship will afford to the Lieutenant-governor the utmost countenance in your power, and will mark, by every possible demonstration, that the temporary suspension of his command detracts nothing from his claims on the confidence of Her Majesty's Government, and the respect of the inhabitants at large. On his side, it will be the duty of the Lieutenant-governor to render to your Lordship the utmost possible assistance in the conduct of affairs with which he will be thoroughly conversant, and regarding many of which your Lordship will of course stand in need of information.

Hitherto it has not been the practice to carry on official correspondence between the Governor-general and any of the Lieutenant-governors. The Governor-general and the Lieutenant-governors have severally conducted their respective administrations as separate and independent authorities, addressing all their communications on public affairs to the head of this department, and receiving from the Secretary of State alone instructions for their guidance. As, however, the success of your Lordship's mission may in no light degree depend on your power of maintaining uniformity of principle in the administration of the different North American governments, in regard to all the more considerable questions which are depending in them, it seems necessary to depart from the existing system so far as may be requisite for attaining that object, but no further.

It will therefore be the duty of each Lieutenant-governor to enter into a free and confidential correspondence with your Lordship on every topic on which you may invite such communications, and to obey every instruction not in itself unlawful which you may address to him; but it will be desirable to limit such correspondence to questions of general and permanent interest. Nor will you address any positive instruction to any of those officers without fully weighing every representation which he may have made, or may wish to make, on the subject of it.

The Lieutenant-governors will continue their correspondence with me as usual; and your Lordship will transmit to me a copy of the correspondence which may pass between yourself and any of the Lieutenant-governors.

It will be readily understood that the preceding instructions have not been dictated by any distrust of the zeal or ability of any of the officers at present engaged in the administration of the North American provinces; they have been suggested exclusively by the present position of affairs in Canada, and by a conviction of the importance of maintaining, on questions of general concern, that unity of purpose throughout the different governments which can be secured only by placing them all, for at least a short period, in some degree of subordination to one authority common to the whole.

I shall transmit a copy of this despatch to each of the Lieutenant-governors, for his information and guidance.

I have, &c.

(signed) *Glenelg.*

Enclosure in No. 6.

CIRCULAR to the Lieutenant-governors of Upper Canada, Major-general Sir *G. Arthur*; New Brunswick, Major-general Sir *J. Harvey*, K. C. B.; Prince Edward Island, Lieutenant-governor Sir *C. FitzRoy*, K. H.; Nova Scotia, Major-general Sir *Colin Campbell*, K. C. B.; Newfoundland, Governor *Prescott*.

Sir,

Encl. in No. 6.

I TRANSMIT to you, for your information and guidance, a copy of a despatch which I have this day addressed to the Earl of Durham, on the subject of the authority which will be invested in him as the Governor-general of the British North American colonies.

I have, &c.

(signed) *Glenelg.*

—No. 7.—

(No. 12.)

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

No. 7.
Lord Glenelg to the Earl of Durham, 19 April 1838.

My Lord, Downing-street, 19 April 1838.

I HAVE the honour to transmit to you herewith a communication respecting the composition of the Legislative Council, and the state of the representation in Lower Canada, addressed to your Lordship by Messrs. Moffatt & Badgeley, and forwarded by those gentlemen to me.

I have, &c.
(signed) *Glenelg.*

Enclosure 1, in No. 7.

My Lord, London, 16 April 1838.

Encl. 1, in No. 7.

WE have the honour of submitting to your Excellency statements respecting the legislative council, and the representation of the province of Lower Canada, in reference to which your Excellency was pleased to request more detailed information than was contained in the summary which we recently placed in your Excellency's possession; and

1st. The Legislative Council.

The decided expression of your Excellency's opinion against the adaptation of the principle of election to the composition of the legislative council, has relieved us from the necessity of stating, except in general terms, the extreme impolicy of its application in Lower Canada, because the establishment of any qualification, either in the electors or in the elected to that body, would still secure the elections in favour of the majority of the provincial population who are of French origin; and the same paramount influence which has invariably returned a majority of French representatives to the House of Assembly would likewise have returned a corresponding French majority to the legislative council. By this means British interests throughout the province would have been unrepresented from the virtual exclusion of the inhabitants of British origin from both branches of the legislature; and another evil of very great magnitude would also have arisen, by bringing the executive and the popular legislature into closer juxtaposition with each other, and rendering collision between them more frequent in consequence.

We will not wait to discuss the wisdom of the constitution bestowed upon the provinces of Canada, but content ourselves with adverting generally to the necessity of interposing some deliberative body, by whatever name it may be called, as a political barrier between the executive and that branch of a representative government which is more peculiarly subject to the influence of popular agitation, and refer your Excellency to the practice of enlightened polity in representative governments in support of the wisdom of the system, and the necessity of its continuance. We may be permitted to recall to your Excellency's recollection that this system has been extended throughout the several states of the Union neighbouring to the Canadas, and moreover recently sanctioned by its establishment in Nova Scotia and New Brunswick.

The composition of the legislative council may be assumed at three distinct periods; in 1827, immediately previous to the report of the Canada Committee in 1828; in 1834, during Lord Aylmer's administration, when the leaders of the Assembly complained of the "actual

Sic. orig.

" constitution of that body; and in 1837, during the administration of Lord Gosford.

1st. In 1827, the council was composed of - - - - - - - 27 members.
Of whom 17 were office-holders, and in connexion with the provincial government.

2d. In 1834, the council was composed of - - - - - - - 38
Of whom was absent permanently from the province 1.
And 2 judges, who abstained from sitting in the province, in consequence of his Majesty's recommendation to that effect.
Leaving the actual number of the council in 1834 - - - - 35
Of whom were connected with government - - - - 7
Including the Speaker, the Chief Justice of the province, and the Lord Bishop of Quebec, who was rarely present.
Not connected with the government - - - - - 28
35
Of the whole number of 35, were appointed by Sir James Kempt - - - - - - - - - - 4
Of French origin - - - - - - 2
Of British origin - - - - - - 2
By Lord Aylmer - - - - - - - - - 18
Of French origin - - - - - - 10
Of British origin - - - - - - 8
22
None of whom held office, or were in any way connected with the local government, and their selection was from the most opulent and respectable classes of society, of various origin, in different parts of the province.

3d. In

No. 7.
Lord Glenelg to the Earl of Durham, 19 April 1838.

Encl. 1, in No. 7.

3d. In 1837, the total number of the council, including the individuals nominated by Lord Gosford, but who have not yet taken their seats in the council, is - - - - - - - - - - - - 40

Of whom had been appointed previous to Lord Gosford's administration - - - - - - - - - -	31	
By Lord Gosford - - - - - - - - - -	9	
		40
Of the whole number, were connected with government -	7	
Including the Speaker, the Chief Justice, and one judge, who abstains from attending.		
Not connected with government - - - - -	33	
		40
Of the appointment by Lord Gosford - - - -	9	
Are of French origin - - - - -	6	
of British origin - - - - -	3	
Of the whole council - - - - - - -	40	
Are of French origin - - - - -	18	
of British origin - - - - -	22	
Of the number of British origin - - - - - -	22	
One judge never attends - - - - -	1	
Incapacitated by age, infirmity, &c. - - -	6	
Since dead - - - - - - - -	2	
	9	
Leaving only - - - - - - - - -	13	

The numbers to be present at any future sessions of the council would not exceed—

Of British origin - - - - - - - - -	13
Of French origin - - - - - - - - -	18
	31

Of whom three at most would be office-holders.

By this means not only have the recommendations of the Canada committee of 1828, in respect of the legislative council, " that a more independent character should be given to it," and " that the majority of its members should not consist of persons holding offices at the pleasure of the Crown," been carried into effect, but the less considerate demands of the House of Assembly are conceived to have been virtually conceded.

Further details may be obtained in the report of the commissioners upon this topic, as well as in the Sessional Parliamentary Papers, No. 392 of 1836, No. 72 of 1837, and No. 231 of this year.

2d. The Representation.

We have already in general terms adverted to the defective and faulty system of the provincial representation. These defects have originated in the representation having been arbitrarily formed at variance with the principles of a compound basis of territory and population, recommended on this head by the Canada committee of 1828, and adopted in Upper Canada. To use the language of that report, " In providing a representative system for the inhabitants of a country which is gradually comprehending within its limits newly-peopled and extensive districts, great imperfections must necessarily arise from proceeding, in the first instance, on the basis of population alone." These imperfections have been fully exhibited in Lower Canada, and their practical effect has resulted in the virtual exclusion of the inhabitants of British origin from any share in the provincial representation.

Under the provisions of the Act of 1791, the division of Lower Canada for the exercise of the elective franchise was entrusted to the governor, who based his calculations upon masses of population alone, and divided into counties a given quantity of land, containing a given number of inhabitants; by this means, on the thickly-inhabited banks of the rivers, a small district of country principally settled by inhabitants of French origin, was found to suffice, while in the more distant parts in the rear of the seigniories, vast tracts of land in which settlers of British origin were locating themselves were comprehended in one county. This evil caused great complaints, especially from the British settlers in the townships to the south-east of the river St. Lawrence, who were altogether unrepresented in the provincial House of Assembly, and in consequence various attempts at legislation were made to palliate the evil, by making a new subdivision of counties, which failed from their having been founded upon the previous faulty basis of population alone, and intending thereby to have given a disproportionate increase to the representatives of the seigniories, chiefly settled by inhabitants of French origin. An Act was passed through both branches of the provincial legislature in 1829, the 9 Geo. 4, c. 73, not without opposition, especially in the legislative council, in which body another bill had originated simultaneously with that in the House of Assembly. This Act received the royal assent, although it became the subject of grave deliberation whether his late Majesty should be advised to acquiesce in it, " because" the result of this bill was distinctly foreseen in its effect of increasing rather than diminishing the disproportion between the number of members returned by the British and the French Canadian interests. It must also be distinctly noticed, that this last Act was passed through the House of Assembly, as it was originally constituted, and without any representation of

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Lord Glenelg to the Earl of Durham, 19 April 1838.

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British interests, and that the new division of counties under this Act was effected as arbitrarily as was the first division in 1791.

Your Excellency will at once perceive, upon reference to the Act in question, that in proportion as the immense masses of territory comprehending the British settlements increase in population beyond a limited amount, they can obtain no increase of representation, and that this Act has had the effect not only of creating the present inconvenience, but of rendering permanent the inequality in that representation, with reference to the numbers of the two distinct races of the population, notwithstanding any accession, however great, to the inhabitants of British origin. Your Excellency will also perceive, upon reference to the map, that the British settlements in the rear of the French seigniories, have been designedly united with them into counties, with a view to the destruction of their influence in the representation.

Were the entire population of the province homogeneous, equality in the territorial extent of its electoral districts, though desirable, would be less important, because the representation would be homogeneous also; but your Excellency is too well aware of the unfortunate state of political differences in Lower Canada to anticipate any permanent unity of interests and feeling in this respect, while a continuance in the present system must inevitably secure the entire representation to one class of the population, to the virtual exclusion and privation of the other.

The difficulty of effecting a new subdivision of counties is imaginary, because equal facility exists for remodelling the present settlement as for establishing or altering that of 1791. The boundaries of the existing counties are of too recent a date to have become very familiar to the French Canadians, and the attempt of an entirely fresh distribution of the country may at once be carried into effect, not only from the extraordinary political circumstances of the province, but from the simplicity of executing it without at present incurring the risk of creating any jealousies upon the subject.

In conclusion, our mode of relief is most easy of adjustment, inasmuch as it is not intended to interfere with counties in which the two races are intermixed; but principally to apply to those parts of the province in which a population of British origin exclusively predominates, and to those in which the two races are not necessarily intermixed, although their settlements are contiguous.

The Right honourable his Excellency,
the Earl of Durham, &c. &c. &c.

I have, &c.
(signed) *G. Moffatt.*

Enclosure 2, in No. 7.

My Lord, 9, Somerset-street, Portman-square, 16 April 1838.

Encl. 2, in No 7.

We have the honour of transmitting to your Lordship details in respect of the composition of the legislative council and the state of the representation in Lower Canada, upon which his Excellency the Earl of Durham was desirous to receive from us more ample information than was contained in the summary which we recently submitted to your Lordship and to his Excellency.

In concluding these details, we are most anxious to impress upon your Lordship's mind our firm conviction that the real interests of the Canadas and their future prosperity, not only as regards themselves, but also as regards their usefulness as colonies of this empire, are bound up in their legislative union. We will not occupy your Lordship's time by recapitulating our observations contained in the summary to which we have adverted, but we may be permitted to remind your Lordship, that the resolutions lately adopted by the House of Assembly of Upper Canada have altogether removed the only difficulty in effecting that measure.

With reference to the federative union of the British North American colonies, we will confine ourselves at this time to remarking, that whatever advantages may be expected to flow from that measure, they must of necessity apply solely to the external interests of the federation, but would not remove the pressure of local prejudices and antagonist feelings in Lower Canada, and that their subsistence in the province must jeopardise its security, and inevitably arrest the prosperity of both the Canadas.

We are desirous to obtain your Lordship's support of the measures in reference to which we lately submitted certain bills to your Lordship's notice; we refer to the measures for "the general commutation of the feudal tenure throughout the seignories of the province, the commutation to be effected in the seigniory of the island of Montreal, and the removal of doubts of the existence of the Act 9 & 10 Geo. 4, c. 77." We continue to entertain the belief that the complete and final success of these objects will require the intervention of the Imperial Parliament; but if your Lordship should not be disposed to seek that intervention during the present Session of Parliament, we respectfully request your Lordship to be pleased to bring them as prominently under the notice of his Excellency the Earl of Durham as the extent of the authority vested in the local government will allow.

We have, &c.

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

(signed) *G. Moffatt.*
W. Badgeley.

Enclosure 3, in No. 7.

Gentlemen, Downing-street, 21 April 1838.

No. 7.
Lord Glenelg to the Earl of Durham, 19 April 1838.

Encl. 3, in No. 7.

I AM directed by Lord Glenelg to acknowledge your letter of the 17th instant, enclosing a communication addressed by you to the Earl of Durham relative to the composition of the legislative bodies in Lower Canada, and urging on Her Majesty's Government the necessity of a union of the two provinces of Upper and Lower Canada, and the passing of an Act by the Imperial Parliament for the commutation of the feudal tenure in the Lower province.

Lord Glenelg has forwarded to the Earl of Durham your letter respecting the constitution of the Legislative Council and House of Assembly of Lower Canada, but his Lordship directs me to state that Her Majesty's Government do not contemplate the introduction into Parliament during the present Session of any further Bills relating to Lower Canada, as they are of opinion that it will be more expedient to postpone any such measures until the subject can be brought fully under the consideration of Parliament.

(signed) *G. Grey.*

G. Moffatt, Esq.
W. Badgeley, Esq.

—No. 8.—

(No. 13.)

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

My Lord, Downing-street, 19 April 1838.

No. 8.
Lord Glenelg to the Earl of Durham, 19 April 1838.

I HAVE the honour to transmit herewith for your information the copy of an Address to the Throne from certain inhabitants of Lower Canada, representing the grievances under which they labour, and the measures which, in their opinion, would be best calculated to redress those grievances. This Address was delivered to me by Messrs. Moffatt & Badgeley, and in compliance with their wish, I have had the honour of laying it at the foot of the Throne.

I have, &c.
(signed) *Glenelg.*

Enclosure in No. 8.

To The QUEEN'S Most Excellent MAJESTY.

MOST GRACIOUS SOVEREIGN,

The humble PETITION of the several persons whose names are hereunto subscribed, being Owners of Estates in the province of *Lower Canada*, Merchants, Traders, and others resident therein;

Most respectfully showeth,

THAT Your Petitioners, Your Majesty's dutiful and loyal subjects, entreat permission to tender to Your Majesty their most hearty congratulations upon Your Majesty's accession to the throne of Your ancestors, the assurances of their loyalty and devotion to Your Majesty's person and government, and their most sincere and ardent wishes that Your Majesty's reign may be long and prosperous, supported by the affections of faithful subjects, and rewarded by the union and happiness of a great, free and devoted people.

Encl. in No. 8.

At so recent a period after Your Majesty's entrance upon the duties of Your high and exalted station, and when the voice of a joyful and delighted gratulation should alone be heard from every portion of Your Majesty's vast empire, Your petitioners most sincerely deplore the necessity which compels them to address Your Majesty in the language of complaint from the most highly-favoured of Your Majesty's colonies, to supplicate Your Majesty to relieve them from the oppressions under which they have long and patiently laboured, and to direct Your Majesty's most serious attention to the critical situation of this valuable province, affecting alike the prosperity of the colony, its connexion with Your Majesty's Government, and the integrity of the empire.

Your petitioners, deeply sensible of the inestimable privileges which they possess as British subjects, are impelled by every motive of affectionate and grateful duty to maintain inviolate the just dependence of this province upon the United Kingdom, with which it is their pride and happiness to be connected, but it is with regret and mortification they confess that open and declared rebellion and sedition have most unjustifiably organized themselves in Lower Canada, having principally in view the final severance of the colony from Your Majesty's Government, and the total destruction of British rights, interests and property throughout the province.

They respectfully represent, that the bountiful liberality of Your Majesty's predecessors and of the Imperial Government, in a spirit of political prodigality surpassing the most sanguine expectations, amply provided for the comfort and happiness of all the provincial inhabitants, without distinction of origin, by bestowing upon them the most munificent benefactions, embracing every civil and political privilege consistent with the dependence of the colony upon the parent state, with the most anxious solicitude for the peculiar welfare of the French inhabitants preserved to them, the free enjoyment of their ancient French laws, and permitted their undisturbed use of their native French language, and, with the view of

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extinguishing animosity and national prejudices between the British and French provincial inhabitants, effected the division of the province of Quebec into two separate legislatures, and granted to each a representative government, with the benefits of the British constitution, commensurate with the circumstances of the colony.

While their enjoyment of political rights utterly unknown to them under their former thraldom, their numerical majority in the provincial constituencies, their complete control over the provincial legislature and revenue, and the anxious redress by the Imperial Government of every real or pretended grievance, combined to render the French inhabitants of Lower Canada the most favoured portion of Your Majesty's subjects, the permanent and extensive interests of the British inhabitants have been altogether neglected, and their real and substantial grievances have remained without redress; they have been compelled to submit to an antiquated system of French jurisprudence, detrimental to their interests and foreign to their habits; to the withering influence of the feudal law, which has been driven by the spirit of enlightened legislation from civilized Europe to find a last and solitary home in Lower Canada; to the denial of legislative remedies for relieving the conveyance of land from a grievous tax upon improvement, and for affording security for the investment of capital, and the privation of their dearest rights as British subjects; in their exclusion from the privileges of a representative government by an unjust and partial disposition of the elective franchise, by which their numbers in the seignorial parts of the province have been absorbed in the predominant majority of the French constituencies.

The experience of nearly 50 years has fully demonstrated the political inexpediency of the division of the province of Quebec; its chief results are exhibited in the growth of a French population in a British province, who have retained the distinguishing characteristics of a foreign people without sympathies, attachments or interests in common with those of the British inhabitants, and who have cultivated among themselves a delusion respecting their national independence, and a spirit of hostility to British connexion, which have grown with the increase of their numerical strength.

By means of the popular majorities of the French inhabitants in the provincial constituency, the practical effect of the political immunities bestowed upon all the inhabitants of this province has been the exclusion of the British inhabitants from a participation in the most important political rights, and a transfer to the French inhabitants of the whole powers of the representative branch of the legislature, which they have invariably exercised with a total disregard to the general welfare and improvement of the province, with a view to the aggrandizement of the population of French and the oppression of that of British origin, and with the ill-concealed design of the expulsion and proscription of the British inhabitants from Your Majesty's province of Lower Canada.

Your petitioners most respectfully entreat Your Majesty to consider that the possession by the French inhabitants of the most inestimable civil and political advantages, and conciliation and concession extended to their increasing demands to the utmost limit, consistent with the dependence of the colony upon the parent state, have been met by a traitorous conspiracy for the subversion of Your Majesty's Government, by acts of the most daring rebellion and attacks upon Your Majesty's forces, and by the commission of the most horrid excesses and cruelties; whereas the utter disregard of the well-founded complaints of the British inhabitants, the continued privation of their political rights, and the total neglect of their acknowledged grievances, have been followed by their ready and willing obedience to the legal and constituted authorities, their zealous and spirited support of the Government, and their ardent and devoted loyalty to their Sovereign.

Your Majesty's petitioners are impressed with the firm conviction that no union of interests can be accomplished between the British and French provincial inhabitants under existing circumstances, because the hostility of the French inhabitants to British interests and British supremacy proceeds from the distinctiveness of national origin, and from the impatience of British dominion, not British oppression; the same motives, therefore, for sedition and rebellion will remain as long as the same causes of French nationality are permitted to exist, and similar disasters will again occur until a choice of evils will alone be left to Your petitioners, either rebellion against Your Majesty's Government, to which they are, as they desire to continue, dutifully and loyally attached, expatriation from the land of their birth or their adoption, or the destruction of their lives and the desolation of their property throughout the province.

Your petitioners represent, that the British inhabitants of Lower Canada have patiently endured their grievances in the confidence that their consistent loyalty to their Sovereign, and their steady reliance upon the magnanimity of the Imperial Government, would be fully appreciated; they respectfully believe that the period so earnestly desired is now arrived, when, in addition to the justice of their claims for relief, they may be permitted to represent to Your Majesty, that the preservation of Lower Canada as an integral portion of Your Majesty's empire is due to their native spirit and inherent loyalty, and that any indications of indifference on their part to the sedition and rebellion of the French inhabitants would have been productive of the most fatal and destructive consequences.

Your petitioners further humbly represent, that the House of Assembly, as at present constituted, has, in the exercise of its powers, neglected the peace, welfare and good government of the province, disregarded the duties assigned to it by the constitution, fomented sedition and rebellion, and finally committed an act of political suicide by wilfully abdicating its high office for the purpose of encouraging anarchy and confusion.

From the operation of these multiplied evils, security in the value of property has been diminished, enterprise discouraged, public improvements suspended, and the province reduced to the deepest distress and misery.

Nor

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Lord Glenelg to the Earl of Durham, 19 April 1838.

Encl. in No. 8.

Nor can Your petitioners anticipate any consistent improvement in the social condition of the British provincial inhabitants from the continuance of the existing French constituencies; the experience of past disasters will have passed away, the recollection of present apprehensions will have escaped, their ignorance will again be stimulated to sedition, and their passions inflamed into rebellion, and again overlooking moral feebleness in physical capability, they will again plunge Your petitioners and themselves into irretrievable ruin and desolation.

Your petitioners urge upon Your Majesty's most serious attention, that an immediate and paramount necessity exists for extending relief and redress to the British inhabitants of this province from the pressure of their patiently-endured grievances, for affording them the means of effecting a change of feudal tenure, and of securing a registration of mortgages, and for establishing an efficient legislature, capable of making such laws as may be required by the wants of the province, and as may serve to develope its resources and improve its moral and social condition, and that none of these advantages can be obtained without an entire abandonment of the present impolitic and fruitless attempts of conciliation and concession to the French inhabitants without the immediate adoption of measures competent to crush the blighting influence of French provincial ascendancy, and to render Lower Canada a British province in fact as it is in name.

Your petitioners are persuaded, that the only remedy adequate for the removal of the accumulated evils of this province, and commensurate with the just rights and expectations of the British inhabitants of Lower Canada, is to be found in the legislative re-union of the Canadas, accompanied by a gradual introduction of the language of the Sovereign in all legislative and judicial proceedings, and by a new subdivision of the provincial counties, by which a fair share of the provincial representation may be secured to the British inhabitants. By the re-union of these valuable provinces, the streams of British wealth, energy and population would be made to flow into the province, British enterprise would be invigorated, the French inhabitants induced to abandon their national distinctions, and become British subjects indeed, the continued connexion of this province with the British Government secured, and the dismemberment of the empire prevented.

Your petitioners, confiding in Your Majesty's anxious desire to promote the welfare and happiness of Your Majesty's subjects,—

Humbly pray, That Your Majesty would be graciously pleased to take the premises into consideration, and extend to Your Majesty's British subjects in this province the means of obtaining relief from their grievances, principally by the legislative re-union of the Canadas, and of effectuating the several purposes above mentioned, in such manner as Your Majesty shall judge to be expedient and proper.

And Your petitioners, as in duty bound, will ever pray.

(signed) *Peter M'Gill*, Montreal, Merchant, Member of the Legislative Council of the Province.
William Robertson, Montreal, Physician.
John Molson, Montreal, Merchant.
Benjamin Hart, Montreal, Merchant.
John Redpath, Montreal, Gentleman, Landholder.
James Henry Lambe, Montreal, Merchant.
Thomas Phillips, Gentleman, Proprietor, Montreal.
Arthur Ross, of Montreal, Advocate.
Adam Thom, A.M., Montreal, Advocate.
John Jamieson, Montreal, Merchant.
William Forsyth, Montreal, Gentleman.
Alexander Miller, Montreal, Merchant.
Stanley Bagg, Proprietor, Montreal.
Hew Ramsay, Bookseller, Montreal.
James Smith, Advocate, Montreal.
Hy Dyer, Lieut.-col. Militia, Proprietor, Montreal.
William Badgley, Montreal, Advocate.
James Duncan Gibb, Montreal Merchant.
James Holmes, Montreal, Merchant.
John Stephenson, M.D., Physician, Montreal.
Henry Griffin, Montreal, Notary Public.
William Edmonstone, Montreal, Merchant.
John M. Tobin, Montreal, Merchant.
John Boston, of Montreal, Advocate and Seignior of the Seigniories of Thwaite and St. James's.
Henry Cosse, Montreal, Merchant and Proprietor.
James Fraser, Montreal, Merchant.

Montreal, Province of Lower Canada,
January 1838.

—No. 9.—

(No. 16.)

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

No. 9.
Lord Glenelg to the Earl of Durham, 20 April 1838.

My Lord, Downing-street, 20 April 1838.

I HAVE the honour to transmit to your Lordship herewith the copy of a letter from the Secretary to the Lords Commissioners of the Treasury, reporting the expenses which have been already incurred in Canada on account of the late insurrection, and recommending that, as considerable re-inforcements of regular troops will now have arrived in North America, the services of the militia and volunteer corps should be dispensed with at the earliest possible moment.

On the receipt of the former communication alluded to by Mr. Spearman, I immediately communicated with Sir John Colborne on the subject, and conveyed to him the wish of Her Majesty's Government that the militia and volunteers should be relieved from their military service, so soon as that step could be taken without risk to the public safety. It is probable that, acting on this instruction, he will, before your Lordship's arrival in Lower Canada, have reduced the numbers of those corps; but I feel it my duty to call your Lordship's attention to the subject, in order that if, on reaching Lower Canada, you should find any considerable body of provincial troops still in arms, and should be of opinion that their services are not indispensable to the public safety, you may take the earliest opportunity of relieving them from the duty which they undertook with so much loyalty and credit to themselves, but the continuance of which could not be required from them without great expense to the public, and inconvenience to individuals.

I have, &c.
(signed) *Glenelg.*

Enclosure 1, in No. 9.

Sir, Treasury Chambers, 18 April 1838.

Encl. 1, in No. 9.

THE Lords Commissioners of Her Majesty's Treasury having had under their consideration various communications from Commissary-general Routh, on the subject of the expenses incurred in the provinces of Upper and Lower Canada, in consequence of the insurrection in those colonies, I have it in command from their Lordships to desire that you will call the attention of Lord Glenelg to the great and increasing demands made upon this board to supply the wants of the service in Canada, amounting to no less a sum than 450,636 *l.*, raised by commissariat bills drawn on My Lords since the 1st January last, in addition to the sum of 100,000 *l.*, which their Lordships presume to be in course of repayment from the colonial chest in Canada, and a further sum of 545,000 dollars remitted to the Commissary-general from Mexico.

I am at the same time directed to refer to the communication addressed to you by order of this board on the 26th February last, in which their Lordships adverted to the very heavy expense which had been unavoidably incurred in providing supplies and pay for those of Her Majesty's loyal Canadian subjects whose services as militia and volunteers had been given with so much zeal and alacrity, and to their Lordships' expectation that they might be relieved from their harassing and oppressive, though most honourable, duties; and to state that while My Lords trust that this has been already carried into effect, yet, as the military re-inforcements have sailed for Canada, their Lordships desire that the attention of his Excellency Sir John Colborne should be again called to the subject, and that he should be requested to consider whether any part of the expenses incurred may not justly be defrayed out of colonial funds, on which subject My Lords would also be glad to be favoured with the opinion of Lord Glenelg.

I am, &c.
James Stephen, Esq., &c. &c. &c. (signed) *A. Y. Spearman.*

Enclosure 2, in No. 9.

Sir, 23 April 1838.

Encl. 2, in No. 9.

I AM directed by Lord Glenelg to acknowledge your letter of the 18th instant, and to inform you in reply that, on the receipt of your former letter of the 26th February, Lord Glenelg, in a despatch of the same date, instructed Sir John Colborne to take the earliest opportunity, consistently with a due regard to the public safety, of relieving the militia and volunteer corps of Canada from their military service. Lord Glenelg has now conveyed to the Earl of Durham a similar instruction, and he therefore trusts that at a very early period this country will be relieved of the heavy expense which it has incurred by the employment of these corps; but Lord Glenelg directs me to state that there are no local funds in either of the Canadian provinces out of which any part of this expenditure could be defrayed.

I have, &c.
A. Y. Spearman, Esq. (signed) *James Stephen.*

— No. 10.—

(No. 17.)

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

No. 10.
Lord Glenelg to the Earl of Durham, 21 April 1838.

My Lord, Downing-street, 21 April 1838.

With reference to my despatch of this day's date (No. 21), I have the honour to enclose herewith, for your information and guidance, copies of a correspondence which has passed between this department and the Board of Treasury, relative to the manner in which the financial transactions of the province of Lower Canada should, during the operation of the Act 1 Vict. c. 9, be administered.

I have, &c.

(signed) *Glenelg.*

Enclosure 1, in No. 10.

Sir, Downing-street, 7 April 1838.

Encl. 1, in No. 10.

I am directed by Lord Glenelg to request that you would call the attention of the Lords Commissioners of the Treasury to the Act passed in the present Session of Parliament to make temporary provision for the government of Lower Canada, 1 Vict. c. 9, s. 3 & 4. their Lordships will perceive that under those clauses the Governor of the province, with the advice and consent of the special council, may appropriate the proceeds of the public revenue of the province, provided that, exclusive of the repayment of the advances made by The Lords Commissioners, no appropriation of such monies in respect of the public service for any one year shall exceed the total amount of the sums appropriated by law within the province, for the public service thereof, for the year 1832.

The application to the public service of the revenue annually accruing within that province must of course be effected by laws to be enacted by the Governor, with the advice and consent of the council; but as no such law can be passed unless it shall first have been proposed by the Governor for adoption by the council, the responsibility for every expenditure which may be incurred will ultimately rest upon Lord Durham.

In the present posture of affairs in Lower Canada, it has not appeared to Lord Glenelg to be practicable to address to Lord Durham any precise instructions as to the application of these funds. He is of opinion that contingencies must be expected to arise, which it is impossible to foresee or to provide against in any definite manner, and that a very considerable latitude of discretion must be left to Lord Durham in the selection of the objects to which the provincial revenue should be applied.

That discretion may to a certain extent be guided by the last Act of Appropriation passed by the Canadian Assembly in the year 1832, although the altered circumstances of the province will not admit of an exact adherence to the separate details of that Act.

His Lordship, however, would be happy to receive from the Lords of the Treasury any suggestions as to the course which ought to be pursued by Lord Durham in the financial administration of the affairs of the province of Lower Canada.

I have, &c.

A. Y. Spearman, Esq. &c. &c. &c. (signed) *Geo. Grey.*

Enclosure 2, in No. 10.

Sir, Treasury Chambers, 19 April 1838.

Encl. 2, in No. 10.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration the observations and suggestions submitted to their Lordships in your letter of the 7th instant, respecting the financial transactions of the government of Lower Canada, I have received their commands to request you will state to Lord Glenelg that, although they are not prepared to dissent from the observation that it may not be practicable, in the present posture of affairs in that province, to lay down any precise instructions relative to the application of the local funds, and that contingencies must be expected to arise which could not be foreseen or provided against in any definite manner, and will call for the exercise of a considerable latitude of discretion, yet, as their Lordships entirely concur with Lord Glenelg in opinion, that the responsibility for every expenditure that may be incurred will ultimately rest on the Governor-general, they conceive it will be proper, with a view as well to the security of the officer who may be intrusted with this important charge as to the regular transaction of the public business, that the Governor-general should be fully apprized of the course which ought to be pursued in the administration of this branch of the affairs of Lower Canada.

You will therefore submit to Lord Glenelg the following observations:—

The Act of the present Session of the British Parliament, relating to the government of Lower Canada, while it empowers the Governor, with the advice and consent of his council, to make laws and ordinances for the good government of the province, provides, "that no such law or ordinance shall be made unless the same shall have been first proposed by the said Governor for adoption by the council;" and further provides that "it shall not be

No. 10.

Lord Glenelg to the Earl of Durham, 21 April 1838.

Encl. 2, in No. 10.

lawful by any such law or ordinance to impose any tax, duty, rate or impost, save only in so far as any tax, duty, rate or impost which at the passing of the Act was payable within the said province may be thereby continued;" and likewise, that, exclusive of the repayment of the advances which were made for the service of the province from the funds of this country, "no appropriation to be made by any such law or ordinance" of the monies which at the time of passing the Act were, or which thereafter might be, in the hands of the Receiver-general of the province, "in respect of the public service, for any one year, shall exceed the total amount of the sums appropriated by law within the said province, for the public service thereof, for the year 1832."

Subject to these limitations of the power of levying or appropriating money, it appears to their Lordships that, while the government of Lower Canada is administered under the powers conferred by that Act, the financial arrangements of the province must be regulated in the same manner as those of other colonies in which no representative branch of the legislature has yet been formed, and the legislative as well as the executive authority is vested in the Governor and council, and that the functions of the Governor-general, as regards the expenditure of the provincial government, will be analogous to those of the governors of colonies thus situated.

Any necessary ordinance relating to the continuance or the modification of the existing colonial taxes will be regulated by the provisions of the Act, and as the Receiver-general of Lower Canada is already an accountant to this board, through the commissioners of audit, for all transactions of his office relating either to the funds derived from provincial taxation or to the Crown revenues, it will only be requisite, with reference to the financial arrangements now in question, to advert to the duties and authority of the Governor and council as regards the appropriation and expenditure of the provincial funds, whether derived from local taxes and resources at the disposal of the provincial legislature, or from the casual and territorial revenues of the Crown.

The appropriation of the funds not derived from the casual and territorial revenues, and not subject to any permanent or specific disposition of the late legislature, still remaining in force, must obviously be directed by ordinance of the Governor and council; and, except in cases where specific authority to the contrary may be given by the ordinance, all issues by the Receiver-general for services provided for in those appropriations should be authorized by the Governor-general's warrant. By such warrant, also, all payments out of the Crown evenues should be directed and authorized; and the Governor-general should be aware that, under the provisions of Acts of the British Parliament, he would incur personal responsibility for the amount of any expenditure improperly authorized.

In granting warrants, therefore, upon the Receiver-general, the Governor-general should be guided by the appropriation ordinances as regards payments out of the general revenue, and by the instructions of Her Majesty's Government as regards payments out of the Crown revenues.

In framing the first appropriation ordinance to be brought under the consideration of the council, the scale of establishments and contingent charges provided for in the year 1832, with such modifications or additions as have since received the sanction of the home Government, should be adhered to as nearly as possible, and no payments should be made out of the Crown revenues, except for services which have already been duly sanctioned and directed to be defrayed from that source.

After the first ordinance shall have been settled, no new or increased rate of salary or allowance to any colonial functionary should either be proposed by the Governor-general to his council for payment out of the provincial fund, or be defrayed out of the Crown revenues, without the previous sanction of Her Majesty's Government, unless in cases of such emergency that the delay of a reference to this country would be detrimental to the public service; and in the event of such emergency arising, no time should be lost in making a full report of the expenditure authorized, and of the circumstances which may have prevented the previous reference, in order that the requisite directions of My Lords' board for its admission may be conveyed to the commissioners of audit.

The same rule should likewise be observed in regard to any new or increased incidental or contingent charge, unless the new or increased expense should not exceed 200 *l.* in amount, in which case the Governor-general would be at liberty, in conformity with the usual practice, to propose or authorize the same without previous reference.

You will further state to Lord Glenelg, that, unless his Lordship should see reason to dissent from the foregoing suggestions with respect to the arrangements relating to the finances of Lower Canada, which it will be proper under existing circumstances to adopt, their Lordships have to recommend that the requisite instructions should be conveyed to the Earl of Durham for carrying them into effect.

I am, &c.

Sir G. Grey, &c. &c. &c. (signed) *A. Y. Spearman.*

—No. 11.—

(No. 18.)

No. 11.

Lord Glenelg to the Earl of Durham, 21 April 1838.

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

My Lord, Downing-street, 21 April 1838.

Your Lordship having already been verbally apprized of the arrangement made by Her Majesty's Government for defraying your expenses as Governor-general

No. 11.
Lord Glenelg to the Earl of Durham, 21 April 1838.

general of British North America, and Her Majesty's High Commissioner, I feel it my duty now, on the eve of your departure, to explain more precisely and at length the manner in which that arrangement is to be carried into effect.

Your Lordship is aware that your expenses are to be borne in the same manner as those of a special mission, and that in conformity with the usual custom in such cases, an agent (Mr. Murdoch, of this office) has been appointed to receive advances and to make payments under my immediate cognizance, for all services connected with your appointment. I have already directed the Lords Commissioners of the Treasury to issue to Mr. Murdoch various sums on account of your Lordship's expenses previously to your departure from this country, and he will disburse those sums according to such instructions as he shall receive from you. But after your arrival in Canada, it will of course be necessary to adopt a different arrangement.

To meet your expenses in British North America, your Lordship will draw bills on Mr. Murdoch, at not less than 30 days' sight, giving him, at the same time, due notice thereof. It will not be necessary to state the purpose for which each bill is drawn; but at the end of your mission you will be required to furnish detailed accounts, accompanied by vouchers, and exhibiting, under separate heads, the manner in which the sums drawn for, as well as those already advanced on your account, have been applied.

I annex, for your Lordship's information and guidance in this matter, copies of a correspondence on this subject between this department and the Treasury, together with copies of the correspondence respecting the appointment of Earl Amherst, to which allusion is made in Mr. Spearman's letter of the 19th instant.

No. 1. Colonial Office, 1 February 1838.
No. 2. Treasury, 6 February 1838.
No. 3. Treasury, 19 April 1838.
No. 4. Colonial Office, 2 April 1835.
No. 5. Treasury, 8 April 1835.
No. 6. Colonial Office, 10 April 1835.

I have, &c.
(signed) *Glenelg.*

Enclosure 1, in No. 11.

My Lords, Downing-street, 1 Feb. 1838.

Encl. 1, in No. 11.

Her Majesty having been pleased to appoint the Earl of Durham to be Governor-general of all Her Majesty's provinces within and adjacent to the continent of North America, and also to be Her Majesty's High Commissioner for the adjustment of certain important affairs affecting the provinces of Lower and Upper Canada, I have to inform your Lordships, that it is the intention of Her Majesty's Government, that the expenses incident to this appointment should be defrayed in the same manner as those of a special mission. Mr. Murdoch, of this department, has accordingly been appointed assign to Lord Durham; and I have to request that your Lordships will make the necessary arrangements for paying over to that gentleman such sums as I shall from time to time announce to your Lordships to be required for this service.

I have, &c.
(signed) *J. Stephen.*

The Lords Commissioners of the Treasury.

Enclosure 2, in No. 11.

Sir, Treasury Chambers, 6 Feb. 1838.

Encl. 2, in No. 11.

Having laid before the Lords Commissioners of Her Majesty's Treasury the communication which was addressed to their Board on the 1st inst. by Her Majesty's Secretary of State for the Colonies, in which Lord Glenelg states, that it is the intention of the Queen's Government that the expenses incident to the appointment of the Earl of Durham to be Governor-general of all Her Majesty's provinces within and adjacent to the continent of North America, and also to be Her Majesty's High Commissioner for the adjustment of certain important affairs affecting the provinces of Lower and Upper Canada, should be defrayed in the same manner as those of a special mission, and requests that such sums as his Lordship shall from time to time announce to be required for this service may be paid over to Mr. Murdoch, who has been appointed assign to Lord Durham; I am commanded by their Lordships to request you will state to Lord Glenelg, that my Lords will provide for the expenses attending the appointment of the Earl of Durham, in the mode usually adopted with respect to the expenses of a special mission, and will direct such issues to be made to Mr. Murdoch as Lord Glenelg may from time to time apprize this Board are required for this purpose.

My Lords also desire that his Lordship may be informed, that they have requested Lord Palmerston to inform them as to the practice which has prevailed in regard to the allowance for outfit in cases of special missions to foreign states; and my Lords request that he will defer giving his sanction to any arrangement respecting the outfit of the Earl of Durham, until they shall be enabled to make a further communication to his Lordship on the subject.

I have, &c.
(signed) *A. Y. Spearman.*

James Stephen, Esq.
&c. &c. &c.

No. 11.
Lord Glenelg to the Earl of Durham, 21 April 1838.

Enclosure 3, in No. 11.

Encl. 3, in No. 11.

Sir, Treasury Chambers, 19 April 1838.

With further reference to the letter addressed by Lord Glenelg to this Board on 1st February last, relating to the expenses of the mission of the Earl of Durham to Canada, and to my reply thereto of 6th February, I have it in command from the Lords Commissioners of Her Majesty's Treasury to request you will state to Lord Glenelg, that as the Earl of Durham is now about to proceed on his mission, it has appeared to my Lords that, in addition to the instructions respecting the provision of a residence for the Governor-general in Lower Canada, and the financial arrangements of that province, which have been suggested to Lord Glenelg in the communications from this Board of 9th ultimo and of this day's date, it will be proper that Lord Durham should be distinctly apprized of the position in which he will be placed, and the regulations to which he should confirm in regard to his personal expenditure.

I am, therefore, desired to request that you will call his Lordship's attention to the letters addressed, by direction of the Secretary of State for the Colonies, to this Board on the 2d and 10th April 1835, and to his Lordship's reply of 8th April 1835; and will acquaint his Lordship that it appears to my Lords, that the arrangement then contemplated, with respect to the expenses of the mission of Earl Amherst, and subsequently adopted in regard to the mission of the Earl of Gosford, should likewise be observed on the present occasion.

From the documents above adverted to, his Lordship will perceive that, in conformity with this arrangement, the Earl of Durham should be authorized to draw bills for such sums as may be required to defray his personal expenses, and such other duly authorized charges attending the mission as may not be payable from the revenues of Canada, on the party nominated by Lord Glenelg to officiate as his Lordship's assign; and who will make such payments, either upon these drafts or otherwise, for the service of the mission, as the Secretary of State for the Colonies may direct. Detailed accounts of the application of the sums thus drawn for by the Earl of Durham, supported by vouchers in the usual manner, are to be submitted from time to time to Her Majesty's Secretary of State; and at the time of drawing each bill, his Lordship should likewise furnish such information as may satisfy the Secretary of State that the issue of the sums drawn for is necessary.

These sums required to meet these drafts, or to defray such other expenditure as the Earl of Durham's assign may be authorized to make in respect of the mission, will be advanced by direction of this Board to his Lordship's assign from time to time as Her Majesty's Secretary of State may see occasion to require; but with the distinct understanding, that care will be taken that the accounts already adverted to are regularly rendered and duly vouched, and that they undergo such examination in the Secretary of State's Office as may satisfy him that the expenditure is in every respect necessary and proper, and that any fresh advance that may be called for is absolutely required for the authorized service of the mission.

I am, &c.

James Stephen, Esq. (signed) *A. Y. Spearman.*
&c. &c. &c.

Enclosure 4, in No. 11.

Encl. 4, in No. 11.

My Lords, Downing-street, 2 April 1835.

His Majesty having been pleased to appoint the Earl of Amherst to proceed to Canada on a commission for the investigation and settlement of divers grievances alleged to exist in that province, and it being proposed that the expenses of this service shall be defrayed on the same footing as those of a special mission abroad, I have the honour to request that your Lordships will give directions to honour whatever bills Earl Amherst may draw on the Treasury on account of the commission.

I have, &c.

The Lords Commissioners of the Treasury. (signed) *Aberdeen.*

Enclosure 5, in No. 11.

Encl. 5, in No. 11.

Sir, Treasury Chambers, 8 April 1835.

Having laid before the Lords Commissioners of his Majesty's Treasury a letter from the Earl of Aberdeen, dated 2d instant, requesting that all bills that may be drawn by Earl Amherst, who has been appointed to proceed to Canada on a commission for the investigation and settlement of divers grievances alleged to exist in that province, may be honoured; I have it in command to request you will state to the Earl of Aberdeen that, as it is proposed that the expenses of the mission upon which Earl Amherst is about to proceed to Canada shall be defrayed upon the same footing as those of a special mission abroad, which my Lords understand to mean a special mission, under the authority of the Secretary of State for Foreign Affairs, they conceive it will be advisable that the issues of money for this service should be made under the regulations usually observed in regard to payments for these missions. My Lords would, accordingly, suggest that the Secretary of State should, from time to time, apply to their Board for the advance of such sums as he may consider requisite to defray the unavoidable expenses Lord Amherst will be called upon to incur for the accommodation of himself and suite, and for other authorized disbursements connected with the service with which he is charged; and that the sums thus applied for should be

issued

No. 11.
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ssued to such persons as Lord Aberdeen may nominate for the purpose in his own departments, to whom any bills Lord Amherst may be empowered to draw should be addressed, and who should make such payments either upon these drafts, or otherwise, as the Secretary of State may direct. It is, at the same time, to be understood that specific and detailed accounts of the application of all sums thus advanced, and of the whole expenditure incurred for the service, are to be submitted to the Secretary of State, that care will be taken that these accounts are punctually and regularly rendered, and are duly vouched, and that they undergo such examination in the Secretary of State's department as may satisfy him that the expenditure is, in every respect, necessary and proper, and that any fresh advances that may be called for are absolutely required for the authorized purposes of the mission. You will further state to the Earl of Aberdeen, that my Lords request to be informed whether the salary usually assigned to the Governor of Lower Canada, or any other allowance the Governor may have enjoyed from the colonial funds, will be available towards the payment of charges attending Earl Amherst's mission, and also that that they may be made acquainted with the nature of the instructions given to his Lordship in regard to those charges.

I have, &c.

R. W. Hay, Esq. &c. &c. &c. (signed) *Thos. T. Fremantle.*

Enclosure 6, in No. 11.

Sir, Downing-street, 10 April 1835.

Encl. 6, in No. 11.

I AM directed by the Earl of Aberdeen to acknowledge the receipt of your letter of 8th instant, on the subject of the manner in which the expenses attending the mission of Earl Amherst to Canada are to be defrayed, and in reply, I am to state to you, for the information of the Lords Commissioners of the Treasury, that as Lord Amherst is appointed Governor of Canada, it will not be proper that Lord Aylmer, from the time of Lord Amherst's arrival in the province, should draw his civil salary. But in regard to that sum being available for the payment of charges attaching to Lord Amherst's mission, Lord Aberdeen is inclined to think, that, independent of the financial difficulties which have left the Governor in arrear of his salary, it would not be expedient that the payment of the expenses of Lord Amherst's mission should become a matter of discussion in the Assembly of Lower Canada. I enclose for their Lordship's information a copy of the letter which has been addressed to Lord Amherst, pointing out to him the manner in which the expenses of his mission are to be defrayed.

10 April.

Sir Thomas Fremantle, &c. &c. &c.

I am, &c.
(signed) *R. W. Hay.*

—No. 12.—

(No. 19.)

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

My Lord, Downing-street, 21 April 1838.

No. 12.
C. O. 31 March.

Treasury, 7 April.

WITH reference to your letter of the 26th ultimo, I transmit herewith for your Lordship's information and guidance, copies of a correspondence between this department and the Treasury, relative to your establishment as Governor-general of British North America and Her Majesty's High Commissioner. In conformity with the arrangement proposed in Mr. Stephen's letter of the 31st ultimo, and sanctioned by the Lords Commissioners of the Treasury, I have to request that your Lordship will take the necessary measures for carrying to the credit of the Government, in abatement of the expenses of your mission, that portion of the revenue of the province and of the fees of office, which, under ordinary circumstances, would be applied towards the salary of the Governor of the province and his Secretary, but which in your Lordship's case will not be drawn.

I have, &c.
(signed) *Glenelg.*

Enclosure in No. 12.

Sir, Downing-street, 31 March 1838.

Encl. in No. 12.

I AM directed by Lord Glenelg to transmit to you herewith a copy of a letter from the Earl of Durham, enclosing a statement of the establishment which he will probably require as Governor-general of the British North American provinces and Her Majesty's High Commissioner, and the salaries which he proposes to assign to the respective officers.

26 March.

As during the administration of the Earl of Durham the sums usually applicable to the salaries of the Governor-general and Civil secretary will be undrawn, I am to suggest that those sums, as well as the fees usually accruing to the civil secretary, should be carried to the credit of the Government, in abatement of the general expenses of Lord Durham's mission.

I have, &c.

A. Y. Spearman, Esq. &c. &c. &c. (signed) *J. Stephen.*

No. 12.
Lord Glenelg to the Earl of Durham, 21 April 1838.

Encl. in No. 12.

My Lord, Cleveland-row, 26 March 1838.

I HAVE the honour to acknowledge the receipt of your Lordship's communication of the 24th instant.

Her Majesty having been graciously pleased to entrust to me the general government of six provinces in North America,—the entire administration of the affairs of one province during the suspension of the ordinary form of government,—and a separate commission for the adjustment of weighty affairs affecting the permanent welfare of all Her Majesty's possessions in North America,—I must require, for the due performance of these important and multifarious functions, the most zealous and efficient co-operation.

I feel it due to those who leave this country on this arduous and difficult service, to ensure to them adequate and honourable remuneration.

By this feeling I have been influenced in the formation of an establishment for carrying on the government of North America; and have the honour of enclosing you a copy of my letter to Sir George Grey of the 10th instant, in which are included the details which your Lordship requests.

I have also to state to your Lordship that I have received from the Commander of the Forces, permission to avail myself of the services of four paid aides-de-camp, whose assistance will be urgently required in the various personal communications which I must necessarily make to the Lieutenant-governors and Commanders of Her Majesty's Forces in the different provinces placed under my government.

I have now given your Lordship all the information I can afford you at the present time. On my arrival in North America I may possibly find it necessary to require further executive assistance; but I can assure your Lordship that I shall ever be guided by as strict an attention to economy as is consistent with what is, I own to you, my primary object,—the efficiency of the public service.

I have, &c.

The Right honourable Lord Glenelg, &c. &c. &c. (signed) *Durham.*

P. S.—The only appointments that I have made as yet are those of Mr. Edward Ellice as private secretary, and Colonel Cowper as military secretary. The latter gentleman sailed for New York last week with despatches for Sir J. Colborne. It is not my intention to make any other appointments until after my arrival in North America.

Sir, Cleveland-row, 10 March 1838.

IN accordance with your request, I enclose you a memorandum of my proposed establishment, as far as I am at present enabled to judge of the assistance which I shall require in the due execution of the duties assigned to me as Governor-general of British North America, and Her Majesty's High Commissioner.

I am, &c.

Sir George Grey, Bart. &c. &c. &c. (signed) *Durham.*

MEMORANDUM of the Salaries required for the establishment of the Earl of Durham as Governor-general of British North America, and Her Majesty's High Commissioner, &c. &c. &c.

	£.	s.	d.
Governor-general	-	-	-
Chief secretary	1,500	-	-
Military secretary	700	-	-
Two assistant secretaries (clerks)	600	-	-
Legal adviser	1,500	-	-
Private secretary to the Governor-general	-	-	-

(signed) *Durham.*

Sir, Treasury Chambers, 7 April 1838.

THE Lords Commissioners of Her Majesty's Treasury having had under their consideration your letter dated 31st ultimo, transmitting, by order of the Secretary of State for the Colonies, the copy of a letter from the Earl of Durham, enclosing a statement of the establishment which he will probably require as Governor-general of the British North American provinces, and Her Majesty's High Commissioner, and the salaries which he proposes to assign to the respective officers; I have it in command from their Lordships to request you will state to Lord Glenelg, that, adverting to the important and confidential nature of the appointments of Chief secretary and of Legal adviser to Her Majesty's Governor-general, and High Commissioner in North America, and to the duties which will necessarily devolve on the persons attached to the Earl of Durham's establishment, my Lords are pleased to approve of the rates of salary specified in the memorandum enclosed in his Lordship's letter, and of which a copy was submitted to the House of Commons.

My Lords also approve of the suggestion of Lord Glenelg, that the sums usually applicable from the revenues of Lower Canada to the salaries of the Governor of the provinces and civil secretary, as well as the fees which, under ordinary circumstances, constitute part of the emoluments of those offices, should be applied to the payment of the salaries which my Lords have now sanctioned, and towards the other expenses of the Earl of Durham's mission; and my Lords suggest that Lord Glenelg should request the Earl of Durham to cause

No. 12.
Lord Glenelg to the Earl of Durham, 21 April 1838

cause a regular account of those fees to be kept by such party or parties as his Lordship may depute to receive them, in order that it may be ascertained that they are duly applied to the purposes above-mentioned.

I am further directed to request that you will state to Lord Glenelg, with reference to the observation in the letter addressed by the Earl of Durham to his Lordship on the 26th ultimo, that "further executive assistance" may possibly be required, that my Lords trust the establishment already adverted to, with the assistance of the clerks attached to the civil secretary's office, will be found sufficient for the transaction of the special business of his Lordship's mission; but should it on any occasion be found indispensably requisite to obtain further aid, my Lords fully rely on his Lordship's assurance, that in any arrangement of this description, the strictest economy will be observed that may be consistent with the efficient performance of the public service.

I am, &c.

James Stephen, Esq. &c. &c. &c. (signed) *A. Y. Spearman.*

— No. 13.—

(No. 20.)

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

No. 13.
Lower Canada. Instructions.
Do. additional do.
Upper Canada. Instructions.

My Lord, Downing-street, 21 April 1838.

I HAVE the honour herewith to transmit to your Lordship, the instructions under Her Majesty's signet and sign manual, accompanying your Lordship's Commission as Governor of Lower and Upper Canada. You will perceive that they recognize certain instructions addressed to the late Earl of Dalhousie, which appear to have been transcribed, with little variation, from the conquest of the province of Quebec, till Lord Dalhousie's appointment, and to have been referred to during the whole of that period, as the rule for the guidance of all subsequent governors.

Those instructions, however, have, in many respects, become obsolete and inapplicable to the present condition of the Canadian provinces, and in some respects are at variance with the law. In referring your Lordship to them, Her Majesty has consequently instructed you to observe them only so far as they are exempt from objections of this nature.

The more obvious and, as it would seem, the more convenient course, being that of a complete revision of the instructions, in order to adapt them to the existing law and condition of the Canadas, I should have thought it my duty to complete such a revision before your Lordship's assumption of the government, had it not appeared, that no such change could be made at the present moment without prejudging some of the more important questions which await your Lordship's investigation, and the future decision of the Queen and of Parliament. It appeared to me, therefore, in the choice of difficulties, that the least inconvenient, course would be that of adhering to the practice observed ever since Lord Dalhousie's appointment, by referring you to the standing instructions under which he acted, so far as the law or the actual state of the Canadas may admit of the observance and execution of them. Your Lordship will find that this qualification will, in many respects, prevent your adopting those standing instructions as the guide of your official conduct. I would especially notice three topics to which this remark applies: First, the old standing instructions are at variance with the rules which have been followed for the last six years, respecting the alienation of the unsettled lands of the Crown. Those rules, as laid down by the Earl of Ripon, must be considered as in full force. Secondly, the old standing instructions, suppose the existence of the constitution of 1791, and therefore are, to that extent, inapplicable to the present state of the law in the Lower Province. Thirdly, the old standing instructions, having been framed before the passing of the law for the relief of the Roman Catholics, from the disabilities under which they formerly laboured in this country, are in many particulars conceived in a spirit opposed to the principles of religious toleration as now understood and practised. It is almost superfluous to observe that to this extent, they must be regarded as obsolete.

Subject to these and to some less considerable exceptions of the same kind, the old standing instructions will be found by your Lordship to be a valuable guide upon various topics of general and permanent policy, to which your attention will be called in the administration of the government of the Canadian provinces.

I have, &c.

(signed) *Glenelg.*

(No. 21.)

—No. 14.—

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

No. 14.
Lord Glenelg to the Earl of Durham, 21 April 1838.

My Lord, Downing-street, 21 April 1838.

IN my despatch of 20th January, I briefly explained to your Lordship, the general line of policy which appeared to Her Majesty's Government, best calculated to effect a permanent settlement of the various questions which would demand your attention, as Governor-general of Her Majesty's provinces in North America, and I reserved until the approach of the time for your proceeding to Lower Canada, the further instructions which it would then be my duty to address to your Lordship in regard to the same subject.

In my despatch (No. 8) of the 3d April, accompanying your Lordship's commissions under the great seal, I have explained in what respect those instruments differ from the commissions issued to former governors of the same provinces, and what are the powers which, although not enjoyed by your predecessors in the government of Lower Canada, are vested in you for the purpose of a general superintendence over all British North America.

I now propose to fulfil my intention of completing the series of the instructions under which you are to act.

From the latest accounts it appears that, although revolt and insurrection have been suppressed within the Canadas, considerable excitement still exists on various parts of the frontier adjoining the United States, and that several attempts have recently been made by armed citizens of those states to invade the British territory; these attempts have in every instance been successfully resisted, and the government of the United States has taken measures which I trust will prove sufficient to restrain such aggressions in future. It will be your Lordship's duty to adopt the most efficient precautions for the protection of the Canadian provinces from inroad or attack on the part of American citizens, and for the prompt repression of any such attempts should they hereafter be renewed. It is scarcely necessary that I should at the same time suggest the importance of abstaining from all language and conduct calculated to give just or reasonable offence to the government of the United States, the more especially as that government appears to have acted with perfect good faith during the late transactions.

The late revolt in the Canadas, has been followed by the arrest and imprisonment of a very considerable number of persons both in the Lower and in the Upper Province. In regard to Upper Canada, I have not, even to this time, been informed of the course contemplated by the local authorities for bringing such prisoners to trial, except that I know generally that a special commission has been appointed to investigate the charges preferred against them, and that the Habeas Corpus Act has been suspended. From Lower Canada I have later and more ample intelligence.

Sir John Colborne having been authorized to carry into execution Lord Gosford's proclamation of martial law, had, in his capacity of Lieutenant-general commanding Her Majesty's forces in the province, discharged from custody a large number of the prisoners against whom he thought it unnecessary or injudicious to proceed; and at the date of his last despatches he appears to have expected that it would be in his power to extend the same indulgence to several others; but he regarded the trial and punishment of some of the more guilty parties as indispensable, and applied to me for instructions as to the means of securing an impartial trial.

On referring to this correspondence, your Lordship will learn, the difficulties which appeared to impede the ordinary course of proceeding before the grand and petit juries of the country, and you will find that Her Majesty's Government resolved that, even if it might be right to resort ultimately to any form of trial unknown to the constitution, it would at least be improper to do so without having ascertained by actual experiment that the usual forms are unequal to the occasion. If however that experiment, when fairly tried, in two or three cases, should prove that, under the peculiar circumstances of the colony, the investigation of truth and the equal administration of justice could not be effected by a recourse to the ordinary tribunals, Sir John Colborne was instructed to suspend all further proceedings against the persons charged with treason or traitorous conspiracy, until your Lordship's arrival.

It is possible that under these instructions, Sir J. Colborne may have been enabled

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enabled to clear the prisons; but I apprehend it to be more likely that you will find the prisoners in question, or a certain number of them, reserved in custody for your decision; it is at all events necessary to be prepared for this contingency.

From the very commencement of the late disturbances it has been, as your Lordship is aware, the earnest desire of the Government that the utmost lenity, compatible with public safety, should be exercised towards the insurgents; this is the principle inculcated in my various despatches to the authorities in Lower and Upper Canada, and it is a principle supported, in our opinion, by considerations, not only of humanity, which cannot in such cases be admitted as the exclusive test of right conduct, but also of true policy in reference to the future well-being of the Canadas. The course of events, and the circumstances in which we may venture to assume you will find the provinces, will supply, as it appears to us, new facilities as well as fresh inducements to the carrying of this principle into effect. You will, I am persuaded, enter into the views of the Government on this subject; and in order to enable you to act with promptitude in this respect, you are relieved from the restriction by which your predecessors were prevented, in the case of treason, from giving an absolute pardon, or granting more than a respite, till the royal pleasure should be known: in your commission that restriction is omitted.

The power thus intrusted to you, of granting an amnesty or pardon, in all cases should, in the opinion of Her Majesty's Government, be exercised largely, but not entirely without exception. Independently of persons committed on a charge of murder, to whose cases I have referred in my despatch of the 19th March to Sir J. Colborne, as exceptions to the class of cases fit to be included in an amnesty, there must probably, among the prisoners, be some flagrant and prominent cases of delinquency, which it would not be just or advisable to comprehend in the general lenity. These cases it will be for you to select, in order that they may be brought to trial. In the constitution of the tribunals before which these prisoners are to be arraigned, and in the conduct of the trials, Her Majesty's Government are, after full deliberation, satisfied that there should be no further deviation from the established modes of legal procedure than was sanctioned in my despatch to Sir J. Colborne. You will therefore bring them to trial, in the usual manner, before the courts of justice as at present constituted for the trial of criminal offences in the province. By the verdicts of the ordinary juries, the fate of the prisoners must be decided, subject of course to any questions of law which, as in any other case, might be reserved for the decision of the court, and subject also to the exercise of the prerogative in the commutation, if you should consider it expedient, of the sentence, for a less amount of punishment. Except in case of murder, capital punishments should be avoided: transportation or banishment from the province, for a certain period, imprisonment and fine, will afford the means of commutation of any capital sentence, and I trust also of fully vindicating the authority of the law. Should the course of events, or your experience in the province, lead you to consider that, with regard to future cases of treason or insurrection, an alteration is required in the law regulating the trial of such offences, it will be competent to your Lordship to propose such an alteration to the special council; but Her Majesty's Government are of opinion that no law of this description ought to have a retrospective operation.

The most important object of your Lordship's mission is, however, the settlement of the affairs of Her Majesty's dominions in North America, on such a basis, as may afford the reasonable prospect of an enduring tranquillity under a form of government, corresponding in its general principles with that of this kingdom, so far as such a correspondence is compatible, with the essential differences which must subsist between the metropolitan state and its provincial dependencies. On this subject I have little to add to the instructions contained in my despatch of the 20th January.

It is quite unnecessary for me to enter into discussions in this place, on the various plans which have been suggested, both by public bodies and by individuals, with a view of forming a permanent adjustment, such as I have mentioned to be desirable. Indeed, by attempting to discuss them I should only embarrass you, and run the risk of interfering with that complete discretion which it is intended that you should enjoy on every part of this wide subject. I can only recommend to your most serious consideration those plans and any others that may present themselves to your own mind.

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You are quite aware of the great principles, on which alone a wise system of polity can be established, and you are no less aware how little of stability can be expected, even for the wisest system, unless it be adapted to the affections and circumstances of the people, whom it professes to benefit. I wish therefore especially to press it on your attention, that, in the preparation of any plan to be submitted to Parliament, the first object should be to ensure every probability of its practical efficiency. I mean that the plan should, in its principle and details, be such as to warrant a well-founded expectation, not only that it shall please and gratify at the moment, but that it shall practically work well; it is by the test of actual experiment that its merits or demerits will eventually be judged.

In my accompanying despatch (No. 17,) I have conveyed to your Lordship, instructions sanctioned by the Lords Commissioners of the Treasury, for your guidance respecting the financial affairs of Lower Canada, and the expenditure of the revenues of the province. The powers with which you are invested by the Act to make temporary provision for the government of Lower Canada are, I trust, so clearly defined in the Act itself, as to supersede the necessity for any attempt on my part at explanation or comment in regard to them. On reference to the recent correspondence with Sir J. Colborne, you will perceive that a full discretion is reserved to you as to the selection of individuals on your arrival, to constitute the special council. You will, I have no doubt, so exercise this discretion as fully to justify the choice which you may think proper to make. You will enter on the execution of your high duties in the full possession of the confidence of Her Majesty's Government, and in the discharge of it, you may be assured of their utmost support and assistance.

I have, &c.

(signed) *Glenelg.*

—No. 15.—

(No. 26.)

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

No. 15.
Lord Glenelg to the Earl of Durham, 27 April 1838.

My Lord, Downing-street, 27 April 1838.

I HAVE to acknowledge Sir J. Colborne's despatch of 19th March (No. 9), enclosing a copy of a letter addressed to him by General Wool, of the United States army; and reporting that, in compliance with that officer's suggestion, he had made arrangements for permitting the return to their homes of certain Canadians, who during the insurrection had fled to Champlain, in the state of New York.

Her Majesty's Government entirely approve of the course adopted in this instance by Sir J. Colborne, as no less consonant with sound policy than with humanity; and I have to request that your Lordship will convey to Sir John Colborne the expression of Her Majesty's approbation.

I have, &c.

(signed) *Glenelg.*

—No. 16.—

(No. 28.)

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

No. 16.
Lord Glenelg to the Earl of Durham, 28 April 1838.

My Lord, Downing-street, 28 April 1838.

I HAVE received and laid before The Queen the Earl of Gosford's despatch of the 8th February, No. 20, reporting that many loyal addresses have recently been presented to him, and stating the number of signatures attached to each. Her Majesty commands me to express her satisfaction at the loyal sentiments expressed in those addresses, and at the open avowal on the part of such numerous bodies of Her Majesty's subjects in Lower Canada, of disapprobation of the criminal proceedings of a portion of their fellow-countrymen. The restoration of good order and public confidence, and the establishment of peace and concord among all classes of her subjects, are objects for the accomplishment of which Her Majesty is most solicitous, and she trusts that your efforts to secure those blessings for her people will be crowned with success.

I have, &c.

(signed) *Glenelg.*

—No. 17.—

No. 17.
Lord Glenelg to the Earl of Durham, 29 April 1838.

(No. 29.)

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

My Lord, Downing-street, 29 April 1838.

ONE of the subjects which, on your Lordship's arrival in Canada, will no doubt attract your notice, is the provision made by the Act 31 Geo. 3, c. 31, commonly called the Constitutional Act, for the maintenance of a Protestant clergy in the provinces of Upper and Lower Canada; I propose, therefore, in my present despatch, to point out to your Lordship the actual state of that provision, and the measures which have heretofore been adopted by Her Majesty's Government, and by Parliament, for rendering it more effectual to its purpose.

By the 36th clause of the 31 Geo. 3, c. 31, one-seventh part of all grants of land, or an equivalent in land, is directed to be set apart for the support of a Protestant clergy within the Canadas. The 37th clause provides that the rents, profits and emoluments of clergy reserves shall be applicable to no other purpose than the support of a "Protestant clergy."

The 38th, 39th and 40th clauses empower the King to erect and to endow, with such portion of the reserves as he should think fit, parsonages according to the establishment of the "Church of England." The 41st and 42d clauses provide that the preceding clauses, "respecting the allotment and appropriation of lands for the support of a Protestant clergy, and also respecting the constituting, erecting and endowing parsonages or rectories," shall be liable to be varied or repealed by the provincial legislature, provided that the Act for effecting such variation or repeal shall not receive the royal assent until it shall have been laid before both Houses of Parliament for a given time, without either of them having addressed the Crown to withhold such assent.

Under these clauses there had been reserved, up to the close of 1836, in Upper Canada, 2,254,668 acres, and in Lower Canada 919,013 acres, making in all a total of 3,163,681 acres.

Notwithstanding the great extent of these reserves, the revenue derived from them was for many years inconsiderable, and as there was then no power of selling them, and as, in a country where land could be so easily purchased, leases were not much in demand, the reserves continued to exist in an uncultivated state in the midst of rising settlements, and thus presented a serious impediment to the general advancement of the country.

In order to obviate these inconveniences, an Act was passed in the year 1827, (7 & 8 Geo. 4, c. 62), which authorized the sale of a portion of these reserves, and directed that the proceeds of such sales should be invested in the funds of this country, and the interest of the investments applied either to the improvement of the remaining reserves, or to the purposes for which those reserves were destined by the Act 31 Geo. 3, c. 31. The amount now invested on this account in the English funds for Upper Canada is 79,920*l.* 15*s.* 10*d.*; for Lower Canada 31,085*l.* 2*s.* 7*d.*

Doubts, however, have arisen as to the parties entitled under the Act of 1791 to share in the proceeds of the reserves. Your Lordship will remark that, in that statute, some ambiguity exists on this point. In the 37th clause it is provided that the proceeds of the reserves shall be applicable to no other purpose than the support of a "Protestant clergy," while, in the three following clauses, the benefit to be derived from the erection of rectories and parsonages is restricted to "the Church of England." For some years after the passing of the Act, the terms "Protestant clergy" in the 37th clause, appear to have been generally understood as synonymous with the clergy of the Church of England; but, in 1819, the question having been referred to the law officers of the Crown, they gave an opinion, of which I enclose a copy, for your Lordship's information, affirming the right of the Church of Scotland to participate with the English Church, but negativing the claim of any other Protestant communities. This view of the question received the sanction of the Committee of the House of Commons, appointed in 1828 to inquire into Canadian affairs.

15 Nov. 1819.

While the clergy reserves were of small value, the interpretation of the law officers of the Crown led to no practical result; but, after the year 1829, when the sales became productive, the legal claims of the Scotch Church were brought forward, and urged with considerable force on Her Majesty's Government. The clergy of the Church of England, however, continued to assert their exclusive

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right to the whole reserves, while the Protestant dissenting communities, more especially in the Upper Province, protested against the restriction to two communities alone, of the provision set apart by law for religious purposes, and demanded the modification of the terms of the 31 Geo. 3, c. 31. Aware of the difficulty of reconciling these conflicting pretensions, and anxious, at the same time, to put a stop to the excitement existing on the subject in the public mind, Lord Ripon, in November 1831, suggested to the legislatures of the two provinces to exercise the power specially delegated to them by the 41st clause of the statute of 1791, by passing an Act to reinvest the reserves in the Crown. This suggestion was not acceded to by either legislature.

The motives which induced Lord Ripon, to refer the matter to the local legislature, rather than to introduce a Bill for the settlement of it, into the Imperial Parliament, are sufficiently obvious. Besides the difficulty of legislating on such a subject in this country, there are, I conceive, constitutional objections to any interference, by the Imperial Parliament, on a subject which has been advisedly referred by the 31st Geo. 3. to the local legislature. This opinion, also has been entertained, by all those who have held the seals of this office subsequently to Lord Ripon, and accordingly, although the Canadian legislatures have failed to pass any law respecting the clergy reserves, Her Majesty's Government have hitherto felt compelled to decline bringing the question before Parliament.

In the meantime the whole proceeds of the clergy reserves in Upper Canada, including the interest of the sum funded in Great Britain, have been absorbed in the payment of the clergy of the Church of England, while the ministers of the Scotch Church receive only 1,350*l.* per annum out of the casual and territorial revenue. In Lower Canada the only appropriation of the clergy reserve fund hitherto made is a grant of 500*l.* a year to the Scotch Church.

This arrangement, as far as regards Upper Canada, rests on a guarantee given by the Government in 1834, on the reduction of the Parliamentary Vote to the Society for the Propagation of the Gospel, that the salaries of the English clergy then stationed in that province should, during their tenure of office, be provided out of local revenues. Accordingly those salaries were charged on the fund derived from the clergy reserves, and as that fund was insufficient entirely to defray them, the excess was thrown on the casual and territorial revenue, subject to be reduced in proportion to the increase of the proceeds of clergy reserves. The amount paid on this account out of the casual and territorial revenue in 1836 was 2,565*l.*

It is scarcely to be expected that the Scotch Church should acquiesce, without remonstrance, in an arrangement giving apparently such a disproportionate advantage to the English clergy, and accordingly in the course of last year I received, from various parties connected with that church, strong remonstrances against the inadequacy of the provision made for them by Government. Similar remonstrances were also addressed to me by members of the Church of England, whose resources, though more ample than those of the Scotch Church, are yet insufficient to meet the rapid increase in their numbers.

Copies of these communications and of my answers to them were transmitted to Lord Gosford on the 7th September last, and will be found in the archives of Lower Canada.

Although Her Majesty's Government have not hitherto felt themselves justified in proposing to Parliament any Bill for the settlement of this question, which had been expressly referred for the consideration of the provincial legislatures, they would gladly avail themselves of the present opportunity to bring it to a final adjustment, on a comprehensive and liberal basis.

By the 3d clause of the Act 1 Victoria, cap. 9, your Lordship is restricted from adopting, with your council, any legislative measure on this subject, but in the general plan for the settlement of Canadian affairs, which it is the object of your mission to mature, this question, so important to the permanent welfare of the people, should not be omitted. I have therefore thought it incumbent on me to bring it under your Lordship's notice, and I enclose, for your information and assistance, the copy of a report from two of the Canada commissioners on the subject, and of a letter from the present Bishop of Montreal, explaining his views respecting it. The latter document, though dated in 1835, was not transmitted to me until November last, when, from the altered circumstances of Lower Canada,

31 January 1837.
20 July 1835.
In Lord Gosford's, No. 91, of 11 Sept. 1837.

Canada, it was impossible for Her Majesty's Government to take any steps in the matter. I also enclose, for your Lordship's information, the copy of the instructions addressed to Sir G. Arthur, on his assumption of the government of Upper Canada, with a view to the settlement of this question in that province.

To Sir G. Arthur, No. 4, 26 Dec. 1837.
From Sir G. Arthur, 25 Dec. 1837.
To Sir G. Arthur, 29 Dec. 1837.

I have, &c.
(signed) *Glenelg.*

(No. 30.) — No. 18. —

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

My Lord, Downing-street, 30 April 1838.

No. 18.
Lord Glenelg to the Earl of Durham, 30 April 1838.

I have the honour to transmit herewith, for your Lordship's consideration, a copy of a document entitled "Heads of Objections to a Federative Union of the Provinces of British North America," which has been placed in my hands by Mr. A. Stuart, one of the gentlemen recently despatched from Lower Canada, to make representations to Her Majesty's Government on behalf of the British inhabitants of that province.

I have, &c.
(signed) *Glenelg.*

Enclosure in No. 18.

Heads of Objections to a Federative Union of the Provinces of *British North America.*

Encl. in No. 18.

This measure may be looked at—

1. With reference to the metropolitan or imperial government.
2. With reference to the particular colonies which are to become members of the proposed confederation.

In either view the main considerations relate to the powers to be exercised upon the establishment of the confederation.

1. By the local legislatures of the several colonies composing it.
2. By the federal government.
3. By the metropolitan or imperial government.

No material part of the powers now belonging to the colonial legislatures could be taken from them, and transferred to a federal government, without producing great mischiefs, and occasioning much dissatisfaction. The legislature of each particular colony is best able to regulate its internal affairs; and even when these are badly managed by it, the people (except in very peculiar circumstances) feel that they have the remedy in their own hands. The history of the projected confederation of the old British colonies in 1757; the history of the temporary confederation of them under articles prepared in 1777, and ratified in 1781, and that of the adoption of the existing constitution of the United States of America; all seem to show the confidence of the people in their local legislatures, and their jealousy of federal authority.

The same causes which produced these sentiments in the old British colonies subsist in the present North American colonies; and no powers could be advantageously vested in a federal government which could possibly be exercised by the local legislatures. And this brings us to the consideration of the second point; viz., the powers to be vested in the federal government.

These must obviously be in abridgment, either of the powers of the imperial government, or of those of the local legislatures. No portion of the powers now exercised by the local legislatures could, as has above been observed, be advantageously transferred to a federal government. The powers to be vested in this government could only be powers of the *summum imperium*; as the power of levying taxes, &c., for the common defence and general welfare of the confederacy, of regulating commerce, of levying war and making peace, of defining and punishing offences against the law of nations, of erecting national tribunals, &c. &c. &c.

It is plain that whatever powers appertaining to the *summum imperium* are conferred upon a federal government of these colonies, must be in abridgment of the powers of the imperial government, and the transfer of these powers from the imperial to the federal government carries along with it the substitution of a federative in lieu of a colonial relation between the metropolitan government and the colony.

Such may be the most natural and proper termination of the relation between a parent state and its colony, when the latter attains its full growth and maturity; but the North American colonies have not yet reached that point.

3dly, and lastly. The powers to be exercised by the metropolitan government over the confederated colonies.

 Supposing

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Encl. in No. 18.

Supposing the powers of the *summum imperium* over the confederated colonies to remain in the imperial government as they now are, then the powers to be exercised by the proposed federal government must be carved out of the powers now possessed by the local legislatures. The federal government would be merely federal in name, for the external relations of each and all of the members of the federation would continue to be under the control of the imperial government; nor could the federal government perform any of the functions proper to such a government, without encroaching upon the imperial government, which, from very obvious causes, it would have a continual tendency to do. Then as to the local legislatures, the powers conferred upon the federal government must be exclusive, the local legislatures must be reduced to a state of utter insignificance, and a struggle would immediately take place between the local legislatures and the federal government, wherein the former would obtain the mastery. A reference to some of the leading heads under which the powers of federal government might possibly be classed serve to show the impracticability of the scheme.

1. The Revenue.

The revenues of the different provinces of British North America are principally derived from imposts affording funds, out of which, as well as the expenses of the civil government, and the administration of justice therein have been paid, as the costs incurred in the improvement of the internal communications and other objects of general utility. The management and disposal of these revenues by a body selected from all the provinces, and the distribution and application thereof in the several colonies, according to the supposed particular exigencies of each, would produce jealousies without end and inextricable difficulties.

2. The Post-office.

The unity of power requisite for the management of this department of the Government can only be found in the Imperial Government. The monies arising from this source of revenue within the colony, after deducting a fair proportion of the expense with which this branch of the public service is chargeable, ought doubtless to be applied to colonial purposes. For all the purposes of this application the colonial legislatures, as at present constituted, are perfectly competent.

3. The Currency.

The powers of the provincial legislatures have hitherto, as it is believed, been found adequate to the regulation of the currency within their several limits. The influences which might be supposed to operate unfavourably upon the just regulation of the currency would be the same in the federal government as in the local legislatures, with this only difference, that those influences would be greater, and the counteracting influences less, in the former than in the latter.

4. Internal Communications.

Whatever internal communications are of a local character, or for local use, lie within the scope of the authority of local legislation. The federal government could only appropriate monies for such internal improvements as were for the common defence and general welfare of the confederacy, and were allied to the powers conferred upon the federal government, for the accomplishment of the common and general objects of the confederation. The transfer of any portion of the powers of the colonial legislatures in relation to internal improvements would produce endless jealousies and dangerous collisions.

But if the foregoing difficulties were surmountable, there would still remain the very grave consideration of the large expense which the establishment of a general government within the colonies, over and above the establishment of the present local governments, must entail upon the inhabitants of all the provinces.

In the absence of any specific scheme of an union of the North American colonies under one federal government, the foregoing observations have necessarily been very general.

The evils now to be remedied are confined to the provinces of Upper and Lower Canada; the measure commensurate with those evils, and adequate to their removal, will be found only in the legislative union of those provinces.

The proposed federal union of all the provinces would leave the existing evils without remedy, and superadd others of even greater magnitude, affecting as injuriously the Canadas as the other British North American colonies.

London, 20 April 1838.

—No. 19.—

(No. 34.)

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

My Lord, Downing-street, 7 May 1838.

No. 19.
Lord Glenelg to the Earl of Durham, 7 May 1838.

I have the honour to inform you that I have recently received from the Lieutenant-governor of Prince Edward Island, a despatch, stating that considerable excitement prevails in that colony on the question of escheat; and that there is reason to apprehend some disturbance of the public peace.

Sir Charles Fitzroy has accordingly solicited a reinforcement of two companies of Her Majesty's troops, which I have directed Sir Colin Campbell to send to him. And I have also instructed Sir Colin Campbell to pay every attention, compatible with the safety of the other provinces included in his military command, to any further requisition for assistance which he may receive from Sir Charles Fitzroy.

It is important that your Lordship should be informed of the general bearings of the question of escheat, which, during some years, has occupied much of the public attention in Prince Edward Island; and I, therefore, enclose to you herewith the copy of a despatch, which, on the 10th of August 1836, I addressed to Sir John Harvey. In that despatch you will find a recapitulation of the former proceedings on the subject, and an exposition of the views of Her Majesty's Government respecting it.

In conformity with my suggestion, the legislature of Prince Edward Island, in their session of 1837, passed an Act, imposing a tax on all the lands of the colony, but suspending its operation until it shall have received Her Majesty's special confirmation. To this Act Her Majesty's assent has not yet been given; as I was anxious, before adopting any final measure, to allow a sufficient opportunity for the representations of all parties interested in the matter.

In the mean time, the excitement respecting the escheat question has been kept alive by the misrepresentations of a few individuals, and by the hopes, apparently held out by them to their fellow colonists, that, if the lands of the proprietors should be forfeited to the Crown, they would be regranted by Her Majesty to the actual settlers. On this point, Her Majesty's Government continue entirely to adhere to the views explained in my despatch of the 10th of August 1836. But as that explicit declaration has failed in undeceiving the settlers of Prince Edward Island, it has appeared necessary to take more decided steps for convincing them of the determination of Her Majesty's Government to maintain the rights of property, and to enforce obedience to the laws. I further enclose, for your information, copies of a despatch which I have recently received from Sir C. Fitzroy on this subject, and of my answer to it. I have every confidence that no exertions to maintain the public tranquillity will be wanting, on the part of Sir C. Fitzroy; and I trust that they will be attended with success.

I have, &c.
(signed) *Glenelg.*

—No. 20.—

(No. 35.)

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

My Lord, Downing-street, 9 May 1838.

No. 20.
Lord Glenelg to the Earl of Durham, 9 May 1838.

The documents placed in your Lordship's hands previously to your departure from London, will have made you acquainted with the terms of the agreement, contracted in December 1833, between Her Majesty's Government and the British American Land Company, and with the amount of the instalments paid by the Company under that agreement; it is the object of this despatch to bring before you the present posture of the company's affairs, the applications which they have founded thereon for indulgence, and the views which are taken of those applications by Her Majesty's Government.

In the month of May 1837 Lord Gosford reported to me that a question had arisen between the executive government of Lower Canada and the local commissioners of the British American Land Company, as to the manner in which the interest on the outstanding portion of the Company's purchase-money was to be paid. I referred this despatch to the law officers of the Crown, who, on the 15th July last, made to me a report, of which I herewith enclose a copy for your information. I immediately wrote to the Earl of Gosford, communicating to him

No. 20.
Lord Glenelg to the Earl of Durham, 9 May 1838.

this report, and desiring him to act in conformity to it; but before an opportunity occurred of forwarding my despatch, I received from the Company an urgent request that no further steps might be taken until the arrival in this country of their commissioner, Mr. Moffat. They afterwards repeatedly solicited from me a further suspension of proceedings in the matter; and, finally, they addressed to me, on the 3d February last, a letter, of which the enclosed is a copy, explaining the embarrassments into which they had fallen, and urging their claim to a modification of the terms of their original agreement.

In considering this question, it appeared to me that a distinction ought to be observed between those causes of embarrassment adverted to by the Company, which, at the time when the contract was entered into, might reasonably have been anticipated as of probable occurrence, and those which, although they have subsequently taken place, there was, at that time, no reasonable ground to apprehend.

It was only the difficulties arising from the latter sources that could, in my judgment, give the Company any just claim on the indulgence of the Government. Setting aside, therefore, the former class of difficulties, I could not but admit that the extreme hostility evinced by the Assembly of Lower Canada towards the Company must have had a most injurious effect on their interests; and that the recent disturbances in the province must very materially have impeded their efforts to effect the settlement of their lands. On these grounds, I was of opinion, that they were entitled to the favourable consideration of Her Majesty's Government; but it did not appear to me that a case was yet made out to justify either the entire remission of interest on the purchase-money, or the postponement of the further payments for so long a period as five years. I therefore proposed to the Lords Commissioners of the Treasury to grant to the Company, in the first instance, a suspension of all payments, both of principal and interest, for one year, from the 1st March last (the date at which the next instalment would have become due), reserving for future deliberation the question whether the circumstances of the province, at the expiration of that period, would be such as to justify or require any further indulgence.

The Lords Commissioners of the Treasury agreed with me in this view of the case, and it was accordingly communicated by me to the Company on the 30th March last.

The British American Land Company have received, with much disappointment, this decision of Her Majesty's Government, and, at a general meeting of the proprietors on the 6th ultimo, the enclosed resolution was passed to that effect. The directors have since applied to me to grant them an entire remission of the interest on their purchase-money.

It does not appear to me that I should be justified, at the present moment, in altering the decision already adopted in this matter. At the same time, Her Majesty's Government would be willing to entertain any proposition, by which that moiety of the Company's payment which is not devoted to public works might, with advantage to public interests, be employed in promoting the settlement, and thus facilitating the sale of their lands, not indeed by defraying the passage-money of emigrants from this country, but by assisting in their conveyance from the ports of Lower Canada to the spot where their labour may be most useful; by providing those who need them with tools; by building cottages to be occupied by them at a moderate rent, and by contributing towards the establishment among them of schoolmasters and ministers of religion.

I now commit the consideration of the whole of this subject to your Lordship, and request that you will favour me with your opinion regarding it, as I am aware that it is one to which your attention has already been directed, and with the importance of which you are fully impressed.

I have, &c.
(signed) *Glenelg.*

Enclosure 1, in No. 20.

British American Land Company Office,
London, February 3, 1838.

My Lord,

Encl. 1, in No. 20.

I HAVE had the honour to receive Sir George Grey's letter of the 31st ultimo, on the subject of my communication to your Lordship on the 18th of December, in regard to the claims of the British American Land Company, for a relaxation of the conditions respecting the payment of their purchase-money for the lands obtained from the Crown.

In

No. 20.
Lord Glenelg to the Earl of Durham, 9 May 1838.

Encl. 1, in No. 20.

In compliance with your Lordship's desire to have a more connected statement of the whole grounds on which their application to Her Majesty's Government is based, I am requested by my brother directors to repeat to your Lordship the general grounds upon which the claim was urged; and to show the earliest period at which the British American Land Company prove loss arising from the state of the province of Lower Canada.

In reference to the general grounds upon which the directors urge the claim of the Company, I am requested to state, that they felt themselves compelled to resort to the Government for an amelioration of the contract, in consequence of finding that, after three years' operations, they have expended or pledged nearly the whole of their capital, without having been enabled to effect sales to any extent; and that they are without moral power to enforce against the proprietors the payment of further instalments in the present position of the province and of their adventure; the shares having, in effect, become unmarketable.

It is well known that this state of things has arisen from causes over which the Company had no control, viz., the very unsettled and alarming state of the province, which had been gradually progressing to its present height; the opposition of the House of Assembly and of a party in Canada, jealous of the rights of the Crown, and hostile to a chartered Company, established with a view of promoting British interests; and the consequent impossibility, on the part of the Government, to give the Company "quiet and peaceable possession" of their property; without which, the settlement of the lands is impracticable, and the unpropitious posture of the Company's affairs was inevitable.

In reference to the second point, viz., the period of the first indication of loss to the British American Land Company, arising from the state of the province of Lower Canada, I am authorized to state to your Lordship, that the directors believe it to be coeval with the promulgation in that country of the charter from his late Majesty, whereby the Company is incorporated, and of the Imperial Act of Parliament, 4 Will. 4, sess. 1834. From that moment an hostility was raised against the Company in the House of Assembly of Lower Canada, and out of doors, under the influence of the Canadian party (which had, about that time, arrayed itself against the Government). And thus the minds of emigrants were prejudiced, in regard to the rights, and powers, and privileges, and operations of the Company, which, otherwise, held out the strongest encouragement to them to settle upon the lands which, under a title from the Crown, the corporation had acquired.

No effort was left untried to excite the distrust of emigrants; the most influential party of the representative body was openly and violently opposed to the Company; the press was enlisted to revile the governors of the corporation, and to give universal knowledge throughout the provinces of the alleged incompetency of the Company. And, further, not only were agents hired to board the vessels as they arrived, for the purpose of embuing the passengers with the inflamed principles of their employers; but placards were posted at the ports of landing, warning emigrants against connexion with the British American Land Company. In short, no measures were left unattempted to thwart the exertions of the directors and their officers; and there existed no direct means of counteracting the schemes of their calumniators.

It may possibly be suggested to your Lordship, that this systematic opposition was attributable, in a great degree, to the mere rivalry of the Land Company of Upper Canada; but to any such notion I am enabled to give the most unqualified contradiction. The British American Land Company have not had reason, at any period, to complain of the course adopted by the Canada Company: there has been no competition of an adverse character, although each corporation has the pecuniary interests of its proprietors to maintain; but each has also, as an element in its constitution, the higher motive of lending its aid to the promotion of great national objects, and of fostering the interests of those emigrants from the mother country, who, by their free-will, become settlers on their respective lands. Hence, the subordinate object of pecuniary gain has been insufficient to disturb the harmony of these important corporations.

The committee, which conducted the preliminary arrangements for the establishment of this Company with the Secretary of State for the Colonies, were ignorant of, and without reason to anticipate, the opposition which was excited by their completion; and the directors are not aware that there was any knowledge in the colonial department of the pre-existence of the feeling which was displayed after the negotiations were brought to a conclusion. On the contrary, so assured did the committee feel that the Company would meet with the co-operation of the inhabitants of Lower Canada, in carrying out its intentions, that a large reserve of shares was made for them exclusively.

The objects for which his late Majesty granted a charter to the British American Land Company had engaged the attention of the same parties in 1825; but were suspended by the commercial panic of that year. The project then originated in Lower Canada, and was supported by subscribers there, to the extent of 2,102 shares. This scheme was resumed in the year 1832; and the committee, to whom the charge of its negotiation was entrusted, had no reason to apprehend the animosity which ensued.

It cannot, therefore, be doubted, that the directors have properly defined the period when the operations of the Company were first interrupted by the political state of Canada.

Your Lordship is aware that the petitioners to the Throne and to the Imperial Parliament affected to hold up the establishment of the British American Land Company as one of the main grievances of the province, and denounced its legality in terms calculated to shake the confidence of those, whom their efforts in Canada were intended to deter.

No. 20.
Lord Glenelg to the Earl of Durham, 9 May 1838.

Encl. 1, in No. 20.

In defiance of such obstruction, the directors felt desirous to persevere in the great work upon which they had embarked; and, although surrounded by such rude and discouraging attacks, they are proud to refer your Lordship to the reports of the commissioners of his late Majesty, for their unbiassed testimony of the benefits to the province and to the settlers which had already ensued.

But I need not here introduce any evidence of the deplorably altered state of the affairs of the province: they are sufficiently public, and are known to occupy, at this moment, not only much of your Lordship's attention, but the undivided consideration of the Legislature. Your Lordship is likewise aware, that the same party now so openly resisting the laws in the province and the House of Assembly, continued their virulent opposition to the British American Land Company to the latest moment; and when your Lordship reflects upon the difficulties the Government encounters in upholding Her Majesty's authority there, they will furnish your Lordship with an easy solution of those with which the British American Land Company have to contend.

It is the earnest desire of the directors to persist in their efforts to realize the original views of the Government and the corporation; but the political condition of the country has so deranged the finances of the Company, and accumulated the obstacles against which they would willingly have striven, under ordinary circumstances, as to render their further progress impracticable, without succour from Her Majesty's Government.

The directors, therefore, call upon the Government to modify the terms of the contract, so as to afford the Company some immediate relief, and some aid for the future.

Their proposition is limited, and they are persuaded, will be deemed reasonable; they ask the Government to expunge from the contract the liability of the Company to pay interest upon the purchase-money, and to postpone the payment of any further instalment for the period of five years.

The disbursements which have been made in regard to the purchases from the Crown, up to the date of the last advices from the Commissioners of the Company, are as follows:—

	£.	s.	d.
Payments to the Receiver-general of the province, on account of the purchase-money	19,200	–	–
Payments to the Commissioner of Crown Lands, for the purchase of Crown and Clergy reserves	25,750	–	–
Disbursed on account of the improvement fund, under the authority of the Governor-in-chief	22,200	–	–
Disbursed in surveying, opening the St. Francis territory for the reception of settlers, and completing the Victoria-road	12,800	–	–
Paid for provisions and other necessaries in support of the settlers in the St. Francis territory, during the winter of 1836	15,000	–	–
Incidental expenses in Canada, including surveys in the townships, maps, estimates, law charges, management, &c.	15,500	–	–
The cost of charter and Act of Parliament	1,696	–	–
Amounting in the whole to the sum of £.	112,146	–	–

The balances remaining to be paid on account of the purchase-money are as under:—

	£.	s.	d.
On account of original purchase	42,000	–	–
— Crown and Clergy reserves	6,255	–	–
— Improvement fund	39,000	–	–

And in addition, there will still be a very considerable expenditure for the survey of the St. Francis territory; which charge, the directors have on former communications submitted to your Lordship, ought in equity to be defrayed by the Government.

In the aggregate these sums amount to 199,401 *l.*; and although, as your Lordship will observe, the expenditure already incurred is 112,146 *l.*, the sales by the Company do not exceed 4,500 *l.*, of which only 1,560 *l.* has been realized.

Independently of the foregoing disbursements, the corporation made several additional purchases necessary to carry into effect the original objects of the Company, and to provide those early resources for the settlers, which could not otherwise be furnished. Among such acquisitions, I may mention to your Lordship the purchase and establishment of Port St. Francis, being the only point within 100 miles of Quebec approachable by steam or other vessels of magnitude, at an outlay of 6,870 *l.*; the purchase and improvement of the town of Sherbrooke, at a cost of 23,170 *l.*; and various minor purchases essential from their situation, in regard to the territory purchased from the Crown, at prices amounting together to 34,450 *l.*, making the total outlay under this head, 64,490 *l.*; and under both heads, 263,891 *l.*; and this sum is exclusive of the interest which, pursuant to the charter, has been paid to the proprietors, and of the expense of management in England.

In respect to these last enumerated purchases, the Company's interests have suffered in an almost equal degree from the effects of the combination before referred to; but the directors are anxious not to trespass upon your Lordship's time by entering upon further details.

It

No. 20.
Lord Glenelg to the Earl of Durham, 9 May 1838.

It has devolved upon me, as the Governor of the corporation, to address this painful statement to your Lordship. My colleagues and myself feel assured that your Lordship will require no apology for its length, and the occupation of your valuable time; and we have confidence that your Lordship will give full effect to this earnest appeal to the liberality and justice of Her Majesty's Government.

Encl. 1, in No. 20.

I have, &c.

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

(signed) *G. R. Robinson.*

P. S.—Since writing the above, a despatch has been received from J. Fraser, esquire, the recently appointed Chief Commissioner of the Company, dated Sherbrooke, 15 Dec. last; the following extract of which I beg leave to annex, as it exemplifies to your Lordship a remarkable coincidence of opinion, without any previous concert, between the Directors of the Company in London and their Commissioners in Canada, on the matters referred to in the foregoing communication.

G. R. R.

"Really now that the very rumour of civil war must greatly retard for years to come the emigration to Lower Canada, and the settlement of the eastern townships, it becomes a matter of serious consideration what new and greatly reduced terms can preserve the Land Company from being ruined by national events, which they could neither foresee nor prevent. I always considered the payment of any interest on a dead block of land unreasonable and unwise; the instalments themselves were far more rapid than the land could become available; my mind at first recoiled from the Company's own construction of the bargain in this respect; I saw at a glance, that they hung a millstone on the transaction; but the Government amendment on that construction completely crowned the matter as hopeless; their (the Company's) last purchase of land was more available for early sale and settlement than the Government block was at less than one-third its price; if they had now on hand only their own purchases, without having had any transaction with Government, they would have been truly fortunate, in comparison with what they are; and yet they seem to be treated with hardness and jealousy, as if they had got a great catch; sincerely, however, they have caught a tartar; and all my Scotch thrift and considerate economy cannot now mend the matter. The Company are a desirable help to Government in peopling and cultivating the country, and it will be a shame in Downing-street, and a real misfortune in Canada, if a rigid exaction of the original terms under such woefully altered circumstances, ruins and dissolves the stockholders of so patriotic an enterprise.

"The Provincial Government listen to the recommendations of the Crown Lands Office, and the Crown Land Commissioners fear to be found almost in a sinecure, if they do not show a large sum from the Company in their revenue, to swell out their particular department; so that the Company must look for ulterior favour, consideration and liberality, to the great men in London at the head of our Government. Though the rebellion should now cease, the injury already inflicted by its occurrence at all, on the prospects of the Land Company, does surely call for and justify the concession to them of all the unconceded Crown land designated on the map, which was used in the first negotiations; the survey of their heavy purchase; the payment of it as at first intended in provincial money; and the abatement of all interest on their instalments."

Enclosure 2, in No. 20.

Sir, Downing-street, 30 March 1838.

Encl. 2, in No. 20.

With reference to your letter of the 3d ultimo, stating the circumstances under which the British American Land Company were compelled to solicit a relaxation of the conditions of the agreement subsisting between them and Her Majesty's Government, I am directed by Lord Glenelg to acquaint you, that having brought the subject under the consideration of the Lords of the Treasury, their Lordships have agreed to a modification of that agreement, to the extent specified in the accompanying copy of their Lordship's answer.

Colonial Office, 15 February.

Treasury, 30 Mar.

I have, &c.

G. R. Robinson, Esq.

(signed) *Geo. Grey.*

Enclosure 3, in No. 20.

British American Land Company Office,
Barge-yard, April 6, 1838.

Sir,

Encl. 3, in No. 20.

I have the honour to acquaint you, that the adjourned general meeting of the proprietors of the British American Land Company, which was very numerously attended, took place at the London Tavern this day, when the annexed resolution was unanimously passed; and I am desired by the directors to transmit you a copy for the information of Lord Glenelg.

I have, &c.

Sir George Grey, Bart., M. P. &c. &c. &c.

(signed) *Henry P. Bruyeres,* Secretary.

Copy

No. 20.
Lord Glenelg to the Earl of Durham.
9 May 1838.

COPY of a RESOLUTION passed at an adjourned General Meeting of the Proprietors of the British American Land Company, held on the 6th day of April 1838.

"Resolved,

Encl. 3, in No. 20.

"THAT this Court beg to express their acknowledgments to the Secretary of State for the Colonies, and also to the Lords Commissioners of the Treasury, for the attention which has been bestowed by them upon the letter addressed by the Governor of the Company to Lord Glenelg, requesting a modification of the agreement with Her Majesty's Government, in consequence of the difficulties with which the Company have had to contend, arising from circumstances they could neither foresee nor prevent:—but,

"They respectfully beg to express the great disappointment felt by the proprietors at the communication made by the Secretary of State for the Colonies and the Lords Commissioners of the Treasury, to accord them relief so totally inadequate to the exigencies of their present position; an adhesion to the terms of which must infallibly lead to the annihilation of all their hopes, and of the great objects for which the Company was established.

"The present embarrassments of the Company being attributable to the difficulty of effecting the sale of land, in consequence of the unsettled state of the province from the period of their first establishment; and the late rebellion having further retarded their prospects, this Court feel compelled to represent to Her Majesty's Government the impossibility of raising the necessary funds to meet the future instalments, unless the interest thereon is remitted, and a far more extended period allowed them for the payment of the principal.

"With this impression, the proprietors implore Her Majesty's Government to reconsider the application made to Lord Glenelg on the 3d of February, and parentally to afford such further relief and protection to the Company as may enable them to persevere in the original object of their enterprise, and which, at the present crisis, they consider not only of vital interest to the Company, but of the greatest national importance."

— No. 21. —

(No. 41.)

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

No. 21.
Vide Papers relative to Emigration. Ordered to be Printed, 14 May 1838. No. 389.
1 May 1838.

My Lord, Downing-street, 21 May 1838.

WITH reference to the Earl of Gosford's despatch of 23d January, No. 10, transmitting the annual report from the agent for emigrants at the port of Quebec, I transmit to you herewith the copy of a letter from the agent-general for emigration, recommending the temporary re-establishment in Lower Canada of the tax imposed by the provincial Act, 6 Will. 4, c. 13, and appropriated to the relief of sick or indigent emigrants.

I presume that as this Act would, under ordinary circumstances, have expired previously to your Lordship's arrival in Lower Canada, Sir J. Colborne will, in conformity with the authority committed to him, have taken the necessary steps for continuing it.

I have, &c.
(signed) *Glenelg.*

Enclosure in No. 21.

Sir, 2, Middle Scotland Yard, 1 May 1838.

Encl. in No. 21.

I HAVE the honour to acknowledge the receipt of your letter of yesterday, transmitting a copy of the annual report on emigration of the acting agent for emigrants at the port of Quebec.

I am glad to see so little sickness amongst the emigrants last year, and no loss of lives by shipwreck. The most important point in Mr. Buchanan's report, with a view to any practical measures, is the expiration which he notices of the emigrant tax, being the fund from which the care of the sick and the forwarding of the indigent has hitherto been provided for. Mr. Buchanan alludes, I observe, to an intention of the Emigrant Society of Quebec to propose some other and permanent measure to meet the same object. In the meanwhile, however, I apprehend that, if there be any authority in Canada by which the tax can be temporarily re-established, it could not but be highly beneficial to the interests of the emigrants themselves, and of the inhabitants of the chief places through which they pass in their way to the upper country.

I have, &c.

J. Stephen, Esq., &c. &c. &c. (signed) *Fred. Elliot.*

— No. 22. —

(No. 43.)

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

No. 22.
Vide Correspondence relative to Canada. Ordered to be printed, 4 May 1838. No. 357, page 201.

My Lord, Downing-street, 24 May 1838.

I TRANSMIT herewith for your Lordship's consideration a copy of an Address to Her Majesty from the House of Assembly of Upper Canada, praying that Her Majesty will recommend to Parliament to pass an Act to determine the division between Upper and Lower Canada of the duties collected at the port of Quebec. I also enclose a copy of the answer which, by Her Majesty's command, I have returned to this Address. I have to request that your Lordship will take these documents into consideration, and will favour me with your opinion as to the propriety of hereafter proposing to Parliament any alteration of the existing law on this subject.

I have, &c.

(signed) *Glenelg.*

Enclosure in No. 22.

(No. 77.)

Sir, Downing-steet, 24 May 1838.

Encl. in No. 22.

I HAVE had the honour to lay at the foot of the Throne the address to Her Majesty from the House of Assembly of Upper Canada, dated the 26th February last, praying that Her Majesty would recommend to the Imperial Parliament the passing of an Act to determine the division, between the provinces of Upper and Lower Canada, of the duties arising from imports at the Port of Quebec. The Queen was pleased to receive this address very graciously; but Her Majesty commands me to state that she is not in possession of the information necessary for fixing any determinate rule for the division of duties between the two provinces. It would seem to admit of serious doubt whether the distribution ought not to fluctuate with the varying proportion which must subsist at different times between the contributions made by either province to this branch of the revenue, and therefore whether it is not indispensable that the division should continue, as at present, subject to periodical revisions. For these reasons it will not be possible to bring the subject under the consideration of Parliament during the present Session, but Her Majesty has referred it to the consideration of the Earl of Durham, and will await his opinion before any decision is finally taken respecting the reference of the question to the Imperial Parliament.

I have, &c.

Sir G. Arthur, &c. &c. &c. (signed) *Glenelg.*

— No. 23. —

(No. 44.)

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

No. 23.
Lord Glenelg to the Earl of Durham, 25 May 1838.

My Lord, Downing-street, 25 May 1838.

I HAVE the honour to acknowledge the Earl of Gosford's despatch, No. 13, of the 25th January last, bringing under my consideration a question which had arisen as to the boundary between Lower and Upper Canada. I lost no time in referring the subject for the opinion of Her Majesty's Attorney and Solicitor-general; and I have now the honour to enclose, for your Lordship's information, a copy of their reply, in which they report that the boundary of Lower Canada, in their judgment, extends only to the centre of the stream of the Ottawa.

Annexed to Lord Gosford's despatch is a memorial which Mr. Samuel Adams has addressed to me, praying permission to purchase, at a low rate, 200 acres of land on Allumette Island. I am not aware whether this island lies within the boundary of Lower Canada, as defined by Her Majesty's legal advisers; but you will have the goodness to inform Mr. Adams that I cannot sanction the alienation of this land to him on terms more favourable than those prescribed for the sale of the Crown lands generally. If, however, the island should prove to be within your immediate jurisdiction as governor of the province, it will be for your Lordship to consider whether the mills, &c., established by Mr. Adams in that locality are calculated to confer sufficient benefit on the public to justify the lease for a limited period to him of the land on liberal terms.

I have, &c.

(signed) *Glenelg.*

(No. 13.) Enclosure in No. 23.

My Lord, Castle St. Lewis, Quebec, 25 Jan. 1838.

Encl. in No. 23. No. 1.

I HAVE the honour to bring under your consideration a report of a committee of the executive council of this province upon a reference respecting a grant by way of lease made by the government of Upper Canada of an island in the Ottawa River; and with a view to lay the subject as fully as possible before your Lordship, I shall detail the circumstances which led to the reference in question.

In the year 1832, Mr. Samuel Adams, who had squatted on one of the large islands in the Ottawa, called the Allumette, presented a petition, praying for a grant of a certain portion of it, to erect mills and make other improvements, when he was informed generally that the government were not sufficiently acquainted with the locality, and were not prepared to make the desired grant, on the ground that it might interfere with improvements in the navigation of that large and important river. In the year 1836, however, Mr. Adams renewed his application, supported by strong recommendations, and it was referred in the usual manner to the executive council. Pending the reference, Mr. Archibald Petrie, who, it is presumed, had heard that it was the intention of parties to make application for islands in the Ottawa, in which he might possibly be interested, sent to the Land Office here the enclosed copy of a lease of islands granted to him by the government of Upper Canada, in Oct. 1834. This, as a matter of course, was also sent to the executive council, when it appeared advisable, as a preliminary step, to call upon the Crown law officers for their opinion relative to the boundary between the provinces, as established by the Royal Proclamation dividing them in 1791. The opinions of these officers, a copy of which is herewith transmitted, being at variance with the construction which had hitherto generally obtained, viz., of placing all the islands in the Ottawa within the province of Lower Canada, renders it necessary to request your Lordship to bring the question under the notice of Her Majesty in Council, as one necessarily beyond the power of any provincial authority to decide. The subject calls for early attention, as the survey of a large tract of land fit for settlement must be suspended until it is known from which province the warrant of survey is to issue.

No. 2.

I enclose a memorial to your Lordship from Mr. Adams, praying to be allowed to purchase, at a low rate, 200 acres of land on Allumette Island, in the river Ottawa.

No. 3.

I have, &c.

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

(signed) *Gosford.*

No. 1.

To his Excellency the Earl of *Gosford*, Captain-general and Governor-in-chief of the Province of Lower Canada, &c. &c. &c.

Report of a Committee of the Executive Council:—Present, the Honourable Mr. Smith, Mr. de Lery, Mr. Stewart and Mr. Cochran.

May it please your Excellency,

THE committee have deliberated upon your Excellency's reference on the subject of a grant, by way of lease, made by the government of Upper Canada of an island in the Ottawa River, and their attention has been particularly directed to the opinion given by Her Majesty's Attorney and Solicitor-general of this province, under date of 22d July 1837, to the effect that the fluvial line of boundary between the provinces of Upper and Lower Canada, as established by the royal proclamation, dividing the province of Quebec in 1791, must be taken to be the middle of the streams of the River Ottawa, and not the water's edge on the Upper Canada shore.

As a different construction of this important point has been heretofore given by the late Attorney-general of the Crown in this province, and has been repeatedly acted upon by the provincial government, and as the question, being one of boundary between two of Her Majesty's provinces, is necessarily beyond the power of any provincial authority to decide, and can only be determined by Her Majesty in Her Privy Council: the committee recommend that measures be taken, under the advice of Her Majesty's Attorney-general, and in communication with the authorities of Upper Canada, to obtain the determination of that high tribunal upon the point now brought in issue by the public acts done under the royal authority in the two provinces. All which is respectfully submitted to your Excellency's wisdom.

By order,

Council Chamber, 15 Sept. 1837. (signed) *W. Smith*, Chairman.

Certified (a true copy).
George H. Ryland.

No. 23.
Lord Glenelg to the Earl of Durham, 25 May 1838.

Encl. in No. 23.

No. 2.

Upper Canada.

William the Fourth, &c. &c. &c. To all whom these presents shall come greeting. Know ye, that in consideration and subject to the proviso, conditions and restrictions hereinafter contained, we have demised, leased, let out and to farm-let, and by these presents do demise, lease, set and to farm-let unto Archibald Petrie, of the township of Clarence, in the county of Russell, in the district of Ottawa, esquire, all those certain parcels or tracts of land situate in the front of the township of Clarence, in the county of Russell, in the district of Ottawa, containing together twenty acres, more or less, being two small low islands in the Grand or Ottawa river, in front of the townships of Clarence and Cumberland, saving and reserving to us, our heirs and successors, all mines of gold and silver, copper, tin, lead, iron and coal that shall or may be hereafter found on any part of the said parcels or tracts of land hereby demised, and also all white pine-trees that shall or may now or hereafter grow or be growing on any part of the said parcels or tracts of land hereby demised, and also saving and reserving full and free liberty to our surveyors and all other persons by us, our heirs and successors, or by our governor, lieutenant-governor or person administering the government of our said province of Upper Canada for the time being, duly authorized, at all times to come in and upon the premises hereby demised and every part thereof, to survey the state and condition thereof: to have and to hold the said parcels or tracts of land hereby demised, with the appurtenances (subject to the proviso and reservations herein contained) unto the said Archibald Petrie, his executors, administrators and assigns, from the twenty-fifth day of December, one thousand eight hundred and thirty-four, for, during and unto the full end and term of twenty-one years from thence next ensuing, and fully to be complete and ended, yielding and paying therefor yearly and every year during the said term hereby demised, unto us, our heirs and successors, the rent or sum of one pound of lawful money of our said province, the aforesaid payments to be respectively made on the two following days or times of payment in the year, that is to say, on the twenty-fifth day of December and the twenty-fourth day of June in every year, by even and equal proportions, at such place and in such manner as shall be by us, our heirs and successors, or by our governor, lieutenant-governor, or person administering the government of our said province for the time being, from time to time appointed, for the payment thereof, to begin and be made on the twenty-fourth day of June, one thousand eight hundred and thirty-five.

Provided always, nevertheless, and if it shall happen that the said yearly rents hereby respectively reserved in manner aforesaid, or any part thereof, shall be behind or unpaid for the space of twenty days next over or after any or either of the days or times of payment whereon the same ought to be paid according to the respective reservations aforesaid, or if the said Archibald Petrie, his executors, administrators or assigns shall, at any time or times during this demise, do or commit or permit or suffer to be done or committed any manner of waste, spoil, trespass, damage or destruction to or upon the said parcel or tracts of land hereby demised or any part thereof, or upon any of the said mines of gold and silver, copper, tin, lead, iron and coal or white pine-trees (if any such mines or trees there are or shall be found in or upon the said demised premises or any part thereof), contrary to the exceptions, restrictions and reservations aforesaid: then and in either of the said cases these presents, and every clause, matter and thing herein contained, shall be, and we hereby declare the same to be null and void to all intents and purposes whatsoever, and the said parcels or tracts of land hereby demised, and every part and parcel thereof shall revert to and become vested in us, our heirs and successors, in like manner as if the same had never been demised, any thing herein contained to the contrary thereof in anywise notwithstanding.

Given under the Great Seal of the Province of Upper Canada this 14th October 1834.

Witness, &c.

(signed) *J. Colborne.*

No. 3.

To the Right honourable Lord *Glenelg*, Her Majesty's Principal Secretary of State for the Colonies, &c. &c. &c.

The Memorial of *Samuel Adams*, of Allumette Island, in the River Ottawa,

Most humbly sheweth,

That your Lordship's memorialist being solicited by a number of inhabitants residing within the county of Ottawa to erect a grist and saw-mill on the unsurveyed lands of the Crown upon Allumette Island, at a place called Owen's Creek, in consequence of their being distant no less than sixty miles from such an establishment, to which distance they had to transport their grain and lumber for manufacture for private use, agreed to their proposal, thinking that he would meet with no difficulty in obtaining permission to purchase from the Government a tract of land upon the island.

That, in 1832, having nearly completed his mill, and built a frame-house, barns and out-houses, and made a considerable clearance, he applied to the Crown to be permitted to purchase 200 acres of land on the said island; and a memorial from a great number of the inhabitants interested in the undertaking of your memorialist, and in the completion of which they have been so much benefited, accompanied the same, recommending the prayer of your memorialist's petition to his Excellency Lord Aylmer.

No. 23.
Lord Glenelg to the Earl of Durham, 25 May 1838.

Encl. 1, in No. 23.

That the late Governor-in-chief, in reply to the application of your memorialist and the inhabitants, gave for answer, that "it was not expedient to grant the permission asked for," without assigning any other reason therefor.

That your Lordship's memorialist, on the 14th June 1836, was again induced to come forward by petition to his Excellency the Earl of Gosford, renewing the application he had before made, and his Excellency conceiving, as your memorialist has reason to believe, that your memorialist merited indulgence, submitted the same for the report of his Executive Council.

That the Executive Council have been prevented from making a final report upon the petition of your memorialist, in consequence of a question of boundary, in so far as respects the islands of the Ottawa having arisen between the two provinces.

That, under these circumstances, your Lordship's memorialist has been advised to pray his Excellency the Governor-in-chief to forward his case for the consideration and decision of your Lordship. That your Lordship's memorialist wishes it to be understood, that he does not ask for any privilege which it may be thought injurious to the interests of the Crown to grant; but he confidently hopes that your Lordship will extend to him every fair and reasonable indulgence which can be given without affecting these interests.

If the Crown will not, or cannot, go to the expense of erecting mills on its demesne, it should, instead of adopting the narrow and unprofitable policy of refusing indulgence, to hold out inducement to private individuals to lay out their capital for the benefit of its subjects; and to the industrious emigrant no greater boon can be offered for his settlement in a "forest country," than the erection of saw and grist-mills within a moderate distance of his clearing. In the United States, as well as in several of the British colonies, strong inducement is held out to the capitalist to invest his money in such an enterprise as that which has been perfected by your Lordship's memorialist.

Your memorialist, therefore, most humbly prays, that your Lordship will take his case into consideration, and direct that he be permitted to purchase, at a low rate, 200 acres of land on the Allumette Island; and, as in duty bound, he will ever pray.

(signed) *Samuel Adams.*

Allumette Island, 28 December 1837.

—No. 24.—

(No. 45.)

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

No. 24.
Lord Glenelg to the Earl of Durham, 26 May 1838.

Vide Papers relative to the Affairs of Canada. Ordered by the House of Commons to be printed, 4 May 1838. No. 357. page 121 and 177.

My Lord, Downing-street, 26 May 1838.

I HAVE the honour to transmit to your Lordship herewith the copy of an address from the House of Assembly of Upper Canada to the Queen, with the report and resolutions on which it is founded, relative to the state of that province, and the expediency of its union with the province of Lower Canada. I also enclose the copy of an address on the same subject from the legislative council of Upper Canada, together with copies of the answers, which, by Her Majesty's commands, I have returned to these addresses.

In maturing the measures for the future government of Canada, the preparation of which, in the first instance, has been confided to your Lordship, you will of course not fail to give your attentive consideration to the important information contained in the addresses and other documents emanating from the legislative council and House of Assembly of Upper Canada.

I have, &c.

(signed) *Glenelg.*

Enclosure 1, in No. 24.

Sir, Downing-street, 30 April 1838.

Encl. 1, in No. 24.

I HAVE to acknowledge the receipt of Sir F. Head's despatch of the 12th March, No. 32, enclosing an Address to The Queen from the Legislative Council of Upper Canada, together with the copy of a report from a committee of that branch of the legislature on the state of the province.

I have had the honour to lay this Address at the foot of the Throne, and Her Majesty has commanded me to assure the Legislative Council that the various topics to which it refers will not fail to receive the careful attention of Her Majesty's Government.

I have, &c.

To Sir G. Arthur, &c. &c. &c. (signed) *Glenelg.*

No. 24.
Lord Glenelg to the Earl of Durham, 26 May 1838.

Enclosure 2, in No. 24.

Encl., 2 in No. 24

Sir, Downing-street, 25 May 1838.

I HAVE had the honour to lay before The Queen the Address from the House of Assembly of Upper Canada, of the 25th February, explaining the views of that House on the present state of the Canadian provinces, and the expediency of taking measures for their union.

Her Majesty commands me to state, that She is deeply impressed with the importance of the subjects to which this address and the accompanying documents refer. Her Majesty has entrusted to the Earl of Durham, the Governor-general of British North America, such powers as will enable him to investigate the whole of these questions, and to prepare for the consideration of Parliament such measures as may be necessary for placing the relations of the two Canadas on a firm and satisfactory basis; and with a view to assist his Lordship in prosecuting those inquiries, The Queen has referred to him this address and the accompanying report, and has commanded him to take into his attentive consideration the various suggestions made by the Assembly of Upper Canada.

I have, &c.

To Sir G. Arthur, &c. &c. &c. (signed) *Glenelg.*

—No. 25.—

(No. 48.)

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

No. 25.
Lord Glenelg to the Earl of Durham, 29 May 1838.

Vide Papers relative to the Affairs of Canada. Ordered to be printed, 4 May 1838. No. 357. Page 34.

My Lord, Downing-street, 29 May 1838.

I HAVE received Sir J. Colborne's despatch of the 27th April (No. 34), reporting that, in consequence of the continued tranquillity of Lower Canada, he had issued a proclamation terminating the existence of martial law in the district of Montreal. Her Majesty's Government have received this intelligence with satisfaction, and entirely approve of Sir J. Colborne's conduct in availing himself of the earliest opportunity to put an end to martial law.

I have, &c.

(signed) *Glenelg.*

—No. 26.—

(No. 49.)

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

No. 26.
Lord Glenelg to the Earl of Durham, 29 May 1838.

My Lord, Downing-street, 29 May 1838.

THE British minister at Washington has communicated to Her Majesty's Government the circumstances under which Mr. Aaron Vail has been despatched to Canada to inquire into the cases of any American citizens who may be there in custody on charges connected with the late insurrection, and has transmitted copies of the letters which, on that occasion, he addressed to Sir J. Colborne and the Lieutenant-governor of Upper Canada. We have learnt, with satisfaction, that the President has appointed for this service a gentleman well acquainted with English laws and customs, and we trust that the good effects anticipated from his mission by Mr. Fox will be realized. I am convinced that your Lordship will afford Mr. Vail every facility to ascertain and report on the conduct observed towards his countrymen.

I have, &c.

(signed) *Glenelg.*

—No. 27.—

(No. 50.)

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

No. 27.
Vide Papers relative to the Affairs of Lower Canada. Ordered to be printed, 4 May 1838. No. 357. Page 23.

My Lord, Downing-street, 29 May 1838.

I HAVE to acknowledge the receipt of Sir J. Colborne's despatch of the 23d April, No. 29, reporting, that he had opened the session of the Special Council, and enclosing a copy of the rules adopted for the maintenance of order and the despatch of business in that body. Sir J. Colborne, at the same time, apprizes

No. 27.
Lord Glenelg to the Earl of Durham, 29 May 1838.

me of his intention to propose to the Council an ordinance for defraying the arrears due on the 1st April to the judges and other public officers of the province.

I request your Lordship to convey to Sir J. Colborne my approbation of these proceedings.

I have, &c.

(signed) *Glenelg.*

—No. 28.—

(No. 51.)

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

No. 28.
Lord Glenelg to the Earl of Durham, 30 May 1838.

My Lord, Downing-street, 30 May 1838.

I HAVE to acknowledge Sir J. Colborne's despatch of the 2d instant (No. 37), reporting his intention to postpone until his Lordship's arrival the trials of such of the prisoners still remaining in custody on charges of high treason as cannot properly be discharged. I have to request that your Lordship will convey to Sir J. Colborne my approbation of the decision which, under the circumstances, and in the expectation of your Lordship's early arrival, he adopted in this matter. Her Majesty's Government, however, see no reason to alter the instructions which have already been addressed to you with reference to the trial of the prisoners charged with recent political offences.

I have, &c.

(signed) *Glenelg.*

—No. 29.—

(No. 52.)

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

No. 29.
Lord Glenelg to the Earl of Durham, 30 May 1838.

My Lord, Downing-street, 31 May 1838.

I HAVE received Sir J. Colborne's despatch of the 9th April, enclosing a letter from the Attorney-general of Lower Canada, relative to the inquiry into the cases of those persons in custody on charges connected with the late insurrection, in which he was at that date engaged. As I have already fully explained to Sir J. Colborne, and to your Lordship, the views of Her Majesty's Government in regard to the trial of these prisoners, it is only necessary, on the present occasion, that I should refer you for your guidance in that matter to my previous despatches.

I have, &c.

(signed) *Glenelg.*

—No. 30.—

(No. 54.)

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

My Lord, Downing-street, 2 June 1838.

No. 30.
Vide Papers relative to the Affairs of Canada. Ordered to be printed, 4 May 1838. No. 357. Page 19.

I HAVE received Sir John Colborne's despatch, No. 17, of 30th March, detailing the proceedings of the forces under his command at the capture of St. Benoit, and after the dispersion of the rebels.

Having laid that despatch before The Queen, Her Majesty has commanded me to desire your Lordship to signify to Sir J. Colborne, that while She deeply laments that any needless severities should have been practised by one class of Her Majesty's subjects against another, Her Majesty is gratified to learn, as she fully anticipated, that her troops are in no degree responsible for any of the excesses which unhappily attended the defeat of the insurgents at St. Benoit and St. Charles, but that in the harassing service in which they were engaged, they maintained unimpaired their high character for discipline and moderation.

I have, &c.

(signed) *Glenelg.*

—No. 31.—

(No. 58.)

No. 31.
Lord Glenelg to the Earl of Durham, 9 June 1838.

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

My Lord, Downing-street, 9 June 1838.

The House of Commons having presented an address to Her Majesty, praying that there be laid before that House copies of all Acts passed by the Canadian Legislatures in their last session for the preservation of the peace, and for the trial of persons charged with insurrection against the Government, together with a return of the names, &c. of the persons arrested in those provinces, and Her Majesty having been graciously pleased to command that the prayer of this address be complied with, I have to desire that your Lordship will, at your earliest convenience, transmit to me, for presentation to the House of Commons, a set of the Acts in question, passed in the province under your government, together with the returns specified in the address, a copy of which I enclose for your guidance in their preparation.

8 May.

I have, &c.

(signed) *Glenelg.*

—No. 32.—

(No. 59.)

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

No. 32.
Lord Glenelg to the Earl of Durham, 12 June 1838.

My Lord, Downing-street 12 June 1838.

The arrival in Lower Canada of the reinforcements sent from this country having, as I trust, superseded the necessity of keeping up any of the militia or volunteer corps lately embodied in that province, your Lordship will, I presume, have taken the earliest opportunity of disbanding them, in conformity with my instructions of the 20th April. (No. 16); I have therefore to request that your Lordship will adopt the necessary steps for ensuring the re-delivery to the Ordnance officers in Lower Canada of the muskets and unexpended stores which were issued to those corps.

I have, &c.

(signed) *Glenelg.*

—No. 33.—

(No. 60.)

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

No. 33.
Lord Glenelg to the Earl of Durham, 15 June 1838.

My Lord, Downing-street, 15 June 1838.

I have had the honour to receive the Earl of Gosford's despatch of the 26th January last, No. 14, and Sir J. Colborne's of 22d March, No. 10; the first bringing under my notice the claims to indemnity of those persons who have incurred losses during the late insurrection, and reporting the measures which he had adopted to relieve the immediate distress of the principal sufferers, the second recommending to the favourable consideration of Her Majesty's Government the family of M. Chartrand, who was murdered by the insurgents, on account of his having joined the St. John's volunteers.

Her Majesty's Government approve of the course hitherto adopted in this matter by the Earl of Gosford. As, however, many claims besides those already brought forward will probably be hereafter preferred, and as it would be obviously inconvenient in such a matter to decide on insulated and individual cases, irrespective of some general rule, Her Majesty's Government propose, until they shall have the subject more fully before them, to defer adopting any decision respecting the admission or rejection of such claims.

In the mean time, your Lordship's attention will be directed to this subject, and I shall be happy to be made acquainted with your views regarding it; but I think it necessary at once to state, that no indemnity for losses during the insurrection can be considered as a charge on the funds of this country, unless it relates to the cost of articles actually taken for the use of the troops employed in maintaining the public peace and vindicating the law.

I have, &c.

(signed) *Glenelg.*

— No. 34. —

(No. 62.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 34. Lord Glenelg to Earl of Durham, 30 June 1838.

My Lord, Downing-street, 30 June 1838.

I HAVE the honour to transmit to you herewith copies of two Addresses to Her Majesty from the Legislative Council and House of Assembly of Upper Canada; the first praying that a Bill may be introduced into the Imperial Parliament for surrendering to the control of the local Legislature the surplus profits of the post-office in that Province; the second suggesting the imposition of a duty of two-and-a-half per cent. *ad valorem* on all goods imported into Lower Canada, to be applied to the payment of the interest of the debt contracted by Upper Canada in the construction of public works, and the improvement of the channels of internal communication.

Treasury, 13 June.

Having, by Her Majesty's command, referred these Addresses for the consideration of the Lords Commissioners of Her Majesty's Treasury, I now enclose, for your Lordship's information, a copy of the answer which I have received from them, and, in conformity with the suggestion contained in this letter, I have to request that your Lordship will take into your consideration the important subjects mooted in the Addresses from the Legislature of Upper Canada, with a view to determine whether any measures conducive to the general interests of British North America can be adopted with respect to them. I have informed Sir G. Arthur that these Addresses have been referred to your Lordship, and have directed him to furnish, for your assistance, every information in his power on the subjects to which they advert.

I have, &c.

(signed) *Glenelg*.

Enclosure 1, in No. 34.

(No. 31.)

My Lord, Upper Canada, Toronto, 12 March 1838.

Encl. 1, in No. 34.

I HAVE the honour to transmit to your Lordship, in compliance with the request of the Legislative Council and House of Assembly, two joint Addresses from those bodies to the Queen, on the subject of the post-office department, and the levying an additional duty of two-and-a-half per cent. on goods imported into Lower Canada, now paying an *ad valorem* duty, which your Lordship will be pleased to lay before Her most Gracious Majesty.

I have, &c.

To the Right Hon. Lord Glenelg. (signed) *F. B. Head*.

Enclosure 2, in No. 34.

To His Excellency Sir *Francis Bond Head*, Baronet, Knight Commander of the Royal Hanoverian Guelphic Order, Knight of the Prussian Military Order of Merit, and Lieutenant-Governor of the Province of *Upper Canada*, &c. &c. &c.

May it please your Excellency,

Encl. 2, in No. 34.

WE, Her Majesty's dutiful and loyal subjects, the Legislative Council and House of Assembly of Upper Canada in provincial Parliament assembled, have agreed to two humble Addresses to Her Majesty, on the subjects of the post-office department, and the levying an additional two-and-a-half per cent. on goods imported into Lower Canada, now paying an *ad valorem* duty; which we respectfully pray your Excellency will be pleased to transmit to the Secretary of State for the Colonies, in order that they may be laid at the foot of the Throne.

Legislative Council Chamber, 1 March 1838. *J. B. Robinson*, Speaker.

Commons' House of Assembly, 3 March 1838. *Allan N. MacNab*, Speaker.

(No. 1.)

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

No. 34.
Lord Glenelg to the Earl of Durham, 30 June 1838.
Encl. 2, in No. 34.

We, Your Majesty's dutiful and loyal subjects, the Legislative Council and Commons of Upper Canada, in Provincial Parliament assembled, humbly beg leave to approach Your Majesty, and submit to Your Majesty's consideration, that, during the last session of the Legislature of this Province, a Bill was passed, authorizing the members of the Legislative Council and of the House of Assembly thereof to frank letters by the General-post during their sessions, to commence on 1st January 1838, under certain restrictions therein mentioned. We further beg leave to state, that the said Bill has been disallowed by Your Majesty's Government, because it was not in conformity with a Bill passed by Your Imperial Parliament on the 26th March 1834, intituled, "An Act to repeal, at the period within mentioned, so much of an Act passed in the fifth year of the reign of his late Majesty King George the Third, intituled, 'An Act to alter certain rates of postage, and to amend, explain, and enlarge several provisions in an Act made in the ninth year of the reign of Queen Anne, and in other Acts, relating to the revenue of the Post-office,' as authorizes the taking of certain rates of inland postage within His Majesty's dominions in North America;" in which Bill, amongst other things, it is enacted by the second clause, "That from and after His Majesty's consent shall be signified to such Bills or Acts of colonial or provincial legislatures as hereinbefore mentioned, all the revenue which may arise from the collection of the rates of inland postage within the said respective colonies or possessions, after deducting the expenses of collection, and of the establishment and management of the post-office within and throughout the said respective colonies or provinces (under the direction of His Majesty's Postmaster-general or his deputies), shall and may, instead of being remitted, as heretofore, to the General Post-office in London, as part of the general revenue of the Post-office, be appropriated, applied, and distributed to and among the said respective colonies and provinces, in proportion to the gross amount of the rates and duties of postage which shall be raised, collected, and received within each and every such respective colonies and provinces, unless and until the said colonies or provinces shall, by Bills or Acts of their legislatures, to which His Majesty's consent shall, in the usual form, be signified, unite and agree in directing any other mode in which such surplus shall be applied and disposed of."

That the state of the legislature of the province of Lower Canada has been such as to preclude any joint legislative enactments with the other colonies and provinces of British North America, which renders it impossible to carry into effect that part of the said Act which requires that the net produce of the post-office shall be distributed in certain proportions to each colony.

That the financial affairs of this province render it necessary that we should possess all the means that may be legally disposable for its relief; we therefore humbly pray that Your Majesty will be graciously pleased to recommend to Your Imperial Parliament the passing of an Act, providing that the surplus revenue growing out of the profits of the Post-office department in this province be paid into the hands of Your Majesty's Receiver-general or Upper Canada, to be applied to such purposes, and to be accounted for in such manner, as the legislature of this province shall direct.

Commons' House of Assembly, 26 February 1838. — *Allan N. MacNab*, Speaker.

Legislative Council Chamber, 28 February 1838. — *J. B. Robinson*, Speaker.

(No. 2.)

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

We, Your Majesty's most dutiful and loyal subjects, the Legislative Council and Commons of Upper Canada, in provincial Parliament assembled, humbly represent to Your Majesty that the inhabitants of this province have lately undertaken great public improvements for the purpose of developing the resources of the country, and facilitating the transports of their products to the sea-ports of Lower Canada, which cannot fail of promoting the shipping interest of the United Kingdom, and greatly benefiting the trade and commerce of Lower Canada.

That in consequence of the geographical situation of Upper Canada, which, by the division-line, is excluded from all communication with the sea, this province does not reap those advantages from the public works which would be otherwise derived had the inhabitants of Upper Canada the control of a sea-port; that in consequence of both Montreal and Quebec being within the limits of Lower Canada, a great portion of these advantages is gained by our sister province, whilst the whole burden is sustained by the Upper Province, having incurred debts to the extent of nearly a million sterling in constructing these works, no portion whatever being contributed by Lower Canada.

No. 34.

Lord Glenelg to the Earl of Durham, 30 June 1838.

Encl. 2, in No. 34.

That Your Majesty be graciously pleased to recommend Your Imperial Parliament to past an Act authorizing the levying an additional duty of 2½ per centum *ad valorem* on all articles imported into the ports of Lower Canada, which shall be applied exclusively to the payment of the interest of the debt contracted by this province in the construction of these great works of internal improvement. And we would further represent to Your Majesty that no injustice would be done to the people of Lower Canada by this additional impost, inasmuch as the commercial prosperity of that province depends greatly on the trade of Upper Canada, as the majority of the 1,200 vessels which annually arrive at the ports of Quebec and Montreal are laden with produce the growth and manufacture of Upper Canada, particularly lumber, wheat, and ashes.

Commons' House of Assembly, 26 February 1838. — *Allan N. MacNab*, Speaker.

Legislative Council Chamber, 28 February 1838. — *J. B. Robinson*, Speaker.

Enclosure 3, in No. 34.

Sir, Treasury Chambers, 13 June 1838.

Encl. 3, in No. 34.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration your letter, dated 30th April, with the two Addresses from the Legislative Council and House of Assembly of Upper Canada, therein enclosed; the first praying that a Bill may be introduced into the Imperial Parliament for surrendering the surplus profits of the post-office in that province to the control of the Local Legislature; the second suggesting the imposition of a duty of two-and-a-half per cent. *ad valorem* on all goods imported into Lower Canada, to be applied to the payment of the interest of the debt contracted by Upper Canada in the construction of public works, &c., I have it in command from their Lordships to request you will state to Lord Glenelg that, as regards the question of the surplus revenue of the post-office, it appears to my Lords that the subject can only be satisfactorily disposed of by some conjoint arrangement of the Legislatures of the Canadian provinces on the basis contemplated by the Act 4 & 5 Will. 4, c. 7, and that my Lords cannot doubt but that the early attention of the Earl of Durham will be given to the subject, and they will be fully prepared to enter upon the consideration of any measures that may be proposed for the adoption of the Legislatures of the North American provinces in conformity with the principles recognised by that Act.

With respect to the proposition relating to an additional duty of two-and-a-half per cent. *ad valorem* on articles imported into the ports of Lower Canada, I am directed to request that you will further observe to Lord Glenelg, that it appears to my Lords that any such measures ought likewise to be the subject of mutual arrangement between the Legis-ratures of the Canadian provinces, and they would suggest that the Address should be erred for the consideration of the Earl of Durham.

I am, &c.

James Stephen, Esq. (signed) *A. Y. Spearman.*

— No. 35. —

(No. 63.)

Extract of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*, G. C. B., dated Downing-street, 4 July 1838.

No. 35.

Lord Glenelg to the Earl of Durham, 4 July 1838.

I have the honour to acknowledge the receipt of your Lordship's despatches (Nos. 1 to 4 inclusive), reporting your assumption of the government of Lower Canada, and the events which have since occurred. On some of those events, it will be my duty hereafter to address to you more detailed instructions, but I avail myself of this early opportunity to congratulate your Excellency on your happy arrival at the seat of your government, and on the very gratifying manner in which you have been received by all classes of Her Majesty's subjects in the province.

Her Majesty's Government entirely approve the spirit and language of your proclamation on assuming the government.

— No. 36.—

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

Sir, Downing-street, 7 July 1838.

No. 36.
Lord Glenelg to Sir John Colborne, 7 July 1838.

I HAVE received, and have laid before The Queen, your letter of the 3d ultimo, stating your wish to resign the command of Her Majesty's forces in Canada, with a view to return to England. Her Majesty has received your resignation with regret, but She cannot oppose the desire which you feel, after so protracted a residence in North America, to return to this country. The Queen, at the same time, commands me to convey to you Her entire approbation of the zeal, ability and discretion which, at a time of peculiar importance and difficulty, has distinguished your conduct in the command of Her Majesty's forces in Canada. Her Majesty has directed that the necessary arrangements for appointing your successor should be made with as little delay as possible; and I therefore trust that it will be in the power of Her Majesty's Government to relieve you at an early date.

I have, &c.
(signed) *Glenelg.*

— No. 37.—

(No. 64.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 5 July 1838.

No. 37.
Lord Glenelg to Earl of Durham, 5 July 1838.

I HAVE to acknowledge the receipt of Sir J. Colborne's despatch of the 24th May (No. 46), reporting that he had appointed Mr. William Henry Brehaut to the situation of clerk of the peace for the district of Montreal, vacant by the decease of Mr. John Delisle.

Although I am not acquainted with Mr. Brehaut's name, and Sir J. Colborne's despatch does not state his grounds for selecting this gentleman, I have no reason to doubt that the selection is a proper one, and that Mr. Brehaut is well fitted to discharge the duties of the office; but as it is of the utmost importance that, in the arduous duties which your Lordship will have to perform, you should be assisted by officers possessing your entire confidence, I shall suspend advising Her Majesty to confirm this appointment until I shall be informed that you approve of Mr. Brehaut as clerk of the peace.

I have, &c.
(signed) *Glenelg.*

— No. 38.—

(No. 66.)

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

My Lord, Downing-street, 12 July 1838.

No. 38.
2 June, No. 2.
3 June, No. 3.
16 June, No. 7.

I HAVE to acknowledge the receipt of your despatches of the dates and numbers mentioned in the margin, reporting the destruction, by an armed party from the United States, of the British steam-boat, "Sir Robert Peel," and the steps which you had taken for demanding redress for this outrage from the government of the United States. I have also received from Viscount Palmerston the copy of a despatch on the same subject from Mr. Fox, by which I am informed of the result of Lieutenant-colonel Grey's mission to Washington, and of the measures adopted by the United States' government to bring to punishment the parties implicated in this transaction.

Her Majesty's Government entirely approve the vigour and promptitude of your conduct on this occasion, and the tenor of your instructions to Lieutenant-colonel Grey. They have learned with much satisfaction from Mr. Fox the successful issue of Lieutenant-colonel Grey's representations to the President. They cannot but hope that the effect thus produced on the public mind in the United States will deter the lawless characters who infest the borders from any further attack on the persons and property of British subjects.

I have, &c.
(signed) *Glenelg.*

— No. 39. —

(No. 67.)

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

No. 39.
Lord Glenelg to the Earl of Durham, 13 July 1838.

My Lord, Downing-street, 13 July 1838.

I HAVE received and have brought under the consideration of my colleagues your Lordship's despatches of the 3d and 16th June (Nos. 4, 8 and 9), reporting the measures which you have adopted for the defence of Canada, by a distribution of the regular troops along the frontier, and by giving efficiency to the naval flotilla under the command of Captain Sandom. We entirely approve the precautions which you have taken, and the tenor of the instructions which you issued to that officer.

In regard to the means available for the suppression of disturbances on the frontier, Her Majesty's Government do not clearly collect from your Lordship's despatches whether the number of regular troops now in British North America is, in your opinion and that of Sir John Colborne, sufficient for this purpose.

In Sir John Colborne's report of the distribution of the forces, dated on the 2d June, he observes that " the Niagara frontier and Amherstburg might be guarded by the volunteer corps which are understood to be engaged for some months longer," while, in his report of the 8th June, he expresses his belief, with reference to the state of Upper Canada, " that with 3,000 regular troops" (the number allotted to that province in his former report), " and Captain Sandom's flotilla, no danger whatever is to be apprehended from the menaced operations of that part of the American population apparently beyond the control of the Governor of the state of New York and the United States' government. Your despatches do not contain any allusion to this portion of Sir John Colborne's reports.

Her Majesty's Government fully concur with you in opinion that the employment of a regular military force is in every respect preferable to that of volunteers; but they trust that the force now in British North America, including the five regiments in the Nova Scotia command and the artillery, will prove sufficient for the security of Her Majesty's possessions on that continent. If necessary, the troops in Canada might be at once re-inforced to the extent of two regiments by Sir C. Campbell, to whom instructions have been addressed to that effect, in case of his receiving a requisition from you for that purpose.

I have, &c.

(signed) *Glenelg.*

— No. 40. —

(No. 68.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 40.
Lord Glenelg to Earl of Durham, 14 July 1838.

My Lord, Downing-street, 14 July 1838.

I HAVE recently had under my consideration various despatches from Sir George Arthur, relative to the disposal of the individuals implicated in the late rebellion in Upper Canada. The general views which Sir G. Arthur has adopted in this matter have met the approval of Her Majesty's Government; but as it is important that, in carrying those views into effect, he should act in concert with your Lordship, I have directed him to transmit to you copies of the correspondence which has passed between himself and Her Majesty's Government.

I have, &c.

(signed) *Glenelg*

—No. 41.—

(No. 69.)

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

No. 41.
Lord Glenelg to the Earl of Durham, 15 July 1838.

My Lord, Downing-street, 15 July 1838.

I HAVE had the honour to receive your despatch of the 16th ultimo (No. 10) recommending that the Act 1 Vict. c. 9, should be so far amended during the present Session of Parliament as to enable your Lordship, with the concurrence of the special council of Lower Canada, to impose taxes to meet some important and urgent public services.

I have

No. 41.
Lord Glenelg to the Earl of Durham, 15 July 1838.

I have laid your suggestion before my colleagues; but after giving every consideration to the arguments which your Lordship has used on this subject, we are of opinion that it would not be possible at the present period of the Session successfully to introduce into Parliament a Bill for modifying in so essential a particular the provisions of the Act 1 Vict. c. 9.

I have, &c.

(signed) *Glenelg.*

—No. 42.—

(No. 70.)

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

My Lord, Downing-street, 16 July 1838.

No. 42.
Lord Glenelg to the Earl of Durham, 16 July 1838.

I have to acknowledge the receipt of your despatches of the 6th, 16th and 18th June (Nos. 5, 11 and 13), transmitting copies of the communications which, on assuming the government of Lower Canada, you had addressed to the several Lieutenant-governors of the North American colonies, and to Captain Prescott, together with copies of the communications which you had received from Sir George Arthur and Sir J. Harvey.

Her Majesty's Government entirely approve the terms of your letter to the several Lieutenant-governors, and they observe with much satisfaction the readiness and cordiality with which Sir J. Harvey and Sir G. Arthur had entered into communication with you on subjects connected with their respective governments. Her Majesty's ministers cannot but anticipate, from the zealous co-operation of these officers with your Lordship, the most advantageous results to the general interests of Her Majesty's subjects in British North America.

I have, &c.

(signed) *Glenelg.*

— No. 43. —

(No. 72.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham.*

My Lord, Downing-street, 18 July 1838.

No. 43.
Lord Glenelg to Earl of Durham, 18 July 1838.

I have had under my consideration Lord Gosford's despatch of the 12th January last, No. 3, on the subject of the claims of certain persons who served in the militia during the last war to participate in the indulgence which was sanctioned with reference to those who had served in the "six first battalions of embodied militia" by my despatch of 12th June 1836.

The question raised by this despatch is one of very great importance, as involving the disposal of no less than a million acres of the waste lands of the Crown; and I have therefore felt it my duty to examine all the documents respecting it recorded in this office, whether in the despatches between your Lordship's predecessors and the successive Secretaries of State, or in the Journals of the legislative bodies of Lower Canada.

I regret, however, to state that this examination has been far from conclusive. Of the documents which would be most essential to show the extent of the alleged claim of the militia, the most important are wanting. In Lord Gosford's despatch of 25th April 1836, and in his message to the Assembly of the 5th March of the same year, distinct reference is made to a promise on the part of the Prince Regent, previously to the year 1819, to grant land to the embodied militia who had served during the war. After carefully perusing the despatches of the Earl of Liverpool and Lord Bathurst, I have been unable to discover any such promise. I find, indeed, that at the conclusion of the war offers of land were made to a certain number of the regular troops in Canada, and to the foreign regiments serving under Meuron and De Watteville, and that similar advantages formed a condition of the enlistment of the Glengary Fencibles and Canadian Voltigeurs. I also find that in a message from the Duke of Richmond to the Assembly, dated 3d April 1819, it is stated that certain lands have been set apart "for such officers and men of the embodied militia, discharged troops, and others, who may come under the spirit and meaning of the Royal instructions to grant portions of the waste lands of the Crown to reduced officers and

No. 43.
Lord Glenelg to Earl of Durham, 18 July 1838.

men who honourably served during the late war." But so far from discovering the instructions referred to by the Duke of Richmond, or the promise recited by Lord Gosford, I find that the only documents included in a return to an address from the Assembly, dated 7th March 1823, for copies of the Royal instructions respecting the grant of lands to officers and men who served during the war, relate exclusively to the regular forces, or to the foreign and provincial regiments which I have before specified.

This circumstance leads to the belief that some misapprehension has throughout existed in respect to the intentions of the Home Government towards the militia of Lower Canada. It is, indeed, possible that the records of this department during that period may be imperfect; and in that case the archives of Lower Canada may, perhaps, supply the deficiency. I allude to the point, however, rather as a reason why I cannot at once take a final decision on the question proposed by Lord Gosford, than as affording any valid argument against the general claim of the militia. That claim has in practice been so long admitted, both by the Imperial and Provincial Government, and more especially in the years 1828 and 1836, that it is too late now to examine the foundation on which it originally rested.

In referring to your Lordship the ultimate decision of this question, I think it my duty to explain the principles on which it appears to me that that decision should be founded. Her Majesty would most consult her own feelings, by construing with liberality and indulgence the claims of those who, during the war with the United States, came forward in defence of the British Empire; but, acting on behalf of the public, Her Majesty feels bound to discharge the office of administering the Crown estate with no less regard for the interests of the community at large, than for the expectations of individuals. It thus becomes an imperative duty to construe with the utmost strictness such claims as may be advanced to free grants of land, not by the militia only, but by every person who may address the Executive Government. If, indeed, any distinct pledge on the part of a former Government could be shown, and if it could also be proved that the terms of that pledge had not been complied with, Her Majesty's Government would feel bound, at whatever cost, to recognize and redeem it. But if, as I apprehend, no such case can be made out, they must decline to advise the Queen now to sanction a claim which would involve an improvident and uncompensated alienation of the Crown lands.

Unless, therefore, your Lordship, either from possessing documentary evidence which I am without, or from other considerations, should be of opinion that such a course is decidedly objectionable, you will make it known to the militia claimants that it is the intention of Her Majesty's Government to abide by the decision announced in my despatch of 12th June 1836; that decision being interpreted according to the meaning placed on it by Lord Gosford and myself, viz. that none but those included in the list of "officers who were attached to the corps of the embodied militia, and to the permanent staff of the militia," presented to the House of Assembly on the 19th April 1819, and who came within the two first classes in Lord Gosford's proposal, can be allowed the benefit of it. It is, I conceive, impossible to adopt a more equitable arrangement with reference both to the public and to individuals. The Return to which I have alluded was an official document, which, until now, has been, as far as I am informed, unquestioned by any party. The consent of Her Majesty's Government to the repeated extension of time for the admission of militia claims, and more especially my decision in 1836, could be justified only on the comparatively small extent of land which was required to satisfy the claimants. No further indulgence could have been sanctioned, which could have involved the alienation, without any compensation, of a million acres of land.

In the case, therefore, of all except those to whom, by my despatch of 12th June 1836, Her Majesty's Government are specially bound, the forfeiture which had previously accrued from the delay in obtaining the patents should, I conceive, be enforced. So strong, indeed, is my impression on this subject, that I abstain from giving your Lordship precise instructions to that effect, only because, from the deficiency of the documents to which I have alluded, and from the peculiar situation of affairs in Lower Canada, I feel that such instructions might be inconsistent with the strict justice of the case, or might inconveniently fetter your discretion on a subject in which the inhabitants of the province have generally taken much interest.

I have, &c.

(signed) *Glenelg.*

— No. 44. —

(No. 73.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 19 July 1838.

No. 44. Lord Glenelg to Earl of Durham, 19 July 1838.

The House of Lords having presented an humble Address to Her Majesty praying that there be laid before that House "A Return of the appointments made by the Earl of Durham since his arrival in Canada, the names of the persons holding those appointments, the dates and amounts of their respective salaries," and Her Majesty having been graciously pleased to command a compliance with the Address, I have to desire that your Lordship will forward to me the information required for that Return.

I have, &c.

(signed) *Glenelg*.

— No. 45. —

(No. 75.)

Extract of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*, G. C. B. dated Downing-street, 20 July 1838.

No. 45. Lord Glenelg to the Earl of Durham, 20 July 1838.

Since my despatches of the 12th and 13th instant (Nos. 66 and 67) were written, I have received your despatch of the 23d June (No. 16).

Her Majesty's Government have learned with much satisfaction that the government of the United States have at length adopted active measures to prevent persons within their territory from engaging in hostile enterprises against Canada, and that they have evinced a readiness to co-operate with your Lordship in expelling from the islands in the St. Lawrence such of the persons concerned in those enterprises as may have established themselves on them. Her Majesty's Government approve the instructions which under these circumstances you issued to Colonel Dundas and Captain Sandom; and they agree with you that the display of an unanimity of purpose between the officers of the British and American forces is calculated to produce a salutary effect on the people living on the frontier.

Her Majesty's Government have much pleasure in acknowledging the firmness and decision with which your Lordship has acted in your communications with the government of the United States, and the discretion with which Lieutenant-colonel Grey has discharged the important commission intrusted to him.

In the conclusion of your despatch, you express your wish that the naval and military force in Canada should, during the present year, be kept up "to the fullest possible extent."

In my despatch (No. 67), I have already adverted to this subject. I am happy to give your Lordship the assurance of the determination of Her Majesty's Government in the existing state of affairs in Canada, to keep up the amount of force now in British North America to its present extent, and in the most complete state of efficiency. It would further be the duty, of course, of Her Majesty's Government to increase that force if, with a full knowledge of the circumstances on which such a measure might be recommended, they were convinced of its indispensable necessity for the security of that part of Her Majesty's dominions. They do not, however, collect from your despatches that such a necessity does exist at present.

— No. 46. —

(No. 76.)

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

My Lord, Downing-street, 21 July 1838.

No. 46. Lord Glenelg to the Earl of Durham, 21 July 1838.

Having referred to the Lords Commissioners of the Admiralty your Lordship's despatch of the 8th June (No. 6), stating the difficulty which you find in procuring a steam-boat for your conveyance, and recommending that a Government steam-vessel, of light draught, should be put at your command; I have to

No. 46.
Lord Glenelg to the Earl of Durham, 21 July 1838.

inform you that their Lordships have reported to me that they have at present no steam-vessel of this description which could be sent to the St. Lawrence.

I have, &c.

(signed) *Glenelg.*

(No. 80.) — No. 47. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham.*

No. 47.
Lord Glenelg to Earl of Durham, 2 August 1838.

Vide Papers relative to the Affairs of Lower Canada, ordered to be printed 4 May 1838. No. 357. p. 34, 43.

My Lord, Downing-street, 2 August 1838.

I HAVE received from Sir John Colborne printed copies of various Ordinances passed by that officer, with the advice and consent of the Special Council of Lower Canada, numbered from 1 to 26, but not having yet received authenticated copies of these Ordinances under the seal of the province, I am unable, according to the existing regulations, to submit them to the decision of Her Majesty in Council. If Sir John Colborne shall have omitted to forward these transcripts, your Lordship will have the goodness to send them at your early convenience, and at the same time inform me whether any circumstances have transpired since the passing of those laws, which, in your Lordship's opinion, would render it expedient that any of them should not receive Her Majesty's confirmation.

I am likewise anxious to receive from your Lordship authenticated copies of such Ordinances as you may have deemed it necessary to pass since your Lordship's succession to the Government.

I have, &c.

(signed) *Glenelg.*

(No. 82.) —No. 48.—

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

No. 48.
Lord Glenelg to the Earl of Durham, 4 August 1838.

My Lord, Downing-street, 4 August 1838.

I HAVE the honour to acknowledge your despatch of the 29th June (No. 17), reporting, that in consequence of communications from Sir George Arthur, you had sent to Upper Canada the 43d regiment, and had despatched Her Majesty's ship "Malabar" to Halifax, to bring up to Quebec the 93d regiment.

I have to convey to your Lordship the approbation of Her Majesty's Government of these measures.

I have, &c.

(signed) *Glenelg.*

— No. 49. —

(No. 83.)

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

No. 49.
Lord Glenelg to the Earl of Durham, 5 August 1838.

My Lord, Downing-street, 5 August 1838.

I HAVE to acknowledge the receipt of your despatch of the 29 June, No. 18, reporting the proceedings which you had adopted for disposing of the prisoners, whom, on your arrival in Canada, you found in confinement on charges connected with the late insurrection.

Her Majesty's Government are fully alive to the difficulties by which this question was surrounded. It has therefore afforded them much satisfaction that you have been able to surmount those difficulties, and that the course which you have adopted has been favourably received in the Province as equally free from the imputation of too great severity, or of excessive and ill-considered lenity.

While, however, I convey to you the approbation of Her Majesty's Government of the spirit in which your measures have been conceived, I abstain from making any observations on the legal objections which may possibly occur to some of the provisions of the ordinance, a copy of which is transmitted in your despatch, as it is at present under the consideration of the law officers of the Crown.

I have, &c.

(signed) *Glenelg.*

— No. 50. —

No. 50.
Lord Glenelg to Earl Durham, 6 August 1838.

(No. 84.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 6 August 1838.

I HAVE had the honour to receive your Lordship's despatch of the 29th June, No. 19, enclosing a copy of the commission which you have issued for an inquiry into the best mode of disposing of the waste lands of the Crown in the British North American colonies. Her Majesty's Government entirely approve of this measure, and of the instructions respecting it which you addressed to the several Lieutenant-governors of the neighbouring colonies. They are fully aware of the great importance of establishing a general and efficient system of disposing of the Crown lands, as connected with the question of promoting emigration from the mother country to those colonies; and they anticipate the most beneficial results from the establishment of such a system.

I have, &c.
(signed) *Glenelg*.

— No. 51. —

No. 51.
Lord Glenelg to Earl of Durham, 11 August 1838.

(No 86.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 11 August 1838.

I HAVE the honour to acknowledge your Lordship's despatch, No. 23, of the 6th July, reporting your arrival at Montreal, and enclosing the copy of an address presented to you by the inhabitants, together with your answer to it.

Her Majesty's Government have received with sincere pleasure the intelligence of your Lordship's cordial reception in that city; and they have read, with great satisfaction, the address received by you on that occasion, as well as the answer which you returned to it.

I have, &c.
(signed) *Glenelg*.

— No. 52. —

No. 52.
Lord Glenelg to Earl of Durham, 14 August 1838.

(No. 87.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 14 August 1838.

THE House of Lords having presented to the Queen an Address (of which a copy is annexed), praying that there be laid before their Lordships certain information connected with the Special Council of Lower Canada, and Her Majesty having been pleased to command a compliance with that Address, I have to request that your Lordship will, at your early convenience, furnish me with the particulars specified, for presentation to the House of Lords.

I have, &c.
(signed) *Glenelg*.

Enclosure in No. 52.

Die Martis, 7 Augusti 1838.

ORDERED, by the Lords spiritual and temporal in Parliament assembled, that an humble Address be presented to Her Majesty, to request that Her Majesty will be graciously pleased to order that there be laid before this House, Encl. in No. 52.

"The dates at which Vice-Admiral the Honourable Sir Charles Paget, G.C.H., Major-General Sir James Macdonnell, K.C.B. & G.C.H., Lieutenant-Colonel the Honourable Charles Grey, Colonel Couper, K.H., and Charles Buller, Esq., first attended the council of the Earl of Durham, the Governor of Lower Canada; and the names of the councillors present when the Ordinance of the 28th June last was passed; and the date of the appointment of the council."

Ordered, That the said Address be presented to Her Majesty, by the Lords, with white staves.

(signed) *Benjamin Currey*,
Dep. Cler. Parliamentor.

—No. 53.—

(No. 89.)

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

No. 53.
Lord Glenelg to the Earl of Durham, 18 August 1838.

My Lord, Downing-street, 18 August 1838.

WITH reference to my despatch (No. 83) of the 5th instant, I have now the honour to enclose to you a copy of the report of the law officers of the Crown on the ordinance "for providing for the security of the Province of Lower Canada" a copy of which was transmitted in your despatch of the 29th June (No. 18.)

Your Lordship will observe that the Attorney and Solicitor General are clearly of opinion that so much of the ordinance as relates to the restrictions to be placed in Bermuda on the eight persons sent by you to that place is void, inasmuch as the legislative jurisdiction of the Governor and special council of Lower Canada does not extend beyond the limits of the Province. In all other respects they are of opinion that the provisions of the ordinance were within the competency of the Governor and Special Council.

I regret, however, to state, that a different view of the case was taken by several individuals of high legal attainments, whose station and professional experience could not fail to secure great weight to their opinions in the House of Lords, where this question was first agitated. There were, indeed, some who went so far as to contend that the whole ordinance was illegal, as exceeding the legislative authority vested by Parliament in the Special Council; but as this view of the case has not received the sanction of either House of Parliament, Her Majesty's Government, in accordance with the opinion of the law officers of the Crown, are fully satisfied that the powers confided by Parliament to the Governor and Special Council are sufficiently ample to authorize them to legislate to the full extent of the ordinance in question, so far as it relates exclusively to acts to be done within the province of Lower Canada.

But an objection of a more popular and general nature was also urged with great force against so much of the ordinance as purports, on a conviction for returning to the Province without permission, to subject to capital punishment those persons who having fled the Province had thereby avoided the execution against them of the warrants for their apprehension on the charge of high treason. Her Majesty's Government, fully sensible of the numerous and weighty difficulties with which you had to deal, with reference to this question; of the notoriety of the conduct of those persons, who, having taken an open part in inciting their followers to insurrection, had fled to the United States in order to withdraw themselves from justice, and of the importance of securing the Province for a time, at least, against their return; and aware, moreover, that ample time had been afforded to these parties, had they been so disposed, to surrender themselves to justice, and demand their trial, would have been quite satisfied to have left in your Lordship's hands the mode of dealing with them with perfect confidence that no act of needless severity or of substantial injustice would have either been committed or sanctioned by your authority. The course, however, which Her Majesty's Government would have taken, as in their judgment the best calculated to uphold your authority, and thereby to consult the success of your mission, has unhappily, as they feel, been overruled. A Bill was introduced into the House of Lords, the object of which, as it was originally submitted, was twofold; first, to obtain a declaration of the intention of Parliament, in accordance with the view to which I have referred, of the narrow and restricted extent of the legislative powers of the Special Council, and thereby not only to invalidate the ordinance as altogether illegal, but also to prevent any future legislation, by the same authority, involving a departure from the ordinary course of criminal law, under whatever circumstances of danger and emergency: and, secondly, to provide an indemnity in respect of all acts done in pursuance of the ordinance. Her Majesty's Government felt it their duty to offer a decided opposition to the second reading of that Bill in the House of Lords, as calculated in their opinion most injuriously, and contrary to the spirit and tenor of the Act for making temporary provision for the government of Lower Canada, to narrow and restrict the powers vested by Parliament in the Special Council. I regret, however, to state, that the second reading of that Bill was carried in the House of Lords. Under these circumstances, and after the public discussions which had taken place

No. 53.
Lord Glenelg to the Earl of Durham, 18 August 1838.

place on the subject, Her Majesty's Government, compelled as they were to admit that a portion of the ordinance, though comparatively unimportant, rested on no legal foundation, most reluctantly advised Her Majesty to disallow the ordinance. Extensive amendments were subsequently made in the Committee in the Bill. The clause which would have restricted the legislative powers of the Special Council was altogether omitted, and the indemnity was expressly confined to acts done in respect of that part of the ordinance which was admitted to be beyond the legislative authority of the Governor and Special Council. The Bill so amended has been since passed by the other House of Parliament, and has received Her Majesty's assent. I enclose you a copy of it.

The comparatively unimportant point to which alone the Act as it has finally passed applies, renders it in itself a measure demanding but a slight and passing notice. Her Majesty's Government, however, cannot conceal their apprehension that the discussions which have been raised on this question may tend to impede and embarrass your course in the settlement of the affairs of Canada, and to raise anew some of those difficulties and obstacles which, under your administration, appeared to be rapidly on the decline. But, on the other hand, the opposition to your measures in this country has given rise to such strong expressions of confidence in the purity and excellence of the motives by which your conduct has been regulated, and has drawn forth from those personally interested in the affairs of Canada such decided testimony to the beneficial tendency of your administration, that Her Majesty's Government cannot but hope that your hands may be rather strengthened than weakened by the degree of public attention which has been directed to this subject. At the same time they feel it their duty to leave you in no uncertainty as to their views on the course which it may be expedient now to adopt with regard to the persons who, in consequence of the disallowance of the ordinance, can no longer be liable to its provisions.

In the first place, I have to convey to you Her Majesty's entire approbation of the proclamation issued by you on the 28th of June, by which, with the exception of the twenty-three persons specifically referred to, an amnesty was granted to all other persons charged with treasonable offences committed during the late disturbances and insurrection in Lower Canada. In order, however, to maintain the distinction which you appear so properly to have made between the chief leaders and instigators of the insurrection, and their misguided followers, Her Majesty's Government are decidedly of opinion that, notwithstanding the failure of the provisions of the ordinance, the eight persons sent by you to Bermuda should not be permitted to return to Lower Canada, except by the express permission of Her Majesty or of Her representative in the Province. It seems to them that this object could be best attained by an ordinance to be passed by yourself and the Special Council, subjecting the persons in question to such penalty, short of death, as may be thought expedient, in the event of their being convicted of returning to the Province without such permission.

With regard to those who had previously fled from justice, it may perhaps be sufficient, by proclamation or by any other clear and unambiguous channel of information, to make it publicly known that should they re-enter the Province without the same permission, they will forthwith be arrested and dealt with according to law on the charge of treason. It will, at the same time, be desirable to continue or renew the suspension of the Habeas Corpus Act, that you may be able to detain any of them in custody in the event of their arrest, should the safety of the Province render such a proceeding necessary. In adopting this plan, it will be indispensable that the Suspension Act should be passed at the same time as the proclamation is issued, and made as publicly known as the proclamation, in order to avoid the possibility of any of the parties referred to in the proclamation entering the Province in ignorance of the Suspension Act. To let them enter in such ignorance would be to deal unfairly with them. Her Majesty's Government hope, that by this means the end which you had in view may be attained, of averting the serious evil to be apprehended from persons being at large within the Province who had notoriously taken a prominent part in the recent revolt, and whose presence could not fail to occasion jealousy and dissatisfaction among the loyal subjects of Her Majesty, and might tend to revive feelings and passions which it must be the anxious desire of the Government to suppress and to allay. I do not intend to prescribe to you the precise course to which I have adverted as that which, under existing circumstances, ought to be adopted, nor am I insensible to the objections to which any course on this sub-

No. 53.
Lord Glenelg to the Earl of Durham, 18 August 1838.

ject is liable from those who are disposed to take an unfavourable view of the conduct of the Government; but I am anxious to relieve you, as far as possible, from the uncertainty in which you might be involved by the recent debates in Parliament as to the extent to which you would be held justified in proceeding with respect to the small number of persons whom, in the exercise of a sound and wise discretion, you have excepted from the amnesty which has been extended to the great body of persons implicated in the insurrection.

I have assumed, throughout the consideration of this question, that no steps have been taken under the ordinance passed by the special council during Sir J. Colborne's administration, for "the more speedy attainder of persons indicted for high treason, who have fled from the province, or remain concealed therein, to escape from justice." It will be for your Lordship to determine whether it would be advisable to proceed against the parties to whom that ordinance refers in the manner there prescribed; but as the object to be attained is not so much the severe punishment of the guilty as their exclusion from the province, and the suggestion to them of some motive for abstaining, during such exclusion, from a mischievous interference with its affairs, the other course to which I have referred, appears to Her Majesty's Government to be, under the peculiar circumstances of the case, the most expedient.

I cannot conclude this despatch without expressing the deep regret which Her Majesty's Government have felt at the embarrassments to which you will have been subjected by the recent proceedings in Parliament regarding the difficult and delicate question of the disposal of the persons charged with treason in Lower Canada. On a deliberate review of the whole case, Her Majesty's Government are enabled distinctly to repeat their approbation of the spirit in which those measures were conceived, and to state their conviction that those measures have been dictated by a judicious and enlightened humanity, and were calculated, under your authority, to satisfy the ends of justice, although, in some respects, they involved a departure from its ordinary forms. The Government are also persuaded that your Lordship will be equally anxious with themselves to avoid, as far as possible, giving even a plausible ground of cavil or objection to hostile criticism.

It only remains for me to assure you of the undiminished confidence which Her Majesty's Government repose in you, and of their earnest desire to afford you the utmost support in the discharge of the arduous duties with which you are intrusted.

I am, &c.

(signed) *Glenelg.*

—No. 54.—

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

Sir, Downing-street, 18 August 1838.

No. 54.
Lord Glenelg to Sir John Colborne, 18 Aug. 1838.

IN my despatch of the 7th July I gave you reason to expect the early appointment of your successor in the command of the forces in Canada.

At the time when I wrote that despatch, I felt, in common with my colleagues, very great regret at the prospect of your relinquishing your present situation, and the more we have considered the circumstances in which the Canadas are placed, the more have we been convinced of the inconvenience and even injury, to which great national interests may be exposed, by your retirement at this time. It is under this persuasion that I am commanded by Her Majesty to convey to you the expression of her gracious wish, that it might be compatible with the considerations to which you refer as influencing your conduct in this matter, to continue for a further period the execution of those duties which, trying and difficult as they are, you have hitherto discharged with such eminent ability and success, and which Her Majesty feels cannot be entrusted to hands more worthy of entire confidence.

I have, &c.

(signed) *Glenelg.*

— No. 55. —

(No. 91.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 55. Lord Glenelg to Earl of Durham, 21 August 1838.

My Lord, Downing-street, 21 August 1838.

I HAVE the honour to transmit to you the copy of an address presented to Her Majesty by the House of Commons, praying for certain returns respecting persons convicted of treason in Upper Canada. Her Majesty having been pleased to comply with this address, I have directed Sir George Arthur to furnish the particulars required by the House of Commons, but as it is probable that similar returns may hereafter be called for as respects Lower Canada, I have to request that your Lordship will furnish me with the information which would be necessary to comply with such a requisition.

I have, &c.,
(signed) *Glenelg.*

Enclosure in No. 55.

Lunæ, 13 die Augusti, 1838.

Resolved, That an humble Address be presented to Her Majesty, that she will be graciously pleased to give directions, that there be laid before this House a return of the names of persons who have been convicted in Upper Canada of treason, misprision of treason or felony, since 1st October 1837, the value of the personal property, the number of acres of real estate, the value of the houses, buildings and lands, if any, belonging to such persons, forfeited to the Crown; the grants and sales, if any, of such forfeited property and estates, the names of the purchasers and grantees of such property and estates, and the value of the personal and real estates, so forfeited, retained by the Crown; and the amount or value of real or personal estate, if any, that has been granted by the Crown to the widows, children and relatives of such persons, and the names of such grantees. Encl. in No. 55.

Ordered, That the said Address be presented to Her Majesty by such Members of this House as are of Her Majesty's most honourable Privy Council.

(signed) *J. H. Ley*,
Cl. Dom. Com.

—No. 56.—

(No. 92.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 56. Lord Glenelg to Earl of Durham, 22 August 1838.

My Lord, Downing-street, 22 August 1838.

I HAVE the honour to acknowledge the receipt of your despatch of the 2d July, No. 20, enclosing a memorial addressed to your Lordship by the ministers, elders, and trustees of St. Andrew's Church, in the city of Quebec. The memorialists, adverting in the first place to the relaxation in the case of the Bishop of Montreal, of the pledge given to Parliament in 1832, respecting the annual vote for ecclesiastical services in British North America, demand that, as a measure of equal justice, the salary formerly granted to the minister of St. Andrew's Church should be restored to him; and they then proceed to call your Lordship's attention to the general state of the Scotch Church in Lower Canada.

The memorialists appear to have, in some measure, misunderstood the grounds on which Her Majesty's Government consented, notwithstanding the rule which had formerly been laid down, to apply to Parliament during the present year for a vote towards the salary of the Bishop of Montreal. In the case of individual clergymen of the Church of England in British North America, the same course has been followed as was adopted in the instance of the Scotch minister of St. Andrew's Church, and on the death or removal of the existing incumbents no further application has been made to Parliament. But with respect to the Bishop of Montreal, the case was different. It was shown to Her Majesty's Government, that on the death of the late Bishop of Quebec, the Bishop of Montreal, while incurring a large increase of labour and responsibility, would suffer a considerable diminution of income, by the loss of the allowance of 1,000*l.* a year, made over to him out of the Parliamentary vote by the late Bishop of Quebec. It appeared, at the same time, that if the assistance of Parliament were altogether withdrawn, it would be impossible to maintain an efficient episcopal superintendence over the Church of England in Canada. Under these circumstances, and adverting to the

No. 56.
Lord Glenelg to Earl of Durham, 22 August 1838.

peculiar temporary position of the Canadas, Her Majesty's Government consented to propose, and Parliament have acceded to, a vote for the Bishop of Montreal; it being, however, understood that so soon as it shall be possible to provide for that prelate out of local funds, no further application on this account shall be made to Parliament.

In regard to the general question of the state of the Scotch Church, it is unnecessary for me on the present occasion to make any observations. In my despatch of 29th April last, No. 29, I explained to you the general features of the questions respecting the Church in Canada, which, during so many years, have engaged the public attention in both the provinces. I am convinced that your Lordship fully appreciates the importance of the subject, and that you will devote your anxious attention to it; and it will afford me the most sincere satisfaction if your inquiry into the matter should enable you to propose any arrangement by which the just claims of all communities may be settled, and the means of moral and religious instruction be increased and generally diffused throughout both provinces.

I have, &c.
(signed) *Glenelg.*

— No. 57. —

(No. 94.)

No 57.
Lord Glenelg to Earl of Durham, 23 August 1838.

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham.*

My Lord, Downing-street, 23 August 1838.

Entered,
12 July, No. 24.
16 July, No. 25.
19 July, No. 26.
20 July, No. 27.
24 July, No. 28.

I HAVE the honour to acknowledge your Lordship's despatches of the dates and numbers mentioned in the margin, containing a report of your visit to Upper Canada. Her Majesty has learnt with the greatest satisfaction the cordiality of the reception with which you have invariably been greeted. This is a circumstance which is not only honourable to your personal character, but which affords the most gratifying indications of the general approbation of the course of policy which you have pursued since your arrival in North America.

Her Majesty cannot but indulge the firm expectation that your Lordship's measures, by calming the animosities which have hitherto distracted the public mind, and by uniting all parties in a common effort to promote the public good, will tend not only to restore speedily public confidence and tranquillity, but to place the prosperity and welfare of the Canadas on a firm and secure foundation.

It is peculiarly gratifying to learn that the American officers and gentlemen with whom your Lordship has had opportunities of conversing, have been as anxious as Her Majesty's subjects to convince your Lordship of the sentiments of respect which they entertain towards your Government, and of the sincere desire of the respectable classes in the United States to maintain the friendly relations subsisting with Great Britain.

The suggestions which your Lordship has made in regard to the importance of completing the water communications in Canada deserve and will receive the most serious attention of Her Majesty's Government. The feeling which has been created in the House of Commons by the expenditure which in former times has taken place with respect to the canals of Canada, makes the subject of similar undertakings one of no common difficulty. Her Majesty's Ministers are deeply impressed with the importance of the subject, and with the weight of the arguments urged by you in favour of your proposal. I have therefore to request that your Lordship will communicate with the officers of the Ordnance, with a view to the employment of a well-qualified engineer in making a survey of the Welland Canal and such works as may open water communication between Lake Erie and the sea, and in preparing a full report, for the information of Her Majesty's Government, of the expense which would be necessary to complete the whole and the respective portions of such an undertaking, the time which would be occupied in it, and the manner in which it could be most efficiently and economically performed. It must, however, be distinctly understood that by this preliminary step Her Majesty's Government do not in any way pledge themselves to propose an advance of money for the completion of the work; that they shall be entirely free, after having received the report now called for, to proceed in such manner as may seem to them advisable; and that if it should eventually be impossible to follow up the proposition, they will not be liable to any imputation of a breach of faith towards the people of Canada.

I have, &c.
(signed) *Glenelg.*

—No. 58.—

No. 58.
Lord Glenelg to Earl of Durham, 29 August 1839.

(No. 97.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 29 August 1838.

With reference to my despatch of the 9th May last, No. 35, I have the honour to enclose herewith, for your Lordship's information, copies of a further correspondence which has passed between this Department and the British American Land Company, relative to the application, to promote emigration to their lands, of that moiety of their purchase-money which has heretofore been applied to services connected with the general government of Lower Canada.

Company, 23 June.
Colonial Office, 15 August.
Company, 17 Aug.
Colonial Office, 23 August.
Company, 27 Aug.

I have, &c.
(signed) *Glenelg*.

Enclosures in No. 58.

(No. 1.)

Encl. in No. 58.

British American Land Company's Office,
My Lord, London, 23 June 1838.

By desire of the directors of the British American Land Company, I have the honour to acquaint your Lordship, the Board have recently received such very pressing letters from their Commissioners in Canada, urging them to sanction certain estimates of expenditure in order to sustain the improvements already effected within the Eastern townships, and to prevent serious disappointment to settlers who have located there; that they are most anxious to know the extent to which Her Majesty's Government will be willing to relax the terms of the agreement made in the year 1833.

The Court of Directors feel justified in making this further application to your Lordship, in consequence of the fatal check emigration to Canada has received from the recent disturbances throughout the provinces; and, as it cannot be expected that public confidence will be sufficiently restored to alter the present aspect of affairs until the excitement consequent on the rebellion shall have had time to subside; it must be evident to your Lordship, that the mere postponement of the payment due from the Company to the Government (as offered in your Lordship's letter of the 30th March last) is wholly inadequate to the circumstances of the province. But, the majority of the proprietors of the British American Land Company being deeply interested in the general prosperity of Canada, and its allegiance to the mother country,—and, with this view, considering the great national importance of a loyal British population on that part of the frontier of the Lower Province bordering the American States of New York, Vermont, and New Hampshire; if the Government will consent to some arrangement likely to promote emigration to this district, in which the lands of the Company are situated, the directors hope, that the shareholders may be induced to continue their exertions, and pay up the full amount of their subscriptions.

The proposition the directors now wish to submit for the consideration of your Lordship, is, that (the interest being remitted) the Company be allowed to expend the annual payment of 6,000 *l.*, on account of the purchase-money, in preparing their lands for the reception of emigrants; so that poor but industrious settlers shall meet with no disheartening difficulties in establishing themselves on their allotments.

Should your Lordship entertain this proposition favourably, the details of the plan can be immediately submitted for your Lordship's approval; and the directors have no doubt, with the aid of the establishment the Company now have organized in the Eastern townships, a valuable and loyal Highland population may very shortly be planted on this frontier of Canada. The Highland Destitution Committees of Edinburgh and Glasgow, as well as several influential and wealthy proprietors of estates in Scotland, have already evinced a readiness to promote emigration from the Western Highlands to the Company's possessions in Lower Canada; and should the directors be enabled to inform these parties, that the Company will have certain lands prepared to ensure the easy location of families, they will readily be induced to co-operate in furthering a well-regulated system of emigration to this important district of the Lower Province.

The directors make this proposal to your Lordship as the only one in their judgment at all calculated to rescue the British American Land Company from the dilemma into which the political state of Canada has brought it, and to restore its usefulness in a national point of view. They trust your Lordship will approve of their suggestion, and as the letters received from the Commissioners of the Company in Canada by every mail are of the most pressing and important nature, they venture to request, that your Lordship will have the kindness to favour them with an early reply.

I have, &c.
The Right Hon. Lord Glenelg, (signed) *Henry P. Bruyeres*,
&c. &c. &c. Secretary.

No. 58.
Lord Glenelg to Earl of Durham, 29 August 1838.

(No. 2.)

Sir, Downing-street, 15 August 1838.

Encl. 2, in No. 58.

I AM directed by Lord Glenelg to acknowledge your letter of the 23d June, stating the difficulties in which the British North American Land Company are involved, and expressing the wish of the proprietors to submit, for the consideration of Her Majesty's Government, a proposition for the expenditure by the Company, in preparing their lands for emigrants, of that moiety of their purchase-money which has hitherto been applied to services connected with the general government of Lower Canada. In making this proposition, it is assumed that the interest on the unpaid instalment due under the terms of the agreement with the Company will be given up.

With respect to the interest, I am to inform you, that Her Majesty's Government see no reason at the present moment to depart from the decision already communicated to the Company. But in regard to the appropriation of the Company's annual payment of 6,000*l.* towards the preparation of their lands for emigrants, I am to inform you that, as was stated to you in my letter of the 11th May last, a report on that subject was, on the 9th of that month, required from the Earl of Durham, which has not yet been received; but Lord Glenelg will, in the meantime, be prepared to consider any detailed propositions on the subject which the British American Land Company may desire to submit to him, although he cannot adopt any final decision until he shall have been made acquainted with Lord Durham's views respecting it. I am however directed to state that Lord Glenelg does not anticipate any objection to the appropriation of this money to the location of emigrants on their lands, although it will probably be considered necessary that the expenditure on this account should be made under the immediate directions of the Government and not by the Company.

I have, &c.

H. P. Bruyeres, Esq. (signed) *George Grey.*

(No. 3.)

British American Land Company's Office,

Sir, Barge-yard, 17 August 1838.

Encl. 3, in No. 58.

THE directors of the British American Land Company have this day had a meeting, to read the letter which you did me the honour to address to me on the 15th instant, and I have received their instructions to inform you, that, as suggested by you, they will proceed with the least possible delay to prepare detailed propositions, to be submitted to Lord Glenelg, on the subject of the expenditure of that moiety of their purchase-money which has hitherto been applied to services connected with the general government of Lower Canada.

But, in the meantime, the state of the Company's finances, and their liability to make large payments to the government in Canada on account of clergy reserves purchased in the year 1835, render it most important that there should be an early meeting of the proprietors, for the purpose of inducing them to pay a further instalment upon the subscribed capital.

The directors have no expectation that they could prevail on the proprietors to meet a demand upon them, in the absence of a specific assurance that Her Majesty's Government have assented to some material modification of the existing contract between the Company and the Crown; and although the directors are encouraged to believe that your letter of the 15th instant was intended to convey the consent of the Government to the proposal suggested in my communication of the 23d of June, in regard to the said moiety, declining only to give a pledge that the appropriation of the money to the service in question will be confided to the Company instead of the local government.

I am desired to express the hope of the directors, that you will have the goodness to obtain Lord Glenelg's authority for their assuring the proprietors, that to such extent, for the present, his Lordship has acquiesced in their wishes.

The directors trust that they will also be permitted, on the receipt of the expected despatches from the Earl of Durham, to intimate to the proprietors that the interest will be remitted, and that the appropriation of the purchase-money will be confided to the Company, subject to the approbation of the Governor-general.

I have, &c.

Sir George Grey, Bart., M.P. (signed) *Henry P. Bruyeres,*
&c. &c. &c. Secretary.

(No. 4.)

Sir, Downing-street, 23 August 1838.

Encl. 4, in No. 58.

I AM directed by Lord Glenelg to acknowledge the receipt of your letter of the 17th instant, expressing the wish of the directors of the British American Land Company to receive Lord Glenelg's authority to assure the proprietors of the consent of Her Majesty's Government to the proposal suggested in your letter of the 23d June, in regard to the future appropriation of that moiety of the purchase-money for the land which has hitherto been applied to services connected with the general government of Lower Canada. I am to inform

No. 58.
Lord Glenelg to Earl of Durham, 29 August 1838.

inform you, in reply, that Lord Glenelg regrets that, although he does not anticipate any objection to the proposed appropriation of this money to the location of emigrants on the land, and is therefore anxious to receive such detailed propositions on the subject as the directors may wish to offer, he does not feel himself at liberty, previously to the receipt of the report from the Earl of Durham, of which in my former letter I stated Lord Glenelg to be in expectation, to give a more distinct and specific pledge on this question. His Lordship further directs me to observe, that it will probably be considered necessary that the expenditure of the money on this account should be made under the immediate direction of the local government, and not by the Company.

I have, &c.

H. P. Bruyeres, Esq. (signed) *J. Stephen.*

(No. 5.)

Encl. 5, in No. 58.

British American Land Company's Office,
Barge-yard, 27 August 1838.

Sir,

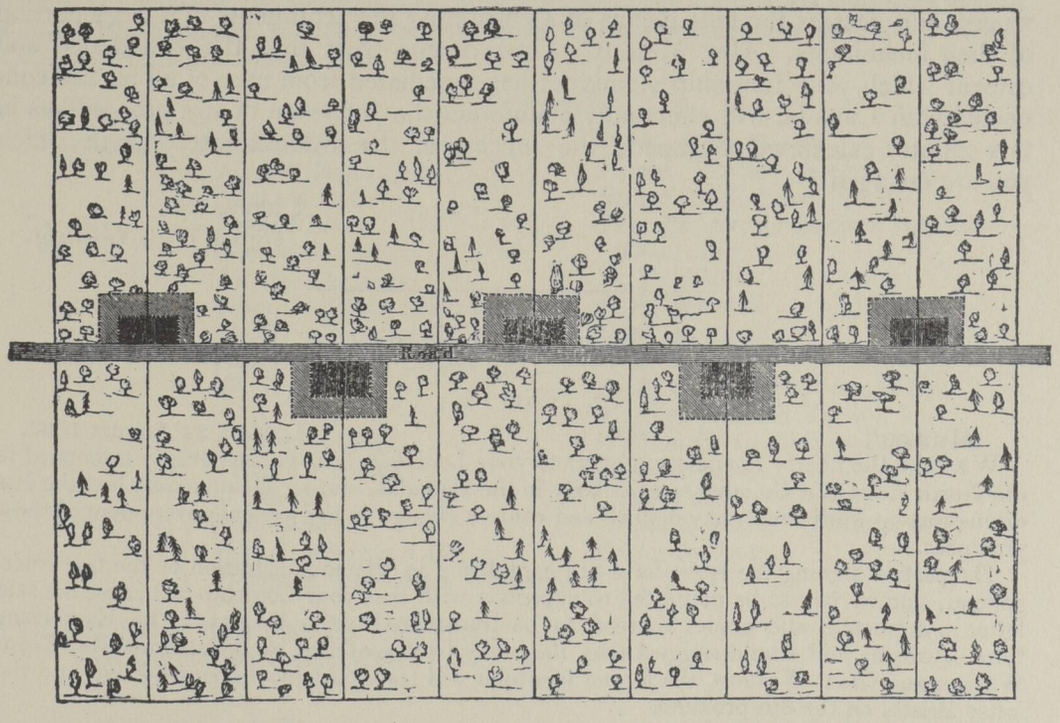
By desire of the directors of the British American Land Company, I have the honour to acknowledge the receipt of Mr. Stephen's letter of the 23d instant, stating, that although Lord Glenelg declines giving a specific pledge on the subject, he does not anticipate any objection to the proposed appropriation of the purchase-money to the location of emigrants on the land of the Company, and is therefore anxious to receive such detailed propositions as the directors may wish to offer.

To enable them to comply with Lord Glenelg's request, the directors have already forwarded instructions to the commissioners of the Company in Canada to transmit to the Board, with the least possible delay, the details of such a plan, accompanied with the necessary estimates and explanations, as may appear to them the most practicable, and the best adapted to locate emigrants, with the greatest advantage to themselves and to the country. On the receipt of these documents, the directors will immediately communicate further with his Lordship on the subject; and in the meantime it occurs to them, that some such plan as the following might be advantageously adopted, with a view to promote the emigration of a numerous and respectable class of persons from this country; viz.

That certain portions of the Company's territory should be divided into lots of about 100 acres, and prepared for the reception of emigrants, by erecting on each side a log hut, and clearing a few acres of the land, part of which to be planted with grain and potatoes.

The work to be performed during the winter by those who have already become settlers, so that the emigrants of each succeeding year may, by the appropriation offered, have the opportunity of getting housed immediately on their arrival, and be further benefited by finding the means of subsistence over the first winter in a state of progress.

The system of location, as at present contemplated by the court, subject to such alterations as may be recommended by the local authorities and their commissioners, is to plant the settlements along certain parts of their main roads, and the log-houses to be so placed as to secure neighbourhood and mutual co-operation, as shown in the following sketch :



Considering that each lot will require an outlay of about 12 *l.* sterling, preparation may be made yearly for the reception of 500 families.

I have, &c.

(signed) *Henry Bruyeres,* Secretary.

— No. 59. —

No. 59.
Lord Glenelg to Earl Durham, 31 August 1838.

(No. 99.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 31 August 1838.

THE Master-general and Board of Ordnance have submitted to me a requisition for no less than 30,000 stand of arms, which they have lately received from the Commander of the Forces in Canada, with which they have been directed to comply. As I learn, however, from Sir G. Arthur's despatches, that a great deficiency of arms was recently experienced in Upper Canada, notwithstanding that, as appears from a letter addressed to him by Sir J. Colborne, 13,000 stand were sent to that province last winter, in addition to 6,000 stand which were in Toronto in the month of November last, I think it right to bring under your Lordship's notice the importance of taking effectual means for preventing the wasteful expenditure or misapplication of the arms now about to be sent to Canada.

I have, &c.,
(signed) *Glenelg*.

— No. 60. —

No. 60.
Lord Glenelg to Earl Durham, 1 Sept. 1838.

(No. 100.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 1 September 1838.

I HAVE the honour to transmit to your Lordship the enclosed copy of a letter from Messrs. Gillespie and Gould to Viscount Melbourne, transmitting an address to his Lordship from a considerable number of firms and individuals in London having an extensive commercial interest in the British North American provinces.

Having, in my Despatch of the 18th ultimo, expressed to you the pain with which Her Majesty's Government feel themselves compelled, although fully approving of the spirit and object of your proceedings, to advise Her Majesty to withhold Her sanction from the ordinance referred to in this address, it is scarcely necessary for me to say that we have received, with the utmost satisfaction, this additional testimony to the high opinion of the character and tendency of your Lordship's policy, a testimony the value of which is enhanced by the circumstance that it is spontaneously proffered by persons who have a considerable stake in those provinces, and possess the best means of ascertaining the sentiments of a large portion of their inhabitants. Her Majesty's Government trust that the confidence and esteem which your Lordship's conduct has conciliated from men of all parties connected with Canada, will effectually counteract the influence of any proceedings in this country calculated to impede the success of the arduous enterprise in which you are engaged.

I have, &c.
(signed) *Glenelg*.

Enclosures in No. 60.

Encl. 1, in No. 60.

(No. 1.)

My Lord, London, 24 August 1838.

WE take the liberty to enclose a letter to your Lordship from parties deeply interested in the North American Colonies, particularly in the Canadas, stating their anxiety lest the late discussions in Parliament may disturb and cause a change in the present government of these provinces.

The parties signing the letter have full confidence in the administration of the Governor-general, and we beg to be permitted to express a wish that your Lordship will cause the said letter in duplicate, and copies thereof, to be transmitted without delay to his Excellency Lord Durham, and would suggest that they may be despatched by the steam-ships, Royal William and Great Western, the former of which will leave Liverpool about the 1st, and the latter Bristol on the 8th proximo.

We have, &c.
(signed) *Rob. Gillespie.*
Nath. Gould.

The Right Hon. Lord Viscount Melbourne,
First Lord of the Treasury.

No. 60.
Lord Glenelg to Earl Durham, 1 Sept 1838.

(No. 2.)

Encl. 2, in No. 60.

My Lord, London, 22 August 1838.

The North American Colonial Association have already expressed, by certain resolutions transmitted to Lord Glenelg, Lord John Russell, the Duke of Wellington, and Sir Robert Peel, their conviction that the discussions which have been lately raised in Parliament in regard to Lower Canada will tend to destroy British power and influence in that province, by encouraging the disaffected and disheartening the loyal; and solemnly declared their serious apprehensions that these discussions were calculated to retard the pacification, if they did not cause the loss of these valuable appendages of the British Crown. In these sentiments we fully concur, and being parties deeply interested in the welfare of the North American Colonies, and sincerely desirous to perpetuate their connexion with the parent state, we feel compelled to address your Lordship, and to express our deep regret that certain Ordinances of the Governor in Council should be disallowed, seeing the conflicting opinions expressed in Parliament in regard to them, and that the inhabitants, whether of French or British origin, appreciated these acts of their Governor, as best calculated to restore peace and give security and prosperity to the colony.

We, further, cannot but view the recent proceedings as originating in personal disappointment, or elicited by discussion, and we do hope that his Excellency will not be driven from the great work he has so well begun, by individuals who were either not aware of the effects which their proceedings might produce, or who are regardless of the consequences.

We do assure you, my Lord, that we, as well as our partners and different correspondents in the colony, have the fullest confidence in the wisdom, impartiality, and lenity of his Excellency the Governor-general towards every class of Her Majesty's subjects in those provinces, and that if his Excellency has, in any one instance, exceeded the powers given to him by Parliament, it was to save the lives of traitors who would have been justly doomed to death by an English, though, in all probability, acquitted by a French Canadian jury.

The accounts received yesterday from Canada are of a very favourable nature: his Excellency had visited Upper Canada, and made such disposition of the forces as to ensure tranquillity and inspire confidence. He halted at the different cities and towns, seeking information how he could best serve their interests, improve the province, and rivet their connexion with the mother country.

The resident inhabitants took that opportunity of presenting addresses to him of the most satisfactory description, thankful that their Queen had condescended to send them such a man.

Whatever measure may be ultimately recommended by Lord Durham, in regard to the future permanent government of these provinces, we cannot but view any change in their administration at present with terror and dismay, and we do pray, that his Excellency will continue to administer the affairs of these important provinces until he has matured a system of government applicable to their peculiar situation, and reconciled all parties to the dominion of the Imperial Government.

We have, &c.

(signed)

Rob. Gillespie.
Alex. Gillespie, jun.
Nath. Gould.
Russell Ellice.
George Forsyth.
Ed. H. Chapman.
Glyn, Hallifax, Mills & Co.
Robert Hammond & Co.
Smith, Payne & Smith.
W. E. Logan.
A. Stewart.
J. Westmorland.
Fred. De Lisle.
T. Janvin.
Wm. Oviatt.
Wm. Pemberton & Co.
Robinson, Banbury & Garland.
W. & A. H. Benson.
Powles, Brothers, & Co.
Rob. & Benj. Brown & Co.
Tho. Richter, for Phœnix Insurance Company.
W. T. Hibbert.
F. H. Mitchell.
R. F. Maitland.
J. Macwillage.
A. A. Gowire, Nephews, & Co.
Matthew Clark & Keeling.
William Crane, of New Brunswick.
James Dowie.
Chas. Walton.
Newman, Hunt & Christophers.
Carter & Binns.

The Right Hon. Lord Viscount Melbourne,
First Lord of the Treasury, &c.

— No. 61. —

(No. 102.)

No. 61.
Lord Glenelg to Earl of Durham, 4 Sept. 1838.

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham.*

My Lord, Downing-street, 4 September 1838.

I HAVE had the honour to receive your Lordship's despatch, No. 34, of the 31st July, on the subject of the claim made upon Her Majesty's Government by the British North American Land Company for a modification of the terms of their original agreement. Your Lordship will already have been made acquainted with the several communications which have taken place between the directors of the company and Her Majesty's Government on the subject of these claims.

Fully admitting the force of your Lordship's observations on this subject, I have recommended to the Lords Commissioners of the Treasury to sanction the adoption of your proposal, that you should be authorized to conclude an agreement with an agent of the company, on terms of the nature of those to which you have adverted, and I shall take an early opportunity of acquainting you with the result.

I have, &c.

(signed) *Glenelg.*

— No. 62. —

(No. 103.)

No. 62.
Lord Glenelg to Earl of Durham, 5 Sept 1838.

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham.*

My Lord, Downing-street, 5 September 1838.

IN my Despatch, No. 34, of the 7th May last, I called your Lordship's attention to the excitement prevailing in Prince Edward Island on the question of Escheat, and to the measures required for the preservation of public tranquillity in that colony. I also informed you that, at my suggestion, the local Legislature had passed an Act to levy a tax on all the lands in the island, the operation of which was suspended until the Act had received Her Majesty's special confirmation, and that the Royal Assent had not yet been given to it, because I was anxious, before adopting any final measure, to allow a sufficient opportunity for the representations of all parties interested in the matter. The objections to this Act entertained by the proprietors resident in this country were accordingly communicated to Sir Charles FitzRoy for the purpose of being submitted to the Legislature, and on the 21st May last I received from that officer the joint reply of the Council and Assembly controverting the arguments of the proprietors. The case was then referred for the decision of Her Majesty's Privy Council, with a request that the proprietors might have an opportunity of stating their objections to the Act; but their Lordships have declined to entertain the question, it being one not of law but of policy. In the meantime the proprietors have requested that nothing might be done on the Act until it is seen how the tenants receive the terms lately offered by the proprietors for the future settlement of the lands, while Sir Charles FitzRoy has repeatedly urged its confirmation as a means of putting a stop to agitation.

The settlement of this question is closely connected with the measures now under your Lordship's consideration with respect to the disposal of the Crown lands in all the North American colonies. I accordingly enclose, for your information, copies of the Act; of the objections stated by the proprietors; of the reply of the Legislature to those objections; and of a Despatch which I have addressed to Sir C. FitzRoy, enclosing the "terms" to which I have referred. And I must request you would favour me with your judgment on the whole subject; I shall then be enabled to decide on the course which Her Majesty should be advised to take regarding the Act.

No. 451.
1561. 1589 of 1837.
In Sir C. FitzRoy's, No. 11, 9 April 1838.
No. 34, 16 March 1838.

I have, &c.,

(signed) *Glenelg.*

No. 63.
Lord Glenelg to the Earl of Durham, 6 Sept. 1838.

— No. 63. —

(No 104.)

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

My Lord, Downing-street, 6 September 1838.

WITH reference to my despatch (No. 89) of the 18th August, I have the honour to enclose, for your Lordship's information, the copy of a despatch which I have addressed to the Governor of Bermuda relative to the persons sent in H. M. S. Vestal from Lower Canada to that colony.

I have, &c.

(signed) *Glenelg.*

Enclosure in No. 63.

Sir, Downing-street, 6 September 1838.

FROM a despatch received from the Earl of Durham, it appears, that, by an ordinance passed by his Lordship and the Special Council of Lower Canada on the 28th June last, the persons whose names are mentioned in the margin were directed to be transported from Lower Canada to the Bermuda Islands, there to be subjected to such restraint as may be needful to prevent their return to Lower Canada. From a subsequent despatch it appears that these persons sailed for Bermuda in Her Majesty's ship Vestal on the 4th July last.

Encl. in No. 63.

Wolfred Nelson.
R. S. M. Bouchette.
Bon. Viger.
Simeon Marchessault.
H. A. Gauvain.
T. H. Goddu.
R. Des Rivières.
L. H. Masson.

On the receipt of the ordinance of the 28th June, Her Majesty's Government referred it for the consideration of the law advisers of the Crown, and those officers reported their opinion, that so much of it as related to the confinement in Bermuda of the eight persons therein specified was beyond the legislative authority of the Governor and Special Council of Lower Canada, and could not therefore be legally acted on. An Act, of which I enclose you a copy, has been subsequently passed, to indemnify all persons who may have rendered themselves liable to any legal proceedings, in consequence of carrying into execution in Bermuda the provisions of the ordinance in question previously to the proclamation which you will observe you are required to make of the Act; not having heard from you of the arrival of the prisoners at Bermuda, I am not aware of the course which you may have thought it right to adopt with regard to them. Under, however, the circumstances in which they left Lower Canada, and considering the lenity with which they have been treated by Lord Durham, I have no reason to suppose that any severe restraint will have been required in order to effect the object of their being sent to Bermuda. These persons must, of course, be exempted from any further restraint under the ordinance while in Bermuda, but you will let it be understood that, notwithstanding the legal objection to the part of the ordinance to which I have referred, Her Majesty's Government have fully approved of the spirit and object of the measure taken by Lord Durham with regard to them.

1 & 2 Vict. c. 112.

I have, &c.

Sir S. Chapman.
&c .&c. &c.

(signed) *Glenelg.*

— No. 64. —

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 64.
Lord Glenelg to Earl of Durham, 11 Sept. 1838.

My Lord, Downing-street, 11 September 1838.

I HAVE received and have brought under the consideration of my colleagues your Lordship's despatch of the 9th ultimo, explanatory of your views on the state of the province of Lower Canada, and intimating generally the measures which you are about to recommend for the adjustment of the questions which have so long agitated that country. Her Majesty's Government have read this communication with the deepest interest, and repose every confidence in your wisdom and ability in the prosecution of your arduous labours. Reserving, of course, to themselves the exercise of their own judgment on matters of such great importance, I am yet enabled to assure your Lordship that they will not shrink from recommending to Parliament such measures as may, on mature deliberation, appear to them calculated to secure the permanent interests of the provinces of British North America.

I have, &c.

(signed) *Glenelg.*

No. 65.
Lord Glenelg to the Earl of Durham, 15 Sept. 1838.

— No. 65. —

(No. 106.)

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

My Lord, Downing-street, 15 September 1838.

With reference to my despatch of the 6th instant (No. 104), I have the honour to enclose, for your Lordship's information, a copy of a despatch from Sir S. Chapman, reporting his proceedings with regard to the eight persons banished from Lower Canada to Bermuda, and of the answer which has been returned to that despatch.

I have, &c.

(signed) *Glenelg.*

Enclosure 1, in No. 65.

(Extract.)

Encl. 1, in No 65.

My Lord, The Bermudas, 29 July 1838.

It becomes my duty to acquaint your Lordship that I have received a despatch from the Earl of Durham, dated at Quebec, on the 3d instant, by Her Majesty's ship Vestal, conveying to me a copy of the ordinance passed in Lower Canada, on the 28th of June, among other purposes, of banishing from that province to this colony eight persons therein named, lately implicated in treasonable practices there, announcing to me that those persons are now sent to the Bermudas, and requesting me to take charge of them, and place them under such restraint as I may deem advisable. I received at the same time a private letter from Vice-admiral Sir Charles Paget, at Quebec, enclosing to me a paper signed by those individuals, promising, on their parole of honour, not to escape or attempt to escape from the Vestal, or from the Bermudas during their residence here, accompanied by a note from Lord Durham to the Admiral, stating that his Lordship was sure the parole may be depended upon; in which sentiment the Admiral appears to concur, and transmitted these papers to me as an inducement for allowing the parties to be leniently treated.

I cannot withhold from your Lordship that this matter has occasioned me no small degree of anxiety. I immediately convened the privy council, and the first inquiry naturally was as to the extent of my powers to detain the offenders in the colony, in the event of their being landed. That question was referred to the law officers of the Crown, who reported their opinion that the eight persons were not liable to be treated as convicts transported to the hulks here, and that I had no authority to impose restrictions upon them with a view to their detention in Bermuda; and that I should have no legal means of enforcing any such restrictions by confinement or otherwise. This opinion was confirmed by the chief justice in council; and I could not be insensible to the risk of permitting them to land here without my being armed with powers sufficient to prevent their escape.

It may not be superfluous for me to observe to your Lordship that from the abundance of small-decked boats in this colony, and numerous coves all along the coast, great facilities exist, especially in the summer months, for clandestinely quitting this place, which debtors and other persons have frequently availed themselves of, and escaped safely to America. A constant intercourse is kept up with New York and other ports of the continent by merchant vessels.

On the other hand, I could not but be deeply sensible that to refuse allowing these offenders to land, and thus, perhaps, occasion their being sent back to Canada, might prove very embarrassing to Lord Durham, and might possibly have a tendency to thwart some of his measures for restoring tranquillity to those provinces, in which it is my most earnest desire, as it is my duty, to co-operate with him to the utmost of my ability. And as Lord Durham has expressed such confidence that the parole was to be relied on, and his means of judging of that were so far superior to my own, I ultimately adopted the advice of the privy council, that under the peculiar circumstances of the case, and notwithstanding the want of authority to restrain them stated by the law officers, it would be expedient to permit the individuals to land, upon their first signing a paper, promising on their parole of honour, during their residence here, not to go or travel beyond such limits, by land or by water, within these islands, as may from time to time be prescribed to them by the governor for the time being.

They have signed such a promise, and landed at Hamilton. The limits at present appointed to them are from Somerset-bridge to the ferry, a space of 18 or 20 miles, but excluding them from the garrison town of St. George's and the naval yard.

Your Lordship will perceive that I am not insensible to the serious objections against allowing these offenders to come here; but between an alternative of difficulties, I have endeavoured to adopt that course which appeared least likely to embarrass Lord Durham in his

No. 65.

Lord Glenelg to the Earl of Durham, 15 Sept. 1838.

his arduous duties, or conflict with the policy of Her Majesty's Government; and I trust that my conduct will not be disapproved by your Lordship. At the same time I feel it my duty earnestly to request that these offenders may be removed from here at the earliest moment compatible with the public service, and that no other persons, under similar circumstances, may be allowed to be sent here, where there exists such difficulties in preventing their escape, and such serious objections to their remaining.

Encl. 1, in No. 65.

As I am anxious not to delay the sailing of the packet, I forward this to your Lordship without waiting for the copies of the minutes of council (which I will send by the next mail), and as this despatch embraces the substance of their deliberations and the decisions come to.

I have, &c.

(signed) *S. R. Chapman*, Gov. &c.

Enclosure 2, in No. 65.

CANADA STATE PRISONERS.

Minutes of Council.

An Extract from, and Copies of, the Minutes of Proceedings of the Privy Council of *Bermuda*, under dates respectively of the 25th, 26th and 27th July 1838, and certified to be correctly transcribed from the Record of said Proceedings, by

Encl. 2, in No. 65.

George F. Mallory, Clerk of Her Majesty's Council.

At a Meeting of the Privy Council held at the Council-chamber in the Town of Hamilton on Wednesday the 25th July 1838:

Present:

His Excellency Major-general Sir Stephen R. Chapman, C. B. and K. C. B., Governor, Commander-in-chief, &c. &c. &c.; the Honourable Thomas Butterfield; Robert Kennedy; Augustus William Harvey; Francis Albany; Samuel A. Smith; William B. Smith.

His Excellency the Governor laid before the council certain despatches received by him from Lord Durham and Sir Charles Paget, with certain documents therewith transmitted, and asked the opinions and advice of the council as to what measures it would be expedient for him to adopt in relation thereto. The said despatches and documents were thereupon read as follows:—viz.

Sir, Castle of St. Lewis, 3 July 1838.

Having found it necessary for the security of this province, and the accomplishment of the ends of justice, to remove from the continent of America eight prisoners who have acknowledged themselves guilty of high treason, I have, after consultation with Vice-admiral Sir Charles Paget, determined on sending them to Bermuda, where, as I am informed by the Admiral, there are to be found facilities for their safe detention, which do not exist in any other part of Her Majesty's colonial possessions.

I have to request, therefore, that your Excellency will take charge of the aforesaid prisoners, and place them under such restraint as you may deem advisable.

I have apprised Her Majesty's Government of the step which I have taken, and of the urgent necessity which compelled me to adopt it. I trust, however, that in the performance of this service no inconvenience will result to your Excellency or to the administration committed to your charge.

I have the honour to enclose your Excellency a copy of the ordinance in virtue of which these prisoners are transported, and of Her Majesty's proclamation of the same date.

See Ordinance.

I have the honour to be, Sir,
Your Excellency's very obedient humble servant,

His Excellency Sir S. R. Chapman, &c. &c. &c.

(signed) *Durham.*

Dear Sir Stephen, Cornwallis, June 29, 1838.

By the request of Lord Durham I send the Vestal to Bermuda, with eight persons who were implicated in the late revolt in Lower Canada, and who with others, having pleaded guilty, have thrown themselves upon the clemency of the Governor-general.

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Lord Glenelg to the Earl of Durham, 15 Sept. 1838.

Encl. 2, in No. 65.

Those who were less guilty are altogether pardoned; but it is thought right not wholly to liberate those who were principals in the rebellion, and they are therefore banished from the provinces, and are sent on a kind of parole to Bermuda, where it is so much their interest to conduct themselves in an exemplary way (with a view to their own pardon and return to their homes), that there cannot be the least fear of their giving you any trouble. I have desired Captain Carter to communicate with you, and receive your commands as to where you wish them to be landed. I conclude you will have them at St. George's, in order to be more or less under the surveillance of the military. You will hear from Lord Durham, officially, on the subject, and his Lordship will no doubt send you the proclamation upon this matter, which, being an act of grace, was promulgated on Her Majesty's coronation (yesterday).

I am, &c.

His Excellency Major-general Sir Stephen Chapman, K. C. H., &c. &c. &c.

(signed) *Charles Paget.*

My dear Sir Stephen, Cornwallis, Quebec, 3 July 1838.

At the request of Lord Durham I send you the declaration which his Lordship has received from the individuals whose signatures it bears. I also send the Governor-general's private note to me on the subject as a further inducement to you to allow them to be treated leniently.

I am, &c.

His Excellency Major-general Sir Stephen Chapman, K. C. H., &c. &c. &c.

(signed) *Charles Paget.*

My dear Sir Charles, Quebec, 3 July 1838.

I enclose you a paper which has just reached me, and which you might enclose in your letter to the Governor, to induce him to be lenient in his regulations respecting the prisoners. I am sure he may depend on the parole. It is not their interest to escape; good conduct is their only chance of ameliorating their lot.

Yours, ever truly,

(signed) *Durham.*

Dated on board H. M.'s Frigate, Vestal, 3 July, 1838.

We promise, on our parole of honour, that we will not escape, or attempt to escape, from the vessel of war on board of which we now are, nor after our arrival and during our residence in the island of Bermuda, whither we are now going.

(signed) *Wfd. Nelson.* *R. A. Gauvin.*
R.S. M. Bouchette. *B. Viger.*
L. R. Masson. *S. Marchesseault.*
R. Des Reviers. *T. H. Goddu.*

The council advise that the said despatches and documents be referred to the Attorney and Solicitor General, and their opinion desired:—

"Whether the Governor has any and what authority to impose any and what restrictions on the prisoners therein mentioned, with a view to their safe custody in the island?"

At a Privy Council, held at the Council Chamber, in the Town of Hamilton, on Thursday the 26th day of July 1838:

Present:

His Excellency Major-general Sir Stephen R. Chapman, C. B. & K. C. H., Governor and Commander-in-chief, &c. &c. &c.

The Honourable Thomas Butterfield. The Honourable Henry G. Hunt.
Augustus Wm. Harvey. Richard I. Tucker.
Francis Albany. William B. Smith.

The

No. 65.
Lord Glenelg to the Earl of Durham, 15 Sept. 1838.

Encl. 2, in No. 65.

The following letter from the Attorney and Solicitor General, accompanied with the several documents therein referred to, were laid before the Board, and the said letter having been read, and his Excellency the Governor and council concurring in the opinion of the Attorney and Solicitor General therein expressed, adopted the same accordingly.

Sir, Hamilton, 26 July 1838.

We have had the honour to receive your communication of yesterday, transmitting to us, by order of his Excellency the Governor in Council, the following papers:—

1. The Quebec Gazette, containing a copy of the ordinance passed by the Governor-general and special council of Lower Canada, on the 28th June 1838, reciting that divers of Her Majesty's subjects in that province had been charged with high treason, some of whom were in custody there, and others had withdrawn; that eight of those in custody (named) had acknowledged their participation in such treason, and had submitted themselves to Her Majesty's pleasure, and enacting that it should be lawful for Her Majesty to transport to Bermuda, during Her pleasure, those eight persons, and subject them to such restraints in Bermuda as may be needful to prevent their return to Lower Canada; besides other enactments not applying to the present question.

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2. A despatch from the Earl of Durham, at Quebec, to Sir Stephen Chapman, dated 3d July 1838, enclosing the copy of the ordinance announcing the eight prisoners being sent to Bermuda, and requesting his Excellency to take charge of them, and place them under such restraint as he may deem advisable.

3. A private letter of 29 June, from Vice-admiral Sir Charles Paget to Sir Stephen Chapman (endorsed, To be opened by Sir Andrew Leith Hay, in case of his having succeeded to the government), informing the Governor that, by Lord Durham's request, the Admiral sends Her Majesty's ship Vestal to Bermuda, with the eight persons who are banished from the provinces, and sent on a kind of parole to Bermuda; and that he had desired Captain Carter to communicate with the Governor, and to receive his commands as to where he may wish them to be landed.

4. Another private letter of the 3d July, from the Admiral to the Governor, enclosing a private note to the Admiral from Lord Durham, expressing Lord Durham's confidence that the parole of the eight persons may be depended upon, and enclosing a paper Lord Durham had received, signed by the eight persons, promising, on their parole of honour, not to escape, or to attempt to escape, from the vessel of war on board of which they then were, nor after their arrival and during their residence in Bermuda; which last papers were sent by way of inducement to the Governor to allow the prisoners to be treated leniently.

Upon these papers our opinion is desired—"Whether the Governor has any and what authority to impose any and what restrictions on the eight prisoners, with a view to their safe custody in Bermuda?"

In reply to which, we beg leave respectfully to state, that we conceive the Governor of Bermuda has no authority to impose any restrictions upon them, with a view to their safe custody here. Had they been charged with treason or felony in Canada, and clandestinely escaped into Bermuda, we should have been of opinion that upon their being demanded here, and upon sufficient evidence against them, they might have been arrested here, and sent back to Canada for trial. But we apprehend that the ordinance of the 28th of June, however operative in Canada to authorize the banishment of these persons *from* that province, cannot have sufficient legal effect in Bermuda to justify their transportation *into* this colony, and their being detained in custody within these islands, by direction of the Governor-general of Canada. And we conceive if any restrictions were to be imposed upon them by the Governor of Bermuda, with a view to their detention in this colony, that his Excellency would have no legal means of enforcing such restrictions by confinement or otherwise.

We are of opinion that these persons do not come within the description of convict felons transported to Bermuda (under authority of certain Acts of the British Parliament), to be kept at hard labour on the public works here; and consequently are not receivable on board of the convict hulks stationed here, which are only intended for the reception of such offenders as may be specially selected for that purpose by the Secretary of State for the Home Department.

We return the papers received from you, and have the honour to be, &c.

(signed) *J. R. Darroll*, Attorney-general.
D. Stewart, Solicitor-general.

George F. Mallory, Esq.
Council Office.

No. 65.
Lord Glenelg to the Earl of Durham, 15 Sept. 1838.

Encl. 2, in No. 65.

At a Privy Council held at the Council Chamber in the town of Hamilton on Friday the 27th day of July 1838:

Present:

His Excellency Major-general Sir Stephen R. Chapman, C. B. and K. C. H., Governor and Commander-in-chief, &c. &c. &c.

The Honourable Thomas Butterfield.	The Honourable Robert Kennedy.
Henry G. Hunt.	Augustus W. Harvey.
Richard F. Tucker.	Francis Albany.
Samuel A. Smith.	William B. Smith.

The Governor and council having concurred in the opinion of the Attorney and Solicitor-general, as expressed in their letter of the 26th instant, it was this day discussed in council, whether coming, as the before-mentioned individuals have, under the peculiar circumstances set forth in the preceding documents, they should not, if permitted to land, be required, with a view to the internal police and welfare of the colony, to come under some stipulation for their movements therein; and, after much deliberation, it was decided to advise the Governor to allow them to land, on their signing a parole of honour, of the following tenor:

Dated, on board Her Majesty's Frigate Vestal, 28 July 1838.

We promise, on our parole of honour, that on our landing at Bermuda, and during our residence therein, we will not go or travel beyond such limits by land or by water, within the said islands, as may from time to time be prescribed to us by the Governor for the time being.

The council further advise that his Excellency the Governor do notify Captain Carter of Her Majesty's ship Vestal, by an official letter, that he may land the persons whose names are under written, upon their signing the parole of honour recommended by the council this day; and that some person will be in readiness, upon their landing at Hamilton, or at any other place convenient thereto, to point out to them the places of accommodation for themselves, it being taken for granted they have the means of maintaining themselves; and that he request Captain Carter to transmit to him by an officer the parole of honour above expected.

(signed) *Wolfred Nelson.*
Robert Shore Milnes Bouchette.
Bonaventure Viger.
Simeon Marchessault.
Henri Alphonse Gauvin.
Rodolphe Des Rivieres.
Luc Hyacinthe Masson.
Toussaint H. Goddu.

COPY, taken from the original, now on file in the Council-office at Bermuda, dated on board Her Majesty's frigate Vestal, 28 July 1838.

WE promise on our parole of honour, that on our landing at Bermuda, and during our residence therein, we will not go nor travel beyond such limits by land or by water, within the said islands, as may from time to time be prescribed to us by the Governor for the time being.

(signed) *T. H. Goddu.*
H. A. Gauvin.
L. H. Masson.
Wfd. Nelson.
R. S. M. Bouchette.
R. Des Rivieres.
C. Marchessault.
B. Viger.

Certified as a correct copy, by
George F. Mallory, Clerk of H. M. Council.

Enclosure 3, in No. 65.

Sir, 15 September 1838.

Encl. 3, in No. 65. I HAVE received your despatch of the 29th July, reporting the arrival at the Bermudas of the eight persons who had been banished from Canada to these islands, and your proceedings as to the disposal of them.

It affords me much pleasure to convey to you the acknowledgments of Her Majesty's Government of the propriety of the course adopted by you on this occasion.

My despatch (No. 81) of the 6th instant, supersedes the necessity of my addressing to you any further instructions with reference to this case.

I have, &c.
(signed) *Glenelg.*

— No. 66. —

(No. 111.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 66.
Lord Glenelg to Earl of Durham, 10 October 1838.

My Lord, Downing-street, 10 October 1838.

I HAVE received your Despatch (No. 41.) of the 12th August, enclosing a report from the Commander of the Forces on the state of Upper Canada, through which he had made a tour.

Her Majesty's Government feel much gratification at the satisfactory intelligence communicated by Sir J. Colborne.

I have, &c.
(signed) *Glenelg*.

— No. 67. —

(No. 113.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 67.
Lord Glenelg to Earl of Durham, 13 October 1838.

My Lord, Downing-street, 13 October 1838.

I HAVE received your despatch (No. 43.) of the 15th August, bearing testimony to the valuable services which have been rendered by the able and zealous co-operation of Vice-Admiral Sir C. Paget with your Lordship.

Her Majesty's Government have received this communication with the greatest pleasure. I have had much satisfaction in forwarding a copy of it for the information of the Lords Commissioners of the Admiralty, and their Lordships have informed me that their approbation of his conduct, during his stay in the St. Lawrence, has been conveyed to Sir C. Paget.

I am, &c.
(signed) *Glenelg*.

— No. 68. —

(No. 118.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

No. 68.
Lord Glenelg to Earl of Durham, 19 October 1838.

My Lord, Downing-street, 19 October 1838.

I HAVE had the honour to receive your Lordship's despatches of the 25th September, No. 66, and of the 28th September, Nos. 67 and 68, announcing your intended resignation of the office of Governor-general of Her Majesty's provinces in British North America. Those despatches reached me yesterday, and as the mail for New York, to be conveyed by a steam-vessel from Liverpool, will be closed this evening in London, I am under the necessity of confining myself, on the present occasion, to little more than a general acknowledgment of the arrival of your Lordship's communications. They will be immediately laid before Her Majesty's Government, and I hope to convey to you the result of their deliberations by the Great Western steam-ship, which is appointed to sail in about a week from the present time.

For the present I limit myself to the remark that Her Majesty's Government recognise the zeal for the public good, and for Her Majesty's service, by which your Lordship is habitually actuated, in the assurance which you have conveyed to me, that you will not leave incomplete the inquiries which you have already instituted, and are desirous that your mission should not prove fruitless as to its main object, viz., the preparation of a plan for the future government of the North American part of the British empire.

I have, &c
(signed) *Glenelg*.

No. 69.
Lord Glenelg to the Earl of Durham, 20 Oct 1838.

— No. 69. —

(No. 119.)

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

My Lord, Downing-street, 20 October 1838.

I TRANSMIT herewith for your Lordship's information, copies of a correspondence between myself and the Lieutenant-governor of Nova Scotia, respecting an Act lately passed by the legislature of that province to regulate its internal postage.

The post-office department in British North America has for a long time past formed the subject of complaint on the part of the legislatures and the inhabitants of the several provinces. The great increase in their population and wealth, as well as the extent of country over which new settlements have spread, render great changes in the management of the post-office absolutely necessary to adapt it to the growing wants of the colonists. In 1834 the whole subject received the attentive consideration of the Government, and measures were adopted which, it was expected, would have secured the early settlement of this question, on a basis satisfactory to the great body of the inhabitants. An Act was passed by the Imperial Parliament, investing the respective legislatures with the power of altering the rates of inland postage, and of framing such regulations for the future management of the colonial post-office, as might appear suited to the circumstances of each colony. For the guidance of the legislatures in the exercise of these powers, as well as to secure that unity of arrangement which is essential to the proper conduct of the post throughout British North America, the draft of a Bill was prepared with much care by the post-office authorities in this country, and was transmitted to the respective Governors in Mr. Spring Rice's circular despatch of the 5th October 1834.

The Government, however, having failed in their attempts to induce the colonial legislatures to unite in some general plan, the question still remains open for adjustment. I have, therefore, to call your Lordship's attention to the subject, in the hope that you may be enabled to remove the impediments which have hitherto prevented the remedy of an evil, so prejudicial to the interests of the colonies.

I have, &c.

(signed) *Glenelg*.

— No. 70. —

(No. 120.)

No. 70.
Lord Glenelg to Earl of Durham, 21 October 1838.

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 21 October 1838.

I HAVE received your Lordship's despatch, No. 40, of the 11th August, reporting an outrage which had been committed by an American fishing schooner on a British vessel wrecked off the coast of Prince Edward Island, and the measures which your Lordship had adopted in consequence.

I have the satisfaction of communicating to your Lordship the approval of Her Majesty's Government of your proceedings in this matter.

I have referred your despatch to Lord Palmerston, who has submitted the case for the opinion of Her Majesty's Advocate-general, as to the steps which it may be proper to take against the parties who have committed the outrage in question.

I have, &c.

(signed) *Glenelg*.

— No. 71. —

(No 121.)

No. 71.
Lord Glenelg to Earl Durham, 22 October 1838.

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 22 October 1838.

I HAVE received your Lordship's despatch, No. 58, of the 13th September, reporting the arrival at Quebec of the deputation selected and sent at your request by the Lieutenant-governors of Nova Scotia and Prince Edward's Island, to confer with your Lordship on the subject of the general arrangement for the future government of the North American Provinces.

I have the satisfaction of conveying to your Lordship, the approval of Her Majesty's Government of your having summoned this convention from the other provinces, and I trust that, by this means, you will have obtained such correct information with regard to the wants and opinions of their inhabitants, as will facilitate your Lordship's measures on this important subject.

I have, &c.
(signed) *Glenelg*.

— No. 72. —

No 72.
Lord Glenelg to Earl of Durham, 23 October 1838.

(No. 122.)

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 23 October 1838.

I HAVE received your Lordship's despatches, No. 47, of the 25th August, transmitting copies of a correspondence between yourself and Sir G. Arthur on the subject of certain convictions for high treason in Upper Canada; and No. 61, of the 18th September, transmitting the copy of a despatch which you had addressed on that day to Sir G. Arthur, with reference to the same subject.

I regret that any misunderstanding should have existed as to the relative position of your Lordship and of the Lieutenant-governor of Upper Canada; but as there appears to be no practical question requiring my interposition, I feel myself relieved from the necessity of communicating at any length on this correspondence.

I have to express my full concurrence in the sentiments contained in your Lordship's despatch, of the 18th September, to Sir G. Arthur; and I have much satisfaction in learning from Sir G. Arthur, that although differing in opinion as to the policy to be pursued in this particular, he had resolved to act on your views, which are entirely in accordance with those of Her Majesty's Government.

I am, &c.
(signed) *Glenelg*.

— No. 73. —

(Separate.)

No. 73.
Lord Glenelg to the Earl of Durham, 25 Oct. 1838.

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

My Lord, Downing-street, 25 October 1838.

I HAVE the honour to inform you, with reference to the intention expressed in your private letter of the 29th September, of writing to the admiral on the North American station to provide you with the means of conveyance to England, that the Lords Commissioners of the Admiralty have directed Captain Nicolas, of Her Majesty's ship "Hercules," should you be desirous of returning to England, to receive your Lordship, your family and suite, at such port of the United States as you may wish to embark at, and to convey you to Portsmouth.

Sir C. Campbell has been directed to inform your Lordship of the arrival of the "Hercules" at Halifax, at which port Captain Nicolas has been ordered to remain until he hears from your Lordship, in case you should wish to avail yourself of this conveyance. If, contrary to the expectation of the Lords' Commissioners of the Admiralty, Captain Nicolas should have left Halifax before he had received his instructions, your Lordship will be informed by Sir C. Campbell, in order to enable you to communicate with the Admiral on the station as to some other means of conveyance.

I have, &c.
(signed) *Glenelg*.

— No. 74. —

(No. 126.)

No. 74.
Lord Glenelg to Earl of Durham, 26 October 1838.

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 26 October 1838.

SINCE the date of my despatch of the 19th instant, Her Majesty's Government have had under their consideration your Lordship's despatches, No. 66, of the 25th September, and No. 68, of the 28th September.

Her Majesty's Government observe that the first of these despatches was written, before your Lordship had received any official information of the proceedings which took place in Parliament, with regard to the Ordinance of the Special Council of Lower Canada, for providing for the security of the province, or of the course adopted by Her Majesty's Government in reference to those proceedings. That despatch was written, consequently, under the feelings and impressions which could scarcely fail to be excited by the partial information derived only from the public prints, of what occurred in the earlier stages of the Parliamentary discussions on the subject. Under such circumstances, unacquainted as you were in great measure, with the considerations which had led Her Majesty's Government to the conviction that the course which they reluctantly felt themselves bound to pursue, was, in the actual situation of the question with which they were called to deal, the one least likely to prove injurious to the public interests and to your authority, and resenting, as it was natural to do, the imputation of an abuse of arbitrary power, it cannot be matter of surprise that your Lordship should have conceived your position in Canada to be so materially affected as to leave you little hope of a successful result to your mission. Fully entering into the feelings occasioned by the report of the earlier proceedings only in the House of Lords, Her Majesty's Government do not think it necessary, with reference to the first of your despatches, to do more than to express their deep concern, that, yielding to the impulse of the moment, you should, at once, have publicly announced your determination to resign your authority.

On the evening of the day subsequent to the date of your first despatch, your Lordship appears to have received my despatch of the 18th August, together with full reports of the proceedings in both Houses of Parliament, with regard to your mission. Her Majesty's Government deeply regret that with this full information before you, your Lordship, at the date of your despatch of the 28th September, still considered your position no longer tenable with a prospect of beneficial results; but they have been relieved from much of the apprehension which they would otherwise have entertained for the security of the province and the interests entrusted to your care, by the assurance contained in your last despatch, that it was not your intention abruptly to relinquish your authority, or to abandon the post which you occupy, without giving effect to the reform of some practical grievances, to the redress of which you had applied yourself—without completing the main inquiries which, in your character of High Commissioner, you had instituted; and above all, without accomplishing the chief object of your mission in the preparation of a plan for the future government of the British North American provinces. Her Majesty's Government fully appreciate the motives which have induced you to postpone your intended resignation, until these important ends shall have been attained, and they are persuaded that the same regard to the public interests, which had deterred you from a sudden and immediate resignation, will prevent your hazarding the tranquillity of the Canadas, or placing their security in jeopardy by the premature relinquishment of your authority, should any circumstances, not contemplated at the date of your despatch, convince you that your departure at the time which you then anticipated would be attended with results dangerous to the peace and safety of the British North American provinces.

Connected with this important object, the safety of the provinces is the question to which your Lordship adverts, of the mode of preventing the evil to be apprehended from the impunity of the authors or leaders of revolt. Your Lordship objects to what is called the suspension of the Habeas Corpus Act as a measure involving a whole people in a penalty in order to punish a few; and you likewise condemn the levity with which a measure of this severe and arbitrary nature is spoken of in Parliamentary debates.

There can be no question that an Act giving power of arbitrary detention and imprisonment

No. 74.
Lord Glenelg to Earl of Durham, 26 October 1838.

imprisonment is one of a serious nature, not to be resorted to without necessity, founded on circumstances of public danger; but Her Majesty's Government cannot agree with your Lordship that these temporary suspensions of a constitutional law do, in reality, affect the whole people, unless upon occasions when the remedy is improperly applied to the existing evil. That remedy, when properly applied, is intended to counteract the designs of a few leaders, and to separate them from the great body of their followers. In this manner it was used after the Revolution of 1688, and after the accession of the House of Hanover, and the stability of these two great settlements was perhaps in a considerable degree owing to the readiness and decision with which this remedy was applied. In such cases the leaders of revolt, and the chiefs of conspiracy, know themselves to be struck at, and feel their safety endangered; but the great body of the people, relying on the general spirit and administration of the law, fear nothing from its momentary interruption, and enjoy their liberty unmolested. Such, it appears to us, is the case of Lower Canada, at a moment when rebellion has but recently been suppressed, and preparations for a renewal of it are threatened. At such a moment the loyal and peaceable inhabitants of the province will be more secure, while the fomenters of revolt are in danger; and, on the other hand, if the fomenters of revolt can act with impunity, the peaceable inhabitants are in danger.

Your Lordship asserts in your despatch that, in the present state of the province, "trial by jury exists only to defeat the ends of justice, and to provoke the righteous scorn and indignation of the community." This is a picture of a most lamentable state of things, of which the truth, I fear, must be admitted, and the evil cannot be over-rated. On the due execution of justice the whole relations of society depend. If men find that the murder of their relatives and friends is not visited with retribution in a court of justice, it can scarcely be expected that they will abstain from a recurrence to the personal revenge, which, in reliance upon law, they had relinquished. This state of insecurity imperatively requires a remedy. It is, therefore, the desire of Her Majesty's Government that an Ordinance should be passed by the Special Council of Lower Canada constituting a tribunal for the trial of treason and murder.

With respect to the manner in which such a tribunal can be formed it is not proposed to bind your Lordship's discretion. Learned judges alone might constitute a sufficient court for the trial of these offences, or it might be better to form courts more nearly resembling courts-martial, or to combine both these species of tribunal. But in any case where trial by jury has excited the righteous scorn and indignation of the community, it cannot be difficult to form tribunals more impartial and more competent than the existing juries. The cautious habits of learned lawyers, and the fairness usually exhibited by Englishmen, even to enemies taken in open resistance, added to the publicity of their proceedings, would be a security that none but the most conclusive evidence would lead to convictions.

It would not be safe to postpone the formation of such tribunals until a new insurrection may happen to break out, for the same objections which induced Her Majesty's Government to reject the proposition to subject the prisoners charged with being concerned in the late revolt to new tribunals, constituted after the commission of the offences, would again apply. Men would complain that they were tried by an *ex post facto* law. While, therefore, the power of detention and imprisonment, without trial, may well be reserved for a period of emergency, of which your Lordship will be the judge, it is the desire of Her Majesty's Government that you should at once prepare and propose to the Special Council an Ordinance for constituting tribunals, by which future rebels or murderers may be tried. The leaders and agents of insurrection will thus be forewarned, and cannot justly complain if they are made amenable for their crimes.

I have thought it unnecessary to enter in this despatch into a detailed consideration of the observations which you have addressed to me on the course pursued by Her Majesty's Government with regard to the affairs of Canada. To the assurances contained in my despatch of the 18th August, of the undiminished confidence of Her Majesty's Government in your Lordship, and of their cordial approval of the spirit and tenour of your administration, I can only add, that subsequent experience has tended to justify and confirm their persuasion of the general wisdom and soundness of the policy by which you have been guided. They continue to feel that, under the difficult and peculiar circumstances forced on them by the proceedings taken in the House of Lords, they adopted that

No. 74.
Lord Glenelg to Earl of Durham, 26 October 1838.

course which was calculated to render those proceedings as little injurious as possible to the public interests, and to the great objects of your mission. They could not indeed hope altogether to neutralise the evil consequences of what appeared to them an ill-timed and injudicious interference with the exercise of those powers with which Parliament had invested the Governor of Canada; but when they review the unequivocal proofs of respect and esteem which have been largely tendered to you in the North American provinces, when they consider the repeated testimony of persons having a deep interest in the welfare and security of those provinces to the beneficial tendency of your administration, and when they observe the unusual concurrence of men of various parties and political opinions in deprecating your intended departure, Her Majesty's Government cannot but think that, on the first receipt of the intelligence of the Parliamentary proceedings, to which reference has been made, you over-rated the effect of those proceedings on the public mind, both in this country and in North America, and formed an incorrect estimate of the state of public opinion with regard to them.

Her Majesty's Government are persuaded that the more closely the main acts of your administration are viewed in all their bearings, the more apparent will it be to impartial observers, and to men actuated by a sincere regard to national interests, that those acts have been conceived in a spirit, and executed with a firmness, alike worthy of your reputation, and adapted to the exigency of the circumstances with which you were called to struggle.

Impressed with these sentiments, and in the absence of any precise information as to the time which may be occupied in the completion of the several objects contemplated in your despatch of the 28th September, Her Majesty's Government will abstain, until they hear further from your Lordship, from tendering any advice to Her Majesty as to the succession to your government. They have received with much satisfaction Sir J. Colborne's acquiescence in their request, that he would continue during the approaching winter in the command of Her Majesty's troops in Canada; and as, in the event of your Lordship's return to England, the administration of the affairs of Lower Canada will, in the ordinary course, devolve on that officer, Her Majesty's Government can feel no difficulty in confiding to his hands the security of the province until the appointment of a successor in the office of Governor-general.

I have, &c.
(signed) *Glenelg.*

—No. 75.—

(No. 125.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham.*

No. 75.
Lord Glenelg to Earl of Durham, 26 October 1838.

My Lord, Downing-street, 26 October 1838.

I HAVE the honour to acknowledge the receipt of your despatches, No. 31, of the 30th July, and No. 70, of the 29th September, relative to the plan which you had adopted for giving to the province as competent a court of appeal, as could be constituted under the existing law. As considerable doubt appears to have been entertained as to the competency of members of the Executive Council, appointed not by mandamus from the Crown, but by the Governor only, to act as members of the court of appeal, I felt it right to refer your Lordship's despatches for the opinion of the law officers of the Crown; and it affords me much satisfaction to acquaint you that they have reported to me their opinion that every member of the Executive Council of Lower Canada duly appointed, either by The Queen or by the Governor, is a competent Councillor to all intents and purposes, and may therefore act as a member of the court of appeal.

I have consequently to convey to you the approval of Her Majesty's Government of the course which you adopted in the formation of this court; and I have further to express their satisfaction, at the beneficial result which appears to have attended it.

I have, &c.
(signed) *Glenelg.*

— No. 76. —

No. 76.
Lord Glenelg to the Earl of Durham, 26 Oct. 1838.

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

My Lord, Downing-street, 26 October 1838.

Her Majesty's Government have received a despatch from Her Majesty's minister at Washington, reporting the substance of intelligence received by the government of the United States, relative to extensive preparations alleged to have been made on the American frontier for an attack on Her Majesty's possessions in Canada. As Mr. Fox states that he has not failed to transmit to the authorities in Lower and Upper Canada all the information which he obtained, it is unnecessary for me to enter into the detail of this intelligence. Her Majesty's Government are persuaded that no precaution will be omitted by your Lordship, in conjunction with the Lieutenant-governor of Upper Canada and the Commander of the forces, to provide for the security of the provinces, in case any such designs as those referred to by Mr. Fox should be really entertained. Her Majesty's Government have every reason to believe that the military force now in the North American provinces will prove amply sufficient to repel any hostile aggression; but they trust that if such aggression has been meditated, the knowledge of the preparations made for the security of the Canadas will tend to deter the ill-disposed persons who are supposed to have been concerting measures of this nature from attempting to prosecute their schemes.

I have, &c.

(signed) *Glenelg.*

— No. 77. —

No. 77.
Lord Glenelg to Earl of Durham, 8 November 1838.

(No. 131.)

Copy of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 8 November 1838.

I have to acknowledge the receipt of your Lordship's Despatch of the 17th September last (No. 59), enclosing the copy of a Report from the Chief Commissioner of Crown Lands and Emigration on the subject of the claims to land of the militia of Lower Canada, who served during the last war. Your despatch is also accompanied by a proclamation carrying out the recommendation of Mr. Buller, that those of the militiamen who served either in the six battalions of embodied militia, or in any other corps which were incorporated and served in the same manner as those battalions, and whose claims were lodged before the 1st of August 1830, should be allowed a remission of purchase-money in proportion to the land to which, under the proclamation of the Duke of Richmond, they would severally have been entitled.

Your Lordship will perceive from my despatch of the 18th July (No. 72), which probably reached your hands shortly after the date of your present despatch, that the question of these militia claims had lately engaged much of my attention. I was however unable, from the imperfection of the documents in my possession, to come to a satisfactory conclusion upon it, and I therefore committed the subjects to your consideration, pointing out only the principles by which I thought that your decision should be guided. The measure which you had adopted, previously to receiving my despatch, appears to be consonant to those principles, and it only remains for me therefore to convey to you Her Majesty's approval of it.

Your Lordship adverts in forcible terms to the delays and obstacles interposed by the official authorities of Lower Canada between the militia claimants and their grants, and to the inadequacy of the measures adopted by the local government to remedy those evils. This grievance had on one previous occasion been brought to my notice, namely, by the report from the House of Assembly, presented to the Earl of Gosford on the 26th February 1836, and I immediately called his Lordship's attention to it, and directed him to take the necessary measures for its correction.

No. 77.
Lord Glenelg to Earl of Durham, 8 Nov. 1838.

It is possible that the events which shortly followed may have prevented the full execution of this instruction, or perhaps your remarks are intended to refer to a period anterior to the Earl of Gosford's administration. At all events I entirely concur with you in the necessity of putting an end at once to so just a ground of complaint, and if the arrangement which you have already effected shall prove insufficient, I shall be prepared to sanction such further measures as may be necessary to produce that result.

I have, &c.

(signed) *Glenelg.*

No. 78.
Lord Glenelg to Earl Durham, 12 Nov. 1838.

— No. 78. —

(No. 133.)

EXTRACT of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*, dated Downing-street, 12 November 1838.

IN my despatch of the 26th ultimo, I abstained from any notice of your Lordship's despatch No. 67, of the 28th September, and of the observations contained in your despatch No. 68, of the same date, on the proceeding which, in your opinion, ought to have been taken by Her Majesty's Government with regard to the Ordinance of the Special Council of Lower Canada, therein referred to; having thought it desirable to reserve for a separate communication my remarks on those subjects.

Her Majesty's Government have attentively considered the statements which you have addressed to me, of your views as to the legality of that Ordinance. Without intending to enter on a legal discussion, or to offer any further opinion than that which, on the authority of the law officers of the Crown, I have already conveyed to you on this subject, I have to express my satisfaction that little difference of opinion exists between your Lordship and ourselves as to the extent to which any valid legal objection could be urged against the Ordinance. Waiving the question of your right to send to Bermuda persons under restraint by virtue, not of an order or sentence of transportation, but of an Ordinance of the Special Council of Lower Canada, subjecting them to banishment to that particular place, it is admitted on all hands that, so far as it purported to confer on Her Majesty the power of imposing restraint on the parties named in it while in Bermuda, the Ordinance was at least inoperative.

Your Lordship has now informed me that you were always fully aware of this defect, and that "that part of the Ordinance was passed with a perfect knowledge that it was wholly inoperative, and that the prisoners could not be compelled to remain in Bermuda, without the adoption of measures in aid of your legislation by the authorities of the island or of the empire." Your Lordship has further stated it to have been "the business of Her Majesty's Government, on the arrival of the prisoners at the Bermudas, either through the Imperial Parliament or through the local legislature, to retain them there." Her Majesty's Government regret that, until the receipt of your recent despatches, they had no reason to believe that such was your view or opinion at the time when the Ordinance was passed. Neither in your despatch transmitting the Ordinance to this country, nor in your despatch to the Governor of Bermuda, informing him of your having sent the prisoners to that place, was any allusion made to your expectation of the adoption of any such measures. As the prisoners were sent to Bermuda within a few days after the passing of the Ordinance, and consequently long before it could possibly reach this country, the intervention of the Legislature of the Bermudas, on which you now appear to have relied, could not have been made available at the suggestion of Her Majesty's Government for the purpose of authorizing their restraint on their arrival there. That object could only have been attained by a suggestion from yourself to the Governor of Bermuda, of the expediency of recommending to the local legislature an enactment of the required character, in case that legislature should have been at the time in session, and the Governor should have thought that such a recommendation would be favourably received.

The

The propriety of proposing a measure to the Imperial Parliament, to supply the defect in the Ordinance, did not escape the attention of Her Majesty's Government; it was fully considered by them. Your Lordship will not expect me to state in a despatch, the reasons which induced Her Majesty's Government, after full deliberation, to think such a course inexpedient. That I abstained from adverting to it, in my despatch to your Lordship of the 18th August, was solely owing to the absence of any reference in your previous despatches to the expectation, which it appears your Lordship entertained, that such a course would have been adopted.

No. 78.
Lord Glenelg to Earl Durham, 12 Nov. 1838.

—No. 79.—

(No. 134.)

No. 79.
Lord Glenelg to Earl Durham, 15 Nov. 1838.

COPY of a DESPATCH from Lord *Glenelg* to the Earl of *Durham*.

My Lord, Downing-street, 15 November 1838.

I HAVE had the honour to receive your Lordship's despatch of the 9th of October, No. 80, enclosing copies of two proclamations, bearing date respectively the 8th and 9th of that month, and published by you in the Quebec Gazette.

Of the proclamation of the 8th of October, I am commanded to convey to you Her Majesty's approval.

The proclamation of the 9th of October, Her Majesty's confidential advisers regard not merely as a deviation from the course which has hitherto been invariably pursued by the governors of the British possessions abroad, but as a dangerous departure from the practice and principles of the constitution. They consider as open to most serious objection an appeal by such an officer to the public at large from measures adopted by the Sovereign, with the advice and consent of Parliament.

The terms in which that appeal has in this instance been made, appear to Her Majesty's Ministers calculated to impair the reverence due to the Royal authority in the colony, to derogate from the character of the Imperial Legislature, to excite amongst the disaffected hopes of impunity, and to enhance the difficulties with which your Lordship's successor will have to contend.

The Ministers of the Crown having humbly submitted this opinion to The Queen, it is my duty to inform you, that I have received Her Majesty's commands to signify to your Lordship Her Majesty's disapprobation of your proclamation of the 9th of October.

Under these circumstances, Her Majesty's Government are compelled to admit that your continuance in the Government of British North America, could be attended with no beneficial results.

I presume that before your receipt of this despatch, your Lordship will have delivered over the government of Lower Canada to Sir John Colborne, to whom I shall address the requisite instructions for his guidance.

I have, &c.,
(signed) *Glenelg*.

—No. 80.—

No. 80.
19 Oct. No. 118.
26 Oct. No. 126.
26 Oct. No. 125.
12 Nov. No. 133.
15 Nov. No. 134.

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

My Lord, Downing-street, 24 November 1838.

As it appears from your Lordship's despatch of the 20th ultimo, that it was your intention to leave Quebec on the 3d instant, and as it was therefore impossible that you should have received the despatches enumerated in the margin, which had been recently addressed to you, I enclose herewith, for your Lordship's information, duplicates of those despatches.

I have, &c.
(signed) *Glenelg*.

No. 81.

Lord Glenelg to the Earl of Durham, 10 December 1838.

—No. 81.—

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

My Lord, Downing-street, 10 December 1838.

I have had the honour to receive your Lordship's letter, No. 118, of the 8th inst., in which you transmit to me, to be laid before Her Majesty, your formal resignation of the offices of Governor-general of British North America and Her Majesty's High Commissioner.

Having had the honour to lay your resignation before The Queen, I am commanded to inform your Lordship that Her Majesty has been pleased to accept the same.

Her Majesty's Government will be anxious to receive, as soon as it may be in your Lordship's power to transmit to them, the full report which you have prepared of the proceedings of your mission. I presume that this report will include the plan for the future government of the British North American provinces, of which, in your despatch of the 28th September, you anticipated the early completion, and to which you advert in your despatch of the 26th October, as about to be recommended by you.

In the meantime, Her Majesty's Government are desirous to be favoured, at your earliest convenience, with any information or suggestions which you may feel it of importance to communicate with reference to the present state of affairs in that part of Her Majesty's dominions.

Although the motives which induced your Lordship to hasten your return from Lower Canada, are explained in your despatches of the 20th and 26th October; yet I must apprize you, that Her Majesty's Government regret, that any circumstances should have occurred to induce a deviation, in your Lordship's instance, from the general rule, which requires the Governors of Her Majesty's colonies to remain in the discharge of their duty, until relieved by Her Majesty's express permission.

I have, &c.

(signed) *Glenelg.*

—No. 82.—

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

No. 82.

Lord Glenelg to the Earl of Durham, 26 December 1838.

My Lord, Downing-street, 26 December 1838.

I have the honour to acknowledge the receipt of your letter of the 20th instant, in which your Lordship states, that if I should be of opinion that you can furnish me with any details or suggestions immediately necessary for the advantage of Her Majesty's service, you shall be ready to do so.

As your Lordship has not suggested any particular points with respect to Canada on which you consider it of importance that you should communicate immediate information to Her Majesty's Government, and as you lead me to expect that your report will be shortly completed, so as to afford time for a full consideration of it before the meeting of Parliament, it may be more convenient that I should not anticipate that report by inquiries on particular topics which will probably be embraced in it.

If, however, there are any topics on which in the meantime you think it desirable to offer any information or suggestions to Her Majesty's Government, it will afford me much pleasure to receive any such communication from you, either personally or in writing.

I am, &c.

(signed) *Glenelg.*

—No. 83.—

(No. 1.)

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

Sir, Downing-street, 15 November 1838.

No. 83. Lord Glenelg to Sir J. Colborne, 15 Nov. 1838.

I HAVE the honour to transmit to you herewith the duplicate of a despatch which, on the 26th ultimo, I addressed to the Earl of Durham, in answer to his communications announcing his intention to retire from the government of Lower Canada. As it is possible that before this despatch could reach Quebec, Lord Durham may have left that city on his return to England, I forward to you this duplicate of it, and I have to desire that you will consider as addressed to yourself so much of it as relates to the measures to be taken for ensuring the security of the province, and for constituting a tribunal for the trial of persons who may be thereafter charged with treason or murder.

I have, &c.

(signed) *Glenelg*.

—No. 84.—

(No. 4.)

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

Sir, Downing-street, 19 November 1838.

No. 84. Lord Glenelg to Sir J. Colborne, 19 Nov. 1838.

THE views of Her Majesty's Government as to the proper course to be taken for the protection of the loyal inhabitants of Lower Canada against the intrigues or violence of the disaffected have been fully stated in my despatch to the Earl of Durham of the 26th of October, (No. 126), a copy of which I enclosed for your guidance in my despatch of the 15th of this month (No. 1). It may, however, not improbably occur to you that Lord Durham's proclamation of the 9th of October has, to some extent, superseded the instructions contained in my despatch of the 26th October, which was addressed to his Lordship before I was aware even of the existence of that proclamation. I am therefore anxious to relieve you from any embarrassment which you may feel in acting upon instructions incompatible with some passages of a public proclamation so recently addressed to Her Majesty's subjects in North America, by the officer representing The Queen, in that part of Her Majesty's dominions.

In my despatch of the 18th of August (No. 89), written on the unhesitating assumption, that the disallowance of the ordinance, 1 Vict. cap. 1, did not bring within the reach of the general amnesty of the 28th June, the persons who had been expressly excepted from it, I explained the course which it would be proper for the local government to pursue respecting them. I must suppose, although Lord Durham's despatch is silent on that subject, that his Lordship did not proceed to a public announcement of the opposite construction of the law, except in submission to some legal authority to which he considered himself bound to defer. But whatever may have been the weight due to that authority, Her Majesty's Government must regard, both as unnecessary and inexpedient, the public declaration by the Governor of the province, of a legal right of which Her Majesty's confidential advisers did not admit the existence. It was a question which, if raised by any of the parties more immediately interested, should, under such circumstances, have been left by the local government to the decision of the legal tribunals of the province. Her Majesty's ministers adhere to their original view of this question. They see no reason to retract or qualify the opinion that the amnesty acquired no new force or extension by the disallowance of the ordinance. It is, however, needless to pursue a discussion which, under the altered circumstances of the case, could lead to no practical result. The proclamation of the 9th of October has given to the amnesty of the 28th of June a construction which, however erroneous, pledges the faith of the Government for the impunity of all political offences, by whomsoever committed, previously to that date.

At the same time I cannot suppose that there is any reason for regarding the return of the exiles to Lower Canada with less apprehension now than was felt and expressed by Lord Durham himself in the month of June. The evil is indeed

No. 84.
Lord Glenelg to Sir J. Colborne, 19 Nov. 1838.

greatly aggravated, for they will return not as objects of the royal clemency, but in an apparent triumph over the Government and the law.

Lord Durham's public announcement of the impunity of these persons, was not even qualified by a reference to that condition of the amnesty of the 28th of June, which required those who should claim the benefit of it to give such security for their future good and loyal behaviour, as the local government might direct. Her Majesty's ministers are however of opinion, that this condition is still binding, and that you are at liberty to enforce it in any case in which you may consider such a measure desirable.

I trust that the course of proceeding which my despatch of the 26th of October contemplates will be sufficient to protect the loyal inhabitants from the suspense and agitation which might result, from the unrestrained attempts of the disaffected to propagate their own views and to excite disorder. But it cannot be too clearly understood, nor too generally made known, that Her Majesty's Government are resolved and prepared to use all the resources at their command for this purpose. If the measures which I have already pointed out, in my despatch of 26th of October, should be inadequate to that end, you may rely on the unequivocal sanction and firm support of the ministers of the Crown, in any further proceedings which, in the exercise of your powers as administrator of the Government, you may take for defeating intrigues against the public peace and the royal authority, even though these intrigues should be conducted in such a manner as not to render the authors of them, amenable to the legal tribunals in the ordinary course of law.

You will have observed, that the instruction under the sign manual of the 13th of April last, authorizes the officer administering the government of Lower Canada, for the time being, in the absence of the Governor-general, to appoint Special Councillors for the purposes of the Act 1 Vict. c. 9.

I have, &c.

(signed) *Glenelg.*

—No. 85.—

(No. 5.)

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

No. 85.
Lord Glenelg to Sir J. Colborne, 21 Nov. 1838.

Sir, Downing-street, 21 November 1838.

With reference to my despatch to you of the 12th January last (No. 10), I have the honour to inform you, that the administration of the government of Lower Canada having again devolved on you, by the resignation of the Earl of Durham, it is the intention of Her Majesty's ministers, that during your temporary administration of the civil government, your emoluments should be replaced on the same footing as previously to Lord Durham's arrival. You will therefore be at liberty, from the date of your resumption of the government, to draw the full salary of the Governor, at the rate of 4,500 *l.* a year, in addition to the military emoluments which you enjoy as Commander of Her Majesty's forces.

I have, &c.

(signed) *Glenelg.*

—No. 86.—

(No. 6.)

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

No. 86.
Lord Glenelg to Sir J. Colborne, 24 Nov. 1838.

Sir, Downing-street, 24 November 1838.

In my despatch of the 26th of October, I called the attention of the Earl of Durham to the intelligence which had been transmitted to Her Majesty's Government by Mr. Fox, of extensive preparations alleged to have been made on the American frontier, for an attack on the possessions of Her Majesty in Canada; and I expressed the confidence of Her Majesty's Government, that no precautions would be omitted by Lord Durham, in conjunction with yourself and the Lieutenant-governor of Upper Canada, to provide for the security of the provinces, in case any such designs as those referred to by Mr. Fox should be really

No. 86.
Lord Glenelg to Sir J. Colborne, 24 Nov. 1838.

really entertained. From Lord Durham's despatches (No. 84, of the 16th of October, and No. 89, of the 20th of October, both of which reached this office on the 20th instant), Her Majesty's Government regret to learn, that the intelligence communicated by Mr. Fox had been confirmed from other quarters, and that while his Lordship had great reason to apprehend that there had been suddenly formed throughout the bordering states a widely-ramified conspiracy, bent on the invasion of the British dominions in America, he, at the same time, entertained no doubt of the existence of an organization of the disaffected in Lower Canada which might lend a most pernicious aid to any attack from without.

From the latest communication from Mr. Fox to Her Majesty's Government, dated the 18th October, I am induced to hope that the apprehension of a combined and organized attack from without may have been in some degree exaggerated; and I am happy to observe that Mr. Fox was inclined to believe that if peace should be preserved during the winter within the British provinces, the alarm would result in nothing worse than frequent and idle threats of invasion, which, though harassing to Her Majesty's troops, and vexatious and irritating to the loyal inhabitants on the frontier, would cause no serious injury. At the same time, it is impossible, with the vague and uncertain information which we possess, to trust to any thing but the ability to meet and repel hostile aggression. Her Majesty's Government, therefore, cannot hesitate to approve of the precautions which, at the suggestion of Lord Durham, you were about to take for this purpose. They feel entire confidence in your foresight, energy and judgment, and with the means at your disposal they can entertain no apprehension as to the result of an attack on either of the Canadian provinces from the American frontier. I trust, indeed, that the preparations which you may have found it necessary to make may have been on a less extensive scale, both as to men and expenditure, than was anticipated by Lord Durham; but the sources of information to which you have access will enable you to judge more correctly than we can do at this distance of the nature and extent of the danger; and as to the preparations that may be necessary for encountering it, Her Majesty's Government can impose on you no further restrictions than those which your own experience and a regard to the public interest would dictate.

Her Majesty's Government have not perused, without grave concern, the description given by Lord Durham of the internal state of the Canadas. I am unwilling to enter into a discussion, as to the causes of the prevailing excitement of the public mind in those provinces; but when I find that feeling ascribed to a prospect of a new change in the system of government, and to the disturbance, by the Acts of Her Majesty's ministers, of a settled policy, which had been judged both by its advocates and its opponents, to have been definitively adopted, I cannot refrain from observing, that I consider it to have been the duty of the local government to have omitted no means of removing from the minds of the inhabitants so erroneous an impression, and of assuring them of the fact that the general policy pursued by Lord Durham from the commencement of his administration, to the period when he first announced his intention of resigning his office, had met with the cordial approbation of Her Majesty's Government.

The disallowance of the ordinance, 1 Vict. c. 1., the grounds of which disallowance have been long since fully explained, was accompanied with the most explicit assurance of the undiminished confidence of Her Majesty's Government in Lord Durham, and of their entire approval of the object and spirit with which that ordinance had been framed. It was further accompanied with suggestions calculated to obviate the evils which the disallowance of the ordinance might otherwise have been expected to produce. Her Majesty's ministers cannot admit that Lord Durham was entitled to devolve on them the responsibility for the rejection of those suggestions, and for the impression which appears to have consequently prevailed in Canada, that the loyal inhabitants of the province were to look for no support from this country, and that the system of government was again to be changed. At the same time, they deeply regret the public declaration by which the individuals comprised in the provisions of the ordinance have, contrary to the express views and opinion of Her Majesty's Government, been encouraged to return to the province, and that too at a moment when it is alleged by Lord Durham himself, that "the indications of conspiracy and dangerous designs are numerous and undeniable, and that a formidable organization, bound together by secret oaths and secret signs, undoubtedly exists." To allay the excited feelings of which there is unhappily too conclusive evidence, to remove the erroneous

No. 86.
Lord Glenelg to Sir J. Colborne, 24 Nov. 1838.

apprehension of a change in the system of government, and to restore a confidence in the determination of Her Majesty's ministers to support and protect the loyal inhabitants of Canada, will be the end to which you will direct your earnest and unremitting endeavours. My recent instructions render it superfluous for me to address to you in this despatch any specific directions as to the measures to be adopted for counteracting the intrigues and designs of the disaffected. My chief object at present is to impress on you the no less important duty suggested by the despatches before me, of reassuring the loyal and faithful subjects of Her Majesty in the province, and of strengthening their attachment to their Sovereign and to the British Empire.

I have, &c.

(signed) *Glenelg.*

— No. 87. —

(No. 10.)

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

No. 87.
Lord Glenelg to Sir J. Colborne, 30 Nov. 1838.

Sir, Downing-street, 30 Nov. 1838.

I HAVE received Lord Durham's despatch (No. 93) of the 20th October, calling my attention to the existing Passengers' Act, and to the present administration of that law, and enclosing a copy of the evidence of Dr. Poole on this subject. I have read this despatch and its enclosure with much attention, and have communicated it to the agent-general for emigration with a view to the adoption of any practical improvements in the existing system of superintendence and inspection by the emigrant agents at the outports. The only two specific cases, however, which I find referred to in Dr. Poole's evidence as instances of neglect on the part of these officers are those of the ships "Celia" and "Kingston," which arrived at Grosse Isle from Liverpool in July 1836; Dr. Poole's report upon which was, as he correctly states, forwarded to me by Lord Gosford. Dr. Poole, however, seems to have been unacquainted with the fact that an inquiry was in consequence made into the circumstances alleged with regard to these ships; and I apprehend that Lord Durham, when he wrote his despatch, was not aware that the result of that inquiry had been transmitted by me to Lord Gosford in a despatch of the 12th September 1836, and which I have no doubt you will find among the official records of your government. The answer of Lt. Low, the agent at Liverpool, to the charge of neglect brought against him, and the documentary evidence by which that answer was supported, appeared to me to be satisfactory. No similar complaints have since reached me, and I was therefore not aware, until the receipt of Lord Durham's despatch, that Dr. Poole considered the evils of which he complains to be still in existence. I only regret that he has not in subsequent cases adopted the same course which he took with respect to the "Celia" and the "Kingston," as it is only by information and proof of neglect in specific instances that a general charge such as that contained in his present evidence can be satisfactorily substantiated. In answer to the question whether he had brought the facts stated in his evidence to the knowledge of the Government, Dr. Poole answers, that "these or similar circumstances have been mentioned by me in my annual reports for the years 1833, 1834, 1835 and 1836." I have only to observe upon this, that no such reports have ever reached this office; and I have to request that you will inquire to whom they were addressed, and that if they are still among the records of your government, you will transmit them to me.

The general subject of the regulations respecting emigrants, and the most effectual mode of enforcing them, is one of great importance, into which it is unnecessary that I should enter in my present despatch.

I have, &c

(signed) *Glenelg.*

(No. 12.) —No. 88.—

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

Sir, Downing-street, 10 December 1838.

No. 88.
2 Nov. No. 1.
5 „
11 „ No. 3.
17 „ No. 4.
17 „ No. 5.
18 „ No. 6.

I have had the honour to receive your despatches of the dates and numbers mentioned in the margin, reporting your assumption of the government of Lower Canada, the breaking out of the insurrection in the country bordering on the Richelieu, the proclamation of martial law in the district of Montreal, and the entire dispersion of the insurgents.

Your later despatches report the invasion of Upper Canada, near Prescott, by persons from the American bank of the St. Lawrence, and the gallant resistance opposed to them by the force under Major Young, and their final defeat and capture, by the troops under the command of Lieutenant-colonel Dundas.

Having had the honour to lay these despatches before The Queen, I am commanded by Her Majesty to express her deep regret that the peace of her Canadian provinces should have been again disturbed, by the attempts of lawless and unprincipled men. While Her Majesty sincerely deplores the events which have recently occurred in that part of her dominions, Her Majesty has contemplated with the greatest satisfaction the zeal, promptitude and gallantry with which Her loyal subjects in both provinces have come forward for the suppression of insurrection, and the defence of their country. The steadiness and valour displayed by the militia and volunteers, both in Lower and Upper Canada, are deserving of the highest praise; and I am commanded to convey to them, through you, Her Majesty's sense of their valuable services.

Her Majesty further commands me to express to you, her entire approbation of the means which you adopted for the suppression of the revolt, of the foresight and prudence with which your arrangements were organized, and of the energy, skill and decision with which they were carried into effect.

Her Majesty has observed with sincere gratification, the unqualified success which has attended Her troops wherever they have been engaged; and Her Majesty relies with perfect confidence on their discipline and gallantry, aided by the loyal and generous courage of her faithful subjects in the Canadas, for the defeat of any future attempt either to invade the provinces from without, or to excite internal insurrection.

I am, &c.

(signed) *Glenelg.*

—No. 89.—

(No. 14.)

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

Sir, Downing-street, 12 December 1838.

No. 89.
Lord Glenelg to Sir J. Colborne, 12 Dec. 1838.

Under the present circumstances of Her Majesty's possessions in North America, Her Majesty's Government have considered it of importance, that during the interval which must elapse before the appointment of a permanent successor to Lord Durham, the general administration of the affairs of those provinces should be confided to you, as Governor-general of British North America. I have therefore the honour to inform you, that Her Majesty has been pleased to appoint you to this office, both as a mark of Her Majesty's approbation of the zeal and energy which you have evinced as Commander of Her Majesty's forces in Canada and as Administrator of the government of Lower Canada, and also with a view to increase the extent and influence of your authority.

It is the desire of Her Majesty's Government that, in the capacity of Governor-general, you should exercise the same general superintendence over the affairs of the several provinces which was confided to the Earl of Durham, and the nature of which you will find explained in my despatch, No. 8, of the 3d April 1838. The ordinary commission appointing you Governor of the respective provinces, together with a separate commission appointing you Governor-general are

No. 89.
Lord Glenelg to Sir J. Colborne, 12 Dec. 1838.

forwarded to you, by the present opportunity. I have to add, that Her Majesty's Government have thought it right, that you should be exempted from all expense attendant on the issuing of these commissions.

I am, &c.
(signed) *Glenelg.*

—No. 90.—

(No. 15.)

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

No. 90.
Lord Glenelg to Sir J. Colborne, 13 Dec. 1838.

Sir, Downing-street, 13 December 1838.

In my despatch, No. 12, of the 10th instant, I abstained from noticing that part of your despatch of the 11th ultimo, in which you recommend that provision should be made for the families of those of Her Majesty's loyal subjects who have fallen in engagement with the rebels in Lower Canada, having intentionally reserved this subject for a separate communication.

Her Majesty's Government readily admit the claim to consideration of the militia and volunteers, who have come forward in Canada under circumstances of public danger, to assist Her Majesty's troops in the suppression of insurrection, or the resistance of invasion. I have, therefore, to acquaint you with the decision of Her Majesty's Government that the officers and men in the militia and volunteer corps, which have been recently embodied and called into active service, under the sanction of the local government in Upper and Lower Canada, including the Naval flotilla, should, as far as regards pensions or gratuities for wounds received in action, be placed on the same footing as the officers and men of the regular army and navy; and that the widows of officers of the militia, or volunteers, who may be killed in actual service, should be entitled to the same amount of pension which would be payable, under the existing regulations, to the widows of officers of equal rank in the regular army or navy. It is assumed in this arrangement, that the principle laid down in my despatch of the 24th ultimo, marked "Separate," as to the proportion of officers in the militia and volunteer regiments, not exceeding that which is usual in regiments of the line, has been hitherto generally observed. For the future, the despatch, to which I have referred will, of course, render it necessary that this proportion should not be exceeded. The claims of any parties to a pension under this arrangement must be subjected to the same examination and proof as is required in the case of Her Majesty's army and navy. All claims of this description, together with the necessary documents to support them, are, therefore, to be transmitted to the Lords Commissioners of the Admiralty, or to the Secretary at War, as the case may be, for their consideration and decision, according to the existing regulations applicable to the army and navy respectively. It is intended that this rule shall take effect from the commencement of the insurrection in Canada in the course of last winter, and that its duration is to be limited to the occasion which has given rise to the necessity for the services of the militia and volunteers. There are, however, some cases of a different nature, and which would not be reached by this regulation,—I allude to the widows and families of men who, though not serving at the time in a capacity which would bring them within the rule before laid down, have fallen victims to their loyalty. Of this class are the cases of the families of Chartrand and M'Kechnie, which were submitted to me by Lord Durham, in his despatches of the 11th September and 9th October last, Nos. 51 and 75. Her Majesty's Government are of opinion that, in these cases, gratuities should be granted to the widows or family, payable out of the colonial revenues; and I have, therefore, to convey to you my authority, either for issuing to them a moderate sum out of the Crown revenues of Lower Canada, or for proposing to the Special Council an ordinance for the appropriation of a limited sum for that purpose, out of the general revenues of the province. I have further to desire that you will transmit to me a list of any similar cases which may have occurred, and in which you are of opinion that the parties have a just claim to consideration, together with such particulars as may enable Her Majesty's Government to judge of the propriety of extending to them the same benefit.

I have, &c.
(signed) *Glenelg.*

— No. 91. —

(No. 16.)

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

Sir, Downing-street, 14 December 1838.

No. 91. Lord Glenelg to Sir J. Colborne, 14 Dec. 1838.

I HAVE to acknowledge the receipt of the Earl of Durham's despatches of the 20th and 25th October last, Nos. 91 and 98, reporting the resignation of Mr. Sewell, the chief justice of Lower Canada, and of Mr. Reid, the chief justice of Montreal, and the appointment of Mr. James Stuart to succeed Mr. Sewell, of the Solicitor-general to succeed Mr. Reid, and of Mr. Andrew Stuart to be Solicitor-general. Having submitted these appointments to Her Majesty, I have the honour to inform you that the usual warrants for their confirmation, under the Royal signature, will be transmitted to you by an early opportunity.

I have, &c.

(signed) *Glenelg*.

— No. 92. —

(No. 19.)

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

Sir, Downing-street, 14 December 1838.

No. 92. Lord Glenelg to Sir J. Colborne, 14 Dec. 1838.

THE general commanding-in-chief has communicated to me your despatch to Lord F. Somerset, of the 31st October last, enclosing copies of your correspondence with Sir George Arthur, relative to the state of Upper Canada, and the measures to be taken for meeting the danger which was then apprehended from the efforts of the discontented within the province, and the attacks of persons from the neighbouring states of the union.

I have to convey to you my entire approval of the arrangements referred to in this correspondence with respect to the defence both of the upper and lower province, and of the general views which you have expressed in your letters to Sir G. Arthur.

As it is highly important, that the arrangements for raising local corps, should be conducted on the same principle in Upper as in Lower Canada, I have expressed to Sir George Arthur my desire, that all further arrangements of that nature should be made subject to your sanction and concurrence.

I have, &c.

(signed) *Genelg*.

— No. 93. —

(No. 20.)

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

Sir, Downing-street, 16 December 1838.

No. 93. Lord Glenelg to Sir J. Colborne, 16 Dec. 1838.

VARIOUS ordinances passed by the Governor and Special Council of Lower Canada, numbered 1 to 24, except Nos. 2 and 14, having been referred by The Queen in Council to the Lords of the Committee of Privy Council for Trade and Foreign Plantations, that Committee have reported to Her Majesty in Council their opinion that the said ordinances should be left to their operation.

I have the honour to transmit to you herewith an order of Her Majesty in Council, dated the 12th instant, approving that report.

I have, &c.

(signed) *Glenelg*.

— No. 94.—

(No. 23.)

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

No. 94. Lord Glenelg to Sir J. Colborne, 21 December 1838.

Sir, Downing-street, 21 December 1838.

WITH reference to the Earl of Durham's despatch of 1st November last, (No. 114,) I have the honour to inform you that the Lords Commissioners of the Treasury have directed the admission in the Canada Commissariat accounts of the expense sanctioned by his Lordship, on account of a survey of the Welland canal.

I have, &c.

(signed) *Glenelg.*

— No. 95. —

(No. 24.)

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

No. 95. Lord Glenelg to Sir J. Colborne, 22 Dec. 1838.

Sir, Downing-street, 22 December 1838.

I HAVE received the Earl of Durham's despatch of the 30th October last (No. 107), enclosing the copy of a proclamation which he issued respecting those persons in Lower Canada commonly called "squatters," who had settled on and cultivated portions of the waste land of the province, without having obtained any title to that land, either by purchase or grant. The effect of this proclamation is to give to such persons a conditional right of pre-emption over the land on which they are settled, to the extent of 200 acres, at the upset price of land in the district.

I concur in the principle on which this measure proceeds; but it appears to me, that to prevent confusion hereafter, and to ensure the strict limitation of the boon held out by this proclamation to those who are justly entitled to it, it will be essential that an inquiry should be instituted into the circumstances and numbers of these people, and that a registry should be formed with the utmost possible accuracy of their names and locations. I do not prescribe the details of the manner in which this should be done, but I request you to take it into your consideration, and as soon as the restoration of tranquillity will permit, to direct an intelligent officer of the land-granting department to proceed to make such inquiries on the spot, as may enable you to ascertain the precise extent of the liability thus incurred by the Crown, and to take such other precautions as may be necessary to prevent the possibility of imposition hereafter.

I have, &c.

(signed) *Glenelg.*

—No. 96.—

(No. 25.)

EXTRACT of a DESPATCH from Lord *Glenelg* to Lieutenant-general Sir *John Colborne*, G.C.B., dated Downing-street, 22 December 1838.

No. 96. Lord Glenelg to Sir J. Colborne, 22 Dec. 1838.

WITH reference to the Earl of Durham's despatch of the 30th October (No. 110), I have the honour to inform you, that 11 convicts, whose names are specified in the margin, arrived at Liverpool on the 18th instant, and were placed in the borough gaol in that town. The records of their convictions and sentences having been forwarded to me, I transmitted them to Lord J. Russell, in order that he might take the necessary steps respecting these individuals.

Under the peculiar circumstances of Lower Canada, I approve of the Earl of Durham's having resolved on carrying into effect the sentence of transportation pronounced on these prisoners, notwithstanding the instructions contained in my circular despatch of 25th May 1837. The crowded state of the gaols, must have rendered such a measure not only expedient but inevitable.

— No. 97. —

(No. 27.)

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

No. 97.
Lord Glenelg to Sir J. Colborne, 26 Dec. 1838.

Sir, Downing-street, 26 December 1838.

Having submitted for the consideration of the Lords Commissioners of the Treasury the Earl of Durham's Despatch, of the 19th September last (No. 62), and the previous correspondence relative to the necessity of stationing in the St. Lawrence a Government steamer of light draught, to be applied under the direction of the Governor to public services, I transmit herewith the copy of a letter which I have received from their Lordships' secretary, explaining the grounds on which they desire to be furnished, with further information, before adopting any final decision on the subject. I have to request, that you will supply me with the further information required by the Lords of the Treasury at your early convenience, accompanied by any observations which you may consider necessary to elucidate the matter.

Treasury, 19 Dec. 1838.

I have, &c.
(signed) *Glenelg.*

Enclosure in No. 97.

Sir, Treasury Chambers, 19 December 1838.

Encl. in No. 97.

The Lords Commissioners of Her Majesty's Treasury having had under their consideration your letter, dated 4th instant, in which you transmit copies of a correspondence which has taken place between Her Majesty's Secretary of State, the Earl of Durham, and the Lords of the Admiralty, relating to the employment of a Government steam-vessel, of a light draught of water, on the River St. Lawrence, I have it in command from their Lordships to request you will state to Lord Glenelg, that having given their best attention to the subject in question, my Lords have to remark, that as no steam-vessel dispatched from hence during the winter months could enter the St. Lawrence, there will be ample time for obtaining some further information from Canada on the Earl of Durham's proposition, before any steps could be taken for carrying it into effect. My Lords have, therefore, to suggest to Lord Glenelg, that it would be desirable that Sir John Colborne should be called upon to report whether the steam-vessel, of which the employment has been recommended by the Earl of Durham, would be required for the service of the army, and for purposes connected with the military arrangements in the province, or for the service of the civil government, and the accommodation and conveyance of the officer administering that government, when called upon to visit the different districts of the province. My Lords have further to observe, that if required for military purposes, and for counteracting monopoly and extortion on the part of the local owners of steam-vessels, during the military operations arising out of the disturbed state of Lower Canada, they conceive that the vessel should be provided by the Board of Admiralty, as part of the naval arrangements in the St. Lawrence; but if the vessel is to be principally engaged in the service of the civil government, the expense of maintaining it should be defrayed as a colonial service.

I am, &c.
(signed) *F. Baring.*

James Stephen, Esq.
&c. &c. &c.

— No. 98. —

(No. 28.)

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

No. 98.
Lord Glenelg to Sir John Colborne, 27 Dec. 1838.

Sir, Downing-street, 27 Dec. 1838.

With reference to that part of the Earl of Durham's despatch of the 30th October last (No. 109) which relates to the stoppage of the pay of soldiers serving in North America, to reimburse the expense of their additional clothing, I have the honour to inform you, that in consequence of the recommendation of the Secretary at War, the Lords Commissioners of the Treasury have consented to the grant of an allowance to the troops serving in Canada, for the purpose of enabling them to defray those extra expenses.

I have, &c.
(signed) *Glenelg.*

— No. 99.—

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

No. 99.
Lord Glenelg to Sir J. Colborne, 31 December 1838.

Sir, Downing-street, 31 December 1838.

Before you can receive the present despatch, you will in all probability, have already been obliged to perform the duty of determining upon the fate of the persons convicted of participating in the late transactions in the Canadas. Her Majesty's Government have no doubt you will have acted in the difficult circumstances in which you are placed, in the manner most calculated to ensure the future peace of Her Majesty's North American dominions. We are aware that the crisis demands promptitude of action, and that this second rebellion may have called for measures of a more severe character, than those which were applicable to the former. I conclude that you have considered the instructions contained in my despatches of the 6th January and 21st of April last, as not applicable to this new and very difficult state of affairs. But to obviate any possible misconception which might arise on that subject, I have to desire that you will regard those instructions as no longer in force. Assuming that the fate of the principal delinquents will have been decided, there may now be parties in custody, as to whose disposal you may entertain some doubts. I am, therefore, to express to you the wish of the Government, that unless in cases of those more heinous offenders, transportation may be substituted for the infliction of a capital sentence. At the same time, the Government are persuaded, that your intimate acquaintance with the present state of the colony, and of the circumstances under which the individuals in question have become amenable to punishment, will enable you to decide justly and impartially, without listening to resentment on the one hand, or yielding to false humanity on the other, as to the most proper course to be adopted towards each offender.

I have, &c.

(signed) *Glenelg.*

— No. 100. —

(No. 34.)

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

No. 100.
Lord Glenelg to Sir John Colborne, 1 Jan. 1839.

Sir, Downing-street, 1 January 1839.

Having referred for the consideration of the law officers of the Crown, the ordinances passed by yourself and the Special Council of Lower Canada in the month of November last, and numbered 1 to 12 inclusive, those officers have reported to me that there is no objection in point of law to these ordinances. I shall, therefore, submit them for the approval of Her Majesty in Council, so soon as I shall receive copies, duly authenticated by the seal of the province.

I have, &c.

(signed) *Glenelg.*

— No. 101. —

(No. 36.)

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

No. 101.
Lord Glenelg to Sir J. Colborne, 3 Jan. 1839.

Sir, Downing-street, 3 January, 1839.

I have had the honour to receive your despatch of the 30th November, reporting the state of Lower Canada at that date, and the measures which you had adopted for discovering deposits of arms, and for arresting persons implicated in the late insurrection, in districts where the local magistracy had been afraid to act. You also report, that in consequence of the representations addressed to you by Sir George Arthur, you had sent to Upper Canada the 73d regiment.

I have to convey to you the entire approbation of Her Majesty's Government of these measures.

I have, &c.

(signed) *Glenelg.*

— No. 102. —

(No. 39.)

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

No. 102.
Lord Glenelg to Sir J. Colborne, 11 Jan. 1839.

Sir, Downing-street, 11 January 1839.

With reference to my despatch of the 30th November (No. 10), I transmit herewith for your information, the copy of a report from the agent-general for emigration, on the subject of the alleged remissness of the agents for emigrants at the outports of Great Britain, in enforcing the provisions of the Passengers' Act in the cases of vessels bound to the St. Lawrence. I have transmitted to the Lords Commissioners of the Treasury, so much of Dr. Poole's evidence, as relates to the alleged defective execution of the Passengers' Act, by the officers of Her Majesty's customs.

I have, &c.

(signed) *Glenelg.*

Enclosure 1, in No. 102.

Sir, 2, Middle Scotland-yard, 5 January 1839.

In compliance with Lord Glenelg's directions, I have the honour to report on the subject of Lord Durham's despatch of the 20th of October last, accompanied by some evidence of Dr. Poole, the inspecting physician of emigrants at the quarantine station at Grosse Isle in the St. Lawrence. Encl. 1, in No. 102.

There are various defects in the Passengers' Act, respecting which I have made it my duty to collect information, with a view of submitting to Lord Glenelg the materials of a well-matured amendment of this statute, which has undergone so many partial revisions. But the question on which I am at present called to report is, whether there is room for the most important reforms in the administration of the existing law, which is considered by Lord Durham to have been thoroughly neglected down to this time by the emigration agents at the ports of embarkation in the United Kingdom.

His Lordship remarks, that "all the old evils of filth, inadequate accommodations, inferior and insufficient food, a scanty supply of unwholesome water, and the employment of vessels which are not sea-worthy, adding the risk of shipwreck to the certainty of disease, which the appointment of these agents and the alteration of the Passengers' Act were intended to remedy, and, as it would seem, are imagined by the general agent for emigrants to have remedied, exist in full force, even up to the present moment," except in so far as they may have been checked by recent alteration in the quarantine law of Lower Canada.

I would take the liberty of observing, that some of the topics enumerated in the preceding list of evils do not fall within the control of those who administer the existing Passengers' Act.

The prevention or accumulation of filth during the voyage may be affected by the habits of the passengers themselves, or by any influence which the master or mates of the vessel may acquire over them, and exercise to their benefit; but it seems quite certain that it cannot depend on a class of officers resident in this country, who have not authority even to lay down any regulations on the subject, and who, if they could prescribe such rules, would have to leave their enforcement by penalty, to the discretion of functionaries at the port of debarkation.

The nature of the accommodations again, is, in most particulars, a question altogether beyond the legal powers of the emigration agents. It is true that a certain height between decks is required by the Passengers' Act, and that, as Dr. Poole correctly states, the benefit of this provision may be considerably impaired by beams projecting above the lower deck and below the upper deck. This inconvenience arises out of the construction of much of the shipping in the timber trade. But still the rule of the law is, that the height shall be measured between the decks, and not between the beams; and it is not the fault of the administrative officers of vessels which comply with the terms of the Passengers' Act are yet so built as not to yield the full benefit which might have been expected from the measure.

With respect to provisions, to the sufficiency and wholesomeness of the supply of water, and to the sea-worthiness of the ship, it is difficult in the paucity of specific statements of names and dates in the evidence appended to this despatch to find specific answers; but I am happy to be able to state generally, that there is not one of the above-mentioned points on which I have not a knowledge of repeated examples of the active and beneficial interference of the emigrant agents. I find that they have received the thanks of the municipal authorities, in some of the greatest emigrating ports of the kingdom; that the appointment of similar functionaries has been earnestly sought by towns which have had an opportunity

No. 102.
Lord Glenelg to Sir J. Colborne, 11 Jan. 1839.

Encl. 1, in No. 102.

of becoming acquainted with their services at neighbouring places; and I have met with evidence, that the stationing of such an officer has driven fraudulent agents out of the town, by putting an end to the facilities for their trade. I am sorry to see that Lord Durham has been led to form an impression, that there is an universal and thorough neglect of their duty by the gentlemen who render these services. But on looking into the evidence on which so grave a censure has been founded, it is some satisfaction to find, that although Dr. Poole was more than once, called on to specify instances, he has only pointed out by name, first, two cases at Liverpool, so far back as 1836, which were investigated by Lord Glenelg at the time, and found to involve no blame to the agent; and secondly, the practice of the ports of Ipswich, Lyme and Yarmouth, at none of which there is an emigrant agent, while from all of them, with the exception of one very peculiar year at Yarmouth, the amount of emigration has always been insignificant.

I now proceed to notice such points in Dr. Poole's evidence, as seem to require attention more in detail.

In reference to his remarks on the admission of surgeons who have no proper license, and on the insufficient mustering of the passengers before sailing, I beg to suggest that the enclosed extracts of the evidence be referred to the Board of Customs, with whose department it rests to carry into effect these parts of the Passengers' Act. Lord Glenelg is aware that in one case last year, an instance casually came into notice, where even a surgeon of the royal navy was not allowed to proceed with one of the Government emigrant ships until he had shown the officers of customs his diploma, which they stated it to be their duty to see. But I have not the means of knowing the general practice.

I have forwarded to the Commissioners of Poor Laws those parts of Dr. Poole's evidence which relate to the parish emigrants. I am surprised at the representations they contain, as I am aware that the Poor Law Commissioners lay down very stringent rules for the welfare of all emigrants sent out with funds raised under their authority, and that they suspend payment of one moiety of the stipulated price for conveying out the passengers, until they receive Mr. Buchanan's certificate from Quebec of his approval of the performance of the contract, which notification has not in one instance, I am informed, been withheld.

Upon the slovenly manner in which, as Dr. Poole states, several captains (whose names are not mentioned, nor the places from which they sailed) described the provisions of the emigrants to be examined, I have addressed a circular letter of inquiry to all the agents.

I have not been able to select any other portions of the evidence which are not either irrelevant to the question of the administration of the law as it stands, or else founded on the most complete misconception of the state and nature of that law. As an example of these mistakes, I may mention that in one place Dr. Poole complains that there is not a proper *selection* of the vessels in which emigrants arrive. In another place, he observes that there ought to be a board with no other occupation than to superintend the selection and passage of emigrants, although I am not sure whether this last remark is not intended to point to an alteration of the law. In the mean while, it is almost superfluous for me to state that the agents have no power of selecting the ships or the passengers; but that any of Her Majesty's subjects who arrive at the port with sufficient funds to pay for their passage, are at liberty to proceed to the colony, without any selection or permission of the emigrant agents, and to choose the ship they prefer, and to make their own bargain, subject to no other control than the obligation of complying with certain very general enactments, considered necessary for the common welfare of all who go to sea under such circumstances.

If the people, indeed, were going under the direct care and authority of Government as is assumed in the preceding observations of Dr. Poole,—as, for instance, if, sufficient public funds being granted for the conveyance and maintenance during the voyage of a large body of emigrants, the agents at the outports were entrusted with the engagement of the necessary accommodation, there would be every reason to complain of such evils as, I fear, must be, in a greater or less degree, inseparable from the independent and unassisted emigration of persons in indigent circumstances, with probably a deficient supply of clothing, a want of cleanly habits, and no responsible superintendence over them during the voyage. But in such a case, I feel confident of the alacrity and efficiency with which the services of the existing emigrant agents would be adapted to this more satisfactory description of emigration. In the mean time, it has been my duty to offer the preceding observations in justice to a body of officers who exert themselves with diligence and zeal in a service where their powers are by no means commensurate with the responsibility which might on a first impression be ascribed to them, and wherein, I may add, it is not easy to find the means of advancing to confer upon them the further powers which might be wished, in regard to the direct object of their employment, without encroaching upon general principles of even yet more extensive importance.

I have, &c.

James Stephen, Esq.
&c. &c. &c.

(signed) *Frederick Elliot.*

— No. 103. —

(No. 40.)

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

Sir, Downing-street, 14 January 1839.

No. 103.
Lord Glenelg to Sir J. Colborne, 14 Jan. 1839.

I HAVE had the honour to receive the Earl of Durham's despatch of the 20th October last (No. 92), relative to the memorial of Messrs. Bruce, Shillito and M'Intyre, for the confirmation of a sale to them of 66,242 acres, in the district of Gaspé, in Lower Canada, and reporting the decision which he had adopted in that case, and the grounds on which that decision rested.

Lord Durham states, "that it is difficult to imagine a case in which there has been a more reckless profusion in the alienation of the property of the Crown, or one in which all the regulations that have been successively framed for the direction of the Commissioner of Crown Lands have been more deliberately and systematically violated. From the first step in the business to the last, the proceedings of the officers of the Crown were characterized by duplicity and irregularity;" and again he observes, that it is not "easy to imagine a transaction more deficient in every particular requisite to its validity."

Notwithstanding these opinions, Lord Durham proceeds to state, that finding that irregularities not less unwarrantable than the present had commonly prevailed in the administration of the Crown Land department, which irregularities had on former occasions been sanctioned by the Governor of the province, and seeing that the memorialists were probably unacquainted with the government regulations in regard to the sale of lands, while they were no doubt aware that the proceedings of the Crown Land department had been commonly allowed to pass unquestioned; they could not, in his opinion, be considered parties in the irregularity practised by Mr. Felton, and consequently ought not to be allowed to suffer on account of that irregularity. His Lordship had therefore felt himself compelled, most reluctantly, to reverse the decision of the Earl of Gosford, and to put the memorialists in possession of the land, receiving from them payment of the first instalment of the purchase-money.

The steps which Lord Durham has thus taken for carrying his decision into effect preclude me from adopting any practical measure in regard to it. The risk of engendering a want of confidence in the rights of property, which his Lordship regarded as so strong an objection to a revocation of the original sale, would of course apply still more forcibly to any interference with his subsequent decision. I do not doubt that before coming to that decision, Lord Durham took adequate means to satisfy himself as to the circumstances of the transaction, and the practice which had formerly prevailed in such matters; but it would have been more satisfactory to me, if, in a case immediately affecting so considerable an extent of Crown lands, and indirectly establishing a precedent of such wide application, he had furnished me with a more ample report of the instances in which, as he states, the Governors of Lower Canada had sanctioned irregularities not less unjustifiable than those committed in the present instance.

The instances of irregularity cited in his despatch do not bear out so strong a statement; and I am bound in justice to the officers who have administered the government of Lower Canada to declare, that the records of this officer afford no ground for supposing that any of them ever "sanctioned" mal-practices in the Crown Land department. If such mal-practices ever passed unnoticed by the Governors, it must, I am convinced, have arisen from the pressure of the public business, and the confidence which was naturally reposed, in the long experience and high station of the Commissioner of Crown Lands. Subsequent events, no doubt, proved that confidence to have been misplaced; but at the time to which Lord Durham adverts, Mr. Felton's character, both for integrity and ability, was unquestioned. That gentleman was subsequently dismissed, and is since dead.

With regard to Mr. M'Donald, I should be compelled to differ from Lord Durham if I was convinced, by the evidence afforded in the documents before me, that his conduct had been such as Lord Durham conceives it to have been. It is true that there is only one instance in which he is said to have been directly

No. 103.
Lord Glenelg to Sir J. Colborne, 14 Jan. 1839.

culpable, namely, an alleged wilful misrepresentation in his letter of the 5th June 1836; but if this charge had been clearly proved agaainst him, I admit, as a satisfactory excuse, that he acted even to the extent of gross misrepresentation tothe department of which he was a subordinate, under the immediate control and direction of the head of that department, and I should feel it my duty to direct his removal from a situation in which he had wilfully abused the trust reposed in him.

On a careful perusal, however, of the whole correspondence on this subject, I do not feel the evidence of Mr. M'Donald's imputed misconduct to be so conclusive as to justify me in reversing the decision, both of Lord Gosford and Lord Durham, by dismissing him from his office.

I have, &c.
(signed) *Glenelg.*

— No. 104. —

(No. 43.)

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

No. 104.
Lord Glenelg to Sir J. Colborne, 18 Jan. 1839.

Sir, Downing-street, 18 January 1839.

I HAVE received your despatch of the 19th ultimo, reporting the establishment of a court for the trial of offences connected with the late insurrection in Lower Canada, and announcing your intention to permit the sentence of death to be carried into effect in the cases of two of the ten prisoners, who had been convicted by that court of the crime of high treason.

I have to signify to you the approbation of Her Majesty's Government of the decision which you have adopted, the necessity for which you have so clearly explained in your despatch.

I have, &c.
(signed) *Glenelg.*

— No. 105. —

(No. 45.)

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

No. 105.
Lord Glenelg to Sir J. Colborne, 25 Jan. 1839.

Sir, Downing-street, 25 January 1839.

IN the Earl of Durham's despatch of the 20th October last (No. 92), it is stated, in illustration of the manner in which the Crown land department in Lower Canada has been conducted, that, contrary to the terms of the Imperial Act 7 & 8 Geo. 4, c. 62, upwards of 111,000 acres of the clergy reserves in that province had been sold by Mr. Felton in one year; and that in the whole, more than three-sevenths of the reserves had been sold. It was further stated that these lands were purchased principally by individuals, who obtained them with a view, not to settlement, but to the increased value which they would acquire in the course of years; and that the prices at which they were offered were very much below their real value.

I have to request that you will institute an inquiry into this subject, and report to me the result; showing the whole amount of acres at any time included in the clergy reserves; the number of acres sold in each year since 1827; the price at which they were offered, and that which they obtained; the extent of the lots bought by each purchaser, and the state in which the land so purchased now is. You will also have the goodness to apprize me, if possible, on whom is chargeable the neglect of the provisions of the 7 & 8 Geo. 4, c. 62; whether, in the opinion of the law officers of the Crown in Lower Canada, that neglect invalidates the title of the purchasers to any portion of the clergy reserves, alleged to have been illegally sold; and whether it is now in the power of the executive government to take any steps for redressing that illegality.

I have, &c.
(signed) *Glenelg.*

FROM

Lieutenant-general Sir John Colborne, G. C. B. and

The Earl of Durham, G. C. B.

From Lieutenant-general Sir *John Colborne*, G.C.B., and the Earl of *Durham*, G.C.B.

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From Lieutenant-general Sir *John Colborne*, G.C.B., and the Earl of *Durham*, G.C.B.

—No. 1.—

(No. 2.)

EXTRACT of a DESPATCH from Lieutenant-general Sir *John Colborne*, G.C.B., to Lord *Glenelg*, dated Head Quarters, Montreal, 24 January 1838.

No. 1.
Sir J. Colborne to Lord Glenelg, 24 January 1838.

IN transmitting to you a copy of the instructions which accompanied the Commission appointing me to execute martial law, I beg to observe, that most of the prisoners now confined for high treason having been captured at the time the troops under my command were engaged in active operations against the rebels, and the revolt being apparently at an end on my return from the county of the lake of the Two Mountains, I was not warranted in assembling courts martial for the trial of the state prisoners to which I advert. I have yet received no instructions from Lord Gosford upon this subject; but as some measure must be immediately adopted with a view of ascertaining the nature and extent of the depositions lodged against them, and of selecting those intended to be tried, I directed the questions which are contained in the accompanying document to be brought before the law officers of the Crown; and I transmit for your Lordship's information their opinions in reply to them.

More than two hundred persons have been already released by my authority. This unexpected lenity has produced many complaints on the part of the loyal inhabitants among whom they reside, who with some reason represent, that although the *habitans* released are ignorant persons, and probably joined the rebel leaders from fear, yet they are known to have taken an active part with them; and that if they are not punished they will be easily persuaded to pillage and take up arms on every future occasion, at the instigation of any rebel who may retain his influence over them. Your Lordship, I have no doubt, will see the necessity of deciding, as soon as possible, on the course which should be adopted in regard to the trial of the principal offenders now in prison accused of murder and high treason.

Her Majesty's ministers may be greatly embarrassed in having such a question brought before them; but it appears evident from the opinion of the law officers of the Crown of this province, that the local government could not, with justice to the public, or without danger to the province, order the prisoners charged with political offences to be tried by the ordinary tribunals of the country; nor could they be tried, under existing circumstances, by a court martial without a legislative enactment.

Enclosure 1, in No. 1.

Sir, Castle of St. Lewis, Quebec, December 1837.

IN transmitting to you the accompanying commission authorizing you to execute martial law in the district of Montreal, where it has been declared to exist by a proclamation dated to-day, I am commanded by his Excellency the Governor-in-chief, to intimate to you that, although the exigency of the present conjuncture has rendered such a measure indispensable to the maintenance of Her Majesty's royal authority in that district, and to the restoration of order, it is still his Excellency's earnest hope that the declaration of martial law will of itself strike such salutary terror into the hearts of the disaffected in that district as will obviate the necessity of having recourse to those extreme severities, the execution of which is hereby confided to you, and to which in the present dangerous crisis, and in the absence of all other remedy, his Excellency most reluctantly is compelled to resort.

Encl. 1, in No. 1.

I have it therefore in command from his Excellency to instruct you, that in all cases wherein the unlimited power with which you are now invested can be exercised in co-operation with or in subordination to the ordinary laws of the land, and that in all cases where, from local circumstances, or from a prompt return to their allegiance, the deluded inhabitants of any part of that district display an honest contrition for their past offences, you will revert at once to the assistance of the civil authorities, and impress upon a misguided people the conviction that Her Majesty's Government in this province is equally prompt to pardon the repentant, and punish the incorrigible. These instructions will alleviate in some degree the apparent severity of a measure which the present painful emergency imposes on his

 Excellency,

No. 1.
Sir J. Colborne to Lord Glenelg, 24 January 1838.

Excellency, and will relieve you from any responsibility that might otherwise arise out of the exercise on all fitting occasions of that leniency which his Excellency feels assured is so congenial to your feelings.

I have, &c.

Encl. 1, in No. 1.

Lieut.-general Sir John Colborne, K. C. B., G. C. H., &c. &c. &c., Montreal.

(signed) *S. Walcott*, Civil Secy.

Certified to be a true copy,
Thos. Leigh Goldie, A. D. C.

Enclosure 2, in No. 1.

Encl. 2, in No. 1.

Montreal, Court of Special Sessions of the Peace, Tuesday, 5 December 1837.

PRESENT:

The Honourable Touss. Pothier.

Jules Quesnel, Esq.	Lawr. Kidd, Esq.	Charles Tait, Esq.
James Brown, Esq.	Henry Corse, Esq.	Syd. Bellingham, Esq.
John Jones, Esq.	Turton Penn, Esq.	Paul Jos. Lacroix, Esq.
Jos. Shuter, Esq.	Wm. Evans, Esq.	E. M. Lephrohon, Esq.
Benj. Hall, Esq.	Jean B. Castnegnay, Esq.	Alexis Laframboise, Esq.
Jos. D. Burnett, Esq.	John Molson, Esq.	Thos. B. Wragg, Esq.
Daniel Arnoldi, Esq.	Benj. Hart, Esq.	

Mr. Quesnel is called to the Chair.

The following gentlemen came in: the Honourable P. M'Gill, Wm. Robertson, Ben. Hall, H. E. Barron, Wm. Donegani, P. E. Leclerc, Benj. Holmes, Etne. Guy, Olivier Berthelet, and the Hon. P. de Rocheblave.

Resolved, on motion of Mr. Penn, seconded by Mr. Hart, That at the time when the resolutions of the meeting of the magistrates of the 27th ult. were transmitted to his Excellency the Governor-in-chief, a press of business did not permit the said resolutions being accompanied by explanations that might perhaps have been necessary. It is therefore resolved, That, in the opinion of this meeting, the turbulent and disaffected persons who have incited the peasantry to rebel against Her Majesty's Government have been led on and encouraged in their career of crime by a firm belief that, whatever might be their political offences, they would not be declared guilty by any jury impannelled in the ordinary course of law; that the great mass of the population of this district having been engaged in aiding and abetting the late treasonable attempts, a fair and impartial verdict cannot be expected from a jury taken indiscriminately from the legally-qualified inhabitants; and that unless measures are adopted to ensure the equal dispensation of justice, few, if any, even of the most guilty among the rebels will receive the punishment justly due to their crimes, while the loyal and well-disposed will continue to be exposed to persecution and outrage from those who believe themselves beyond the reach of legal retribution.

Resolved, That the faithful and attached subjects of Her Majesty in this district, who have proved their fidelity by a zealous support of the Government in times of peril and difficulty, are entitled to claim adequate protection from the executive of the province, and that this meeting declare its deliberate conviction that the only effectual mode of granting that protection, and of arresting the progress of crime and of social disorganization, is to place this district under martial law.

Resolved, on motion of Mr. Robertson, seconded by Mr. Hart, That, from information received, there is reason to believe that a number of turbulent and dissolute characters are collecting in the vicinity of the lines dividing this province from the United States, for the avowed purpose of entering the province to aid and assist the rebels already in arms, it is the opinion of this meeting that measures beyond the ordinary course of law are necessary to guard against the treasonable designs of such persons.

Resolved, That a copy of the preceding Resolutions be transmitted to his Excellency the Governor-in-chief, praying that he will be pleased to take the same into early consideration.

Certified,
(signed) *Delisle & Delisle*, Clerks of the Peace.

Certified to be a true copy,
Thos. Leigh Goldie, A. D. C.

—No. 2.—

(No. 9.)

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

No. 2.
Sir J. Colborne to Lord Glenelg, 19 March 1838.

My Lord, Government House, Montreal, 19 March 1838.

Enclosure No. 1, 13 March 1838.

I HAVE the honour to acquaint you, that I have received a communication from General Wool, of the United States' army, a copy of which is annexed, informing me of the desire of many of the Canadians at Champlain to return to the province. The petitioners have no claim to our compassion, as it is only

No. 2.
Sir J. Colborne to Lord Glenelg, 19 March 1838.

only since the failure at Alburg that they have made their request. I have, however, made arrangements for their reception.

I transmit to you a copy of an intercepted letter from Dr. Robert Nelson to Mr. Ryan, late of Quebec, forwarded to me by General Wool.

I have, &c.
(signed) *J. Colborne.*

Enclosure 1, in No. 2.

Head Quarters, Champlain, N. Y. 13 March 1838.

To his Excellency Sir John Colborne, Commander-in-chief of the British Forces in the Canadas, &c.

Encl. 1, in No. 2.

I HAVE the honour herewith to transmit to your Excellency a petition signed by 20 Canadians, who are desirous of returning to their homes and country. The petitioners are called common Canadians, many of whom, however, as I am informed, have farms and families. Believing that much good would result to both countries if this wandering and deluded population would be permitted to return to their homes, I have encouraged the application, with a promise to intercede in their behalf. They are here with but small means, and no prospect of being able to provide for their families, consequently a prey to corrupt and designing men, who hang upon the borders of the frontier for no other purpose than to avail themselves of this floating population whenever a favourable opportunity may offer to disturb the peace and quiet of the people on both sides of the line, with the avowed object of finally producing a war between the two countries, England and the United States. If this population could return to their homes and remain there, it would, I think, in a great degree, remove the cause of the excitement which exists among our own people on this and the Vermont frontier, and deprive Nelson, Côte and others of a force always at hand to aid them in their designs.

With these observations I would call your attention to the subject, with the assurance that I will co-operate, to the extent of my powers, in all measures tending to the peace and quiet of the frontier, and the preservation of the neutral obligations of the United States.

Mr. Thomas J. Whitesides, of this town, will have the honour to present this communication, at the same time will be able to give your Excellency much valuable information on the subject.

I have, &c.
(signed) *John E. Wool*, Brig. Gen. Comm. N. F.

Enclosure 2, in No. 2.

Dear Sir, Plattsburgh, Sunday, 25 Feb. 1838.

Encl. 2, in No. 2.

I KNOW not when you may receive this, but as I shall have very little time hereafter, I avail myself this spare moment to convey to you our request, and send a few of the proclamations of the provisional government of Lower Canada, which I am desirous you should distribute in your part of Canada to the best advantage. According to agreement, M'Kenzie, with a large force, and well provided for war, took up his march on Thursday evening last toward U. C. On Friday morning his army was safely encamped near Gannanoqué, about 18 miles below Kingston, and last evening a slip from Montreal came to hand, saying he had *taken* Kingston. This news, we are assured, was confirmed by a despatch from Sir J. Colborne to General Wool, at Champlain, this morning. On the first report of M'K.'s movements at Watertown, all the spare troops possible were sent on towards U. C., and this morning we learn that Sir J. is on his way thither, having taken the largest number of regulars he could with him. We have so arranged, that Wool and Colborne and Co. are under the firm persuasion that we have recently sent on our men and means to the assistance of M'K., and this is confirmed by the *apparent* absence of our men and ammunition. We are informed, on this evening, Wool will move west to guard the St. Lawrence frontier, disregarding us, that will much facilitate our entry into L. C. on Monday night and Tuesday morning. Our force is abundant for our purpose; so, if you can possibly co-operate, our success will be of easier attainment. I would advise you to make your way with all possible speed to Three Rivers, if you have men enough, when we shall, by rapid movements, join you, after having rescued Montreal; if your force is insufficient for this first route, then make your way to St. Hyacinth, and thence to Sorel, where you may take up quarters until you receive instructions; if, again, your force is still less, move on with what you can muster to Missisquoi Bay, St. John's and La Prairie: collect all you can of fire-arms. Papineau has abandoned us, and this through selfish and family motives regarding the seigniories, and inveterate love of the old French bad laws. We can do well without him, and better than if we had him,—a man only fit for words, but not for action. We have the most positive assurance of a lively and cordial reception on our arrival. We have named you a captain; but I do not send the commission now; it is unnecessary.

Yours truly,
(signed) *Robt. Nelson.*

J. B. Ryan, Esq. Derby Line.

A true copy of the original in *my* possession, and transmitted to Brigadier-general Wool, from Troy, Vermont, March 7, 1838.

(signed) *H. B. Sawyer*, Lieut. U. S. Navy.

— No. 3. —

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

No. 3.
Sir J. Colborne to Lord Glenelg, 9 April 1838.
5 April 1838.

My Lord, Government House, Montreal, 9 April 1838.

I have the honour to transmit to your Lordship the accompanying copy of a communication from the Attorney-general, in which he states that nearly the whole of his time and attention is occupied in preparing his report of the nature of the depositions on which the prisoners confined under the charges of high treason and sedition in the gaols of Montreal have been committed; but that, from the intricacy and importance of the investigation in which he is engaged, and the confidential character of his report, he has not yet been able to close his examination.

None of the prisoners can, I fear, be brought before the ordinary tribunals of the province with justice to the community at large. If, therefore, the designs of the chief conspirators to overthrow the government, and the offences with which they are respectively charged, be clearly established by the depositions lodged against them, it will be for Her Majesty's Government to consider whether they can ever be reclaimed or be permitted to remain in the province without exposing the colonies to great danger from their intrigues, hatred to our institutions, and determination to persevere in their long-meditated projects.

The loyal population of the townships, and of Montreal and Quebec, and the most of the respectable farmers dispersed in the seigniories, are suffering severely from a revolt commenced and carried on, with great cruelty, under the guidance of seditious persons who have fled to the United States or are in the gaols of Montreal.

With reference to the opinions and feelings of every loyal subject in the province, I am persuaded, that should the active chiefs of the rebellion be convicted of the offences of which they are accused, they could not be allowed to enter or remain in these colonies. And I beg to observe, that in offering this advice, I am influenced by a sincere desire that Her Majesty's Government should not encounter embarrassment and formidable opposition from the portion of the inhabitants, who, by their active exertions, have contributed powerfully to counteract, under very difficult circumstances, the projects of the revolutionists.

In the accompanying memorial, you will find expressed in strong terms the discontent of many quiet and industrious farmers who have suffered from oppressive acts on the part of the seditious characters to whom I have adverted, and who have now the mortification to see almost the whole of the rebels quietly settled on their property, while their own houses have been burnt, and their cattle driven away for the consumption of the peasants in arms against the government.

The province remains tranquil, and from reports from Upper Canada, there is no further appearance of the brigands on any part of the frontier.

I have, &c.

(signed) *J. Colborne.*

Enclosure in No. 3.

Sir, Montreal, 5 April 1838.

Encl. in No. 3.

With reference to your letter of the 12th March, directing that I should prepare for the information of Her Majesty's Government a report of my inquiries connected with the late disturbances in this province, I beg leave to report to his Excellency, the administrator of the government, that in as far as my numerous public duties would permit, I have been employed in the preparation of such report; but that from the intricacy and importance of the investigation, from the voluminous nature of the documents to be examined and copied, and from the confidential character of the report, which restricts my means for its preparation, I fear some time must yet unavoidably elapse before I can hope to bring it to a termination. I shall not fail, however, to exercise all possible expedition in the matter.

I have, &c.

(signed) *C. R. Ogden,* Att^{y} Gen^{l}.

Colonel Rowen, Civil Secretary.

P.S.—Up to the present time I have liberated, after examination, about 340, and there remain about 174. Against those liberated there has been adduced more or less evidence implicating

No. 3.

Encl. in No. 3.

implicating them in the late revolt; some have been discharged on bail to appear and answer; others, for the most part *habitans*, appear to have been led astray by their leaders; these have been discharged without bail.

(signed) *C. R. Ogden.*

—No. 4.—

(No. 34.)

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

My Lord, Government House, Montreal, 27 April 1838.

No. 4.
Sir J. Colborne to Lord Glenelg, 27 April 1838.

I HAVE the honour to acquaint you that, in consequence of the continued tranquil state of the province, I have this day issued, with the advice of the executive council, a proclamation revoking martial law in the district of Montreal.

I have, &c.
(signed) *J. Colborne.*

—No. 5.—

(No. 37.)

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

My Lord, Government House, Montreal, 2 May 1838.

No. 5.
Sir J. Colborne to Lord Glenelg, 2 May 1838.

I HAVE had the honour to receive your despatch of the 19th of March (No. 50), in reply to my communication of the 24th of January, respecting the trial of offenders committed under the charge of high treason, and I take the earliest opportunity of transmitting to you the observations which have occurred to me on the result of the deliberations of Her Majesty's Government, conveyed in your despatch.

Her Majesty's Government are not prepared to sanction any departure from the usual course in bringing the principal offenders to trial, now in gaol in Lower Canada, under charges of high treason and murder, that would infringe the principles by which the administration of justice of the criminal law is guided throughout the British dominions, without previously submitting to a practical test the anticipated issue of the trials by ordinary tribunals.

I am, therefore, persuaded that your Lordship will not (with reference to the considerations to which I shall advert) disapprove of my determination to delay the prosecution of any of the prisoners whose offences could not be overlooked, without danger to the province, till the arrival of Lord Durham.

The power of convening a special court resides in the Crown; but as the examination of the prisoners is still going on, with a view of ascertaining the extent and force of the depositions on which they may be brought to trial and convicted, and as some days will yet elapse before it is completed and the time necessary for convening a special court, and the period of ten days which must be allowed between the finding of the indictments and arraignment of the accused must occasion further delay, it is not probable that any trial could take place before the arrival of the Governor-in-chief.

On these considerations all parties in the province will think it a more proper course that the selection of the prisoners for trial, and the time of assembling the court, should be decided on by Lord Durham, and not at this late period of the administration of the Commander of the Forces, who has necessarily taken an active part in all the proceedings connected with the apprehension and prosecution of the prisoners.

I am also so fully convinced (as well as the whole of the executive council) of the inexpediency of bringing the prisoners before the ordinary tribunals either in this district or at Quebec, that I should hesitate in carrying into effect your instructions; but particularly when I have reason to believe that Lord Durham will in a few weeks be induced, from the information he may collect, to take the same view of this question, on which the future tranquillity of Canada may depend.

In the meantime I shall endeavour to reduce the number of prisoners, and order such a report to be prepared as may assist Lord Durham in selecting the cases for trial, or for the favourable interposition of the Government.

 I find

No. 5.
Sir J. Colborne to Lord Glenelg, 2 May 1838.

I find from the Attorney-general that 326 prisoners accused of high treason, &c. have been liberated by my authority from the gaol of Montreal; that there are 161 now confined; and that not less than 72 of these are supposed to have been among the principal promoters of the late revolt, although some of them were more actively engaged in it than others.

I have, &c.
(signed) *J. Colborne.*

— No. 6. —

(No. 1.)

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

My Lord, Quebec, Castle of St. Lewis, 31 May 1838.

No. 6.
The Earl of Durham to Lord Glenelg, 31 May 1838.

I HAVE the honour to inform your Lordship that I arrived here on the 27th. The weather being very unfavourable, I could not land until the 29th, on which day I proceeded to the council chamber at the castle and took the prescribed oaths, which were duly administered to me in the presence of Sir John Colborne.

The streets through which I passed were extremely crowded, and I could not but be highly gratified with the cordial greeting which I received, and with the more than friendly feeling towards me which seemed to animate the assembled multitude.

Gazette Extraordinary.

Immediately after my investiture I issued the proclamation, of which I enclose your Lordship copies.

It has been most favourably received, according to the best information I can obtain, by all classes and parties.

I have, &c.
(signed) *Durham.*

Enclosure in No. 6.

[*From the Quebec Gazette Extraordinary, of Tuesday*, 29 *May* 1838.]

DURHAM.

Encl. in No. 6.

By his Excellency the Right Honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Her Majesty's Most Honourable Privy Council, and Governor-general, Vice-admiral and Captain-general of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c. &c.

A PROCLAMATION.

THE QUEEN having been graciously pleased to intrust to me the government of British North America, I have this day assumed the administration of affairs.

In the execution of this important duty, I rely with confidence on the cordial support of all Her Majesty's subjects, as the best means of enabling me to bring every question affecting their welfare to a successful issue, especially such as may come under my cognizance as Her Majesty's High Commissioner.

The honest and conscientious advocates of reform, and of the amelioration of defective institutions, will receive from me, without distinction of party, races or politics, that assistance and encouragement which their patriotism has a right to command from all who desire to strengthen and consolidate the connexion between the parent state and these important colonies; but the disturbers of the public peace, the violators of the law, the enemies of the Crown and of the British empire, will find in me an uncompromising opponent, determined to put in force against them all the powers, civil and military, with which I have been invested.

In one province the most deplorable events have rendered the suspension of its representative constitution, unhappily, a matter of necessity, and the supreme power has devolved on me.

The great responsibility which is thereby imposed on me, and the arduous nature of the functions which I have to discharge, will naturally make me most anxious to hasten the arrival of that period when the executive power shall again be surrounded by all the constitutional checks of free, liberal and British institutions.

On you—the people of British America—on your conduct, and the extent of your co-operation with me, will mainly depend whether that event shall be delayed or immediate. I therefore invite from you the most free, unreserved communications. I beg you to consider me as a friend and arbitrator, ready at all times to listen to your wishes, complaints and grievances, and fully determined to act with the strictest impartiality.

If you, on your side, will abjure all party and sectarian animosities, and unite with me in the blessed work of peace and harmony, I feel assured that I can lay the foundations of such

No. 6.

The Earl of Durham to Lord Glenelg, 31 May 1838.

Encl. in No. 6.

such a system of government as will protect the rights and interests of all classes, allay all dissensions, and permanently establish, under Divine Providence, that wealth, greatness and prosperity of which such inexhaustible elements are to be found in these fertile countries.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said province of Lower Canada, the 29th day of May, in the year of our Lord 1838, and in the first year of Her Majesty's reign.

By command,

Charles Buller, Chief Secretary.

His Excellency the Governor-general has been pleased to make the following appointments:—

To be Secretaries to the General Government, Charles Buller, Esq., Member of the Imperial Parliament of Great Britain and Ireland; and Thomas Edward Michell Turton, Esq., Barrister at Law.

To be Military Secretary and Principal Aide-de-camp, Col. George Couper, K. H.

To be Attachés to the High Commission, Gervase Parker Bushe, esq.; Arthur Buller, esq.; and the Honourable Edward Pleydell Bouverie.

To be Aides-de-camp to the Governor-general, Lieutenant the Honourable Frederick Villiers, Coldstream Guards; Captain Stephen Conroy, Coldstream Guards; Ensign W. H. Frederick Cavendish, H. M. 52d Regiment Light Infantry; Cornet the Honourable C. A. Dillon, H. M. 7th Dragoon Guards.

To be Extra Aide-de-camp, Captain Ponsonby, Royal Fusilier regiment.

To be Private Secretary to the Governor-general, Edward Ellice, jun., esq., Member of the Imperial Parliament of Great Britain and Ireland.

—No. 7.—

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

My Lord, Head Quarters, Quebec, 3 June 1838.

No. 7.

Sir John Colborne to Lord Glenelg, 3 June 1838.

YOUR Lordship will be glad to be informed that the reception of the Earl of Durham, at Quebec, must have been highly gratifying to him, and that all parties appear disposed to support his measures, and give him their assistance in his endeavours to re-establish a constitutional legislature on such principles as will afford equal protection to the English and French population.

With respect to my own communications with his Lordship, and to the conversations which I have had with him, they have been entirely satisfactory; and I concur with him in all his views, which he has made known to me.

I need not, I am sure, mention to your Lordship my wish to be useful to him, and to afford Lord Durham every assistance in my power, while I remain in this province; and I have reason to believe that he is firmly persuaded of my anxious desire to co-operate cordially with him.

I think it, however, right to acquaint your Lordship on this occasion, that I find it necessary, after ten years' service in this climate, to return to England. There are so many considerations also, public and private, that would induce me to come to this determination, that I trust Her Majesty will not disapprove of my request and intentions; and that your Lordship will favourably represent them to Her Majesty.

In relinquishing this command, I beg to offer my sincere thanks to your Lordship, for the great kindness which at various times I have received from you.

I have, &c.

(signed) *J. Colborne.*

—No. 8.—

(No. 2.)

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

My Lord, Castle of St. Lewis, Quebec, 2 June 1838.

No. 8.

The Earl of Durham to Lord Glenelg, 2 June 1838.

I REGRET to have to announce to your Lordship the occurrence of a most scandalous outrage committed on the frontiers of Upper Canada by a band of American pirates.

2. I enclose

I enclose your Lordship the reports from Colonel Dundas, detailing the particulars of this lawless act, which were communicated to me yesterday by Lieutenant-general Sir John Colborne.

I have, with his concurrence and approbation, issued a proclamation, of which I enclose your Lordship a copy, together with the offer of a reward of one thousand pounds for the discovery and conviction of the offenders.

It appears from the advices which have been received from the officers detached on the service of tbe frontiers, that the utmost alarm prevails along the whole line, and this account is corroborated by a communication from Captain Sandon to the senior naval officer, received here this morning.

In these circumstances, I have directed Sir J. Colborne to make the necessary dispositions for re-inforcing the nearest posts to the scene of outrage, and have the honour to enclose you his report.

I have also determined on sending Colonel Grey to Washington, for the purpose of communicating with Her Majesty's minister, and putting him in full possession of all the circumstances of the case, and requesting him to require from the United States' government immediate attention to and redress of this infamous outrage.

I have received information that it is intended to keep up a state of constant alarm on the whole line of frontiers by attacks of this kind, at various and distant points. If this system be permitted, the consequences will be most serious, both as regards the population on our side of the line, and also the expense which will be incurred in providing adequate means of defence. The Commander-in-chief tells me that, to effect the latter object, he will be obliged to have recourse to the volunteers, a measure greatly to be deprecated.

Their cost is three times that of the regular troops, and their continuance in arms must tend greatly to embarrass me in all measures connected with the internal state of the two provinces.

Sir John Colborne will immediately proceed to the spot where this occurrence has taken place, for the purpose of procuring the fullest information, and making every necessary military arrangement.

I have, &c.

(signed) *Durham.*

Enclosure 1, in No. 8.

Sir, Kingston, 30 May, 1838, 8 A. M.

Encl. 1, in No. 8. I HAVE the honour to acquaint you, for the information of his Excellency the Commander of the Forces, that the steam-boat, "Sir Robert Peel," was taken possession of last night, while taking in wood at Wells' Island, about three miles below French Creek. The passengers were all forced ashore without their baggage, where they now are. The purser, A. Johnson, effected his escape in a small boat, and has this moment brought me the information. The engineer also effected his escape. The pilot and a servant-maid are the only persons, the purser states, he heard were on board when the pirates cast off. It is supposed they have taken her into French Creek; but that their ultimate object is, after taking in arms, to carry the steamer to Niagara.

I propose taking measures, in conjunction with Captain Sandon, R. N. for retaking the vessel should she be at French Creek.

I have, &c.

(signed) *H. Dundas,* Lt.-col. 83d Reg. and Commandt.

Enclosure 2, in No. 8.

Sir, Kingston, 30 May 1838.

Encl. 2, in No. 8. SINCE closing my letter of this morning, the "Oneida," American steamer, has brought up the passengers that were forced on shore from the "Sir Robert Peel," and has also brought the intelligence of the burning of that vessel, which was set on fire immediately after the pirates cast off. The Oneida put into Wells' Island to take in wood, and the captain very kindly undertook to convey the passengers to Kingston. The pilot is the only person hurt. He was asleep in the boat, and escaped with some difficulty, and is a good deal burnt. The passengers have lost all their baggage. From the information I have received, the notorious Johnson was one of the leaders; M'Leod is also stated to be another; two Canadians, refugees, of the name of Potts and Henderson, and a man named Tornant, from Belleville. I have heard that those people are now at Adam's or Apple Island, and where they have five or six boats. They were all armed with muskets and bayonets, and had their faces

No. 8.
The Earl of Durham to Lord Glenelg,
2 June 1838.

faces blackened when they attacked the "Sir Robert Peel." It would appear that they meditated attacking Brockville and Gananoque for the purposes of plunder. I have therefore ordered a company of the Frontenac militia to proceed to each of these towns.

The left wing of the 34th regiment is ordered to Toronto, and will proceed this afternoon. I have not thought it right to detain them or interfere with the arrangements that have been made; but as the garrison is so very weak, I propose requesting Sir George Arthur's permission to keep the right wing of the 34th regiment here, until the two companies of the 83d, from Amhurstburgh rejoin, should circumstances make me deem it necessary to do so, on the arrival of the right wing from Montreal.

Encl. 2, in No. 8.

I have, &c.

(signed) *H. Dundas*, Lt.-col. 83d Regt. Commdt.

The purser of the "Sir Robert Peel" informs me that there was about 3,000 *l.*, in notes, on board for the bank of Upper Canada; about 100 *l.* of the ship's money, in notes and specie. One passenger lost 1,500 *l.* Bank of England notes, all of which has fallen into the hands of the pirates, and, I am told, will be available, as payment cannot be stopped.

Captain Goldie,
Military Secretary, Quebec.

(signed) *H. D.*

Enclosure 3, in No. 8.

[*From the Quebec Gazette Extraordinary (by Authority), of Saturday, 2d June* 1838.]

DURHAM. £. 1000 Reward.

Encl. 3, in No. 8.

By his Excellency the Right honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Her Majesty's Most Honourable Privy Council, and Governor-general, Vice-admiral, and Captain-general of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c. &c. &c. &c.

A PROCLAMATION.

WHEREAS information has been received by me, that on the 29th day of May last, at a certain island called "Wells' Island," in the river St. Lawrence, within the territory of the United States of America, a body of armed men, at midnight, seized upon a certain steam-vessel, called the "Sir Robert Peel," belonging to certain subjects of Her Majesty in the province of Upper Canada, then moored at the said island, to which she had resorted in the peaceable prosecution of her accustomed voyage, for the purpose of taking in fuel; and, having with violence driven the passengers and crew of the said steam-boat upon the said island, deliberately plundered, burnt and destroyed the said steam-boat: And whereas many of the said passengers were females, and were thus assailed with a total disregard of their sex and their condition at that hour of the night, thereby greatly aggravating the outrage: And whereas the due protection of Her Majesty's subjects, and the demands of justice, imperatively require that the perpetrators of such a crime should not escape unpunished: And whereas with that object I am desirous of co-operating with and giving every facility to the authorities of the United States: Now know all men by these presents, that I do hereby promise the sum of 1,000 *l.* to any person or persons who shall identify, and bring to conviction, before any competent tribunal, any person actually engaged in, or directly aiding and abetting, the perpetration of this last-mentioned outrage.

To allay the alarm which has again unhappily disturbed the peace of the frontier of the province of Upper Canada, I hereby proclaim to the subjects of Her Majesty residing therein, my determination to secure their present and permanent protection by the employment of every means at the disposal of Her Majesty's Government; for which purpose a sufficient military force will be immediately concentrated on such points as shall best protect the frontier line from all aggression on the peaceable inhabitants of these provinces. I shall also lose no time in appealing to the Government of the United States, to vindicate its own honour by avenging the insult which has been offered to their authority by a band of lawless pirates, and repairing the wrongs which have been inflicted on Her Majesty's subjects.

Pending such appeal, I earnestly exhort all Her Majesty's subjects, notwithstanding the aggravated provocation they have received, carefully to abstain from any act of retaliation which may expose them to the imputation of a disregard of their own honour, by a violation of the international rights of adjoining powers.

Given under my hand and seal at arms at the Castle of St. Lewis, in the city of Quebec, in the said province of Lower Canada, the 2d day of June, in the year of our Lord 1838, and in the first year of Her Majesty's reign.

By command,

(signed) *Charles Buller*, Chief Secretary.

—No. 9.—

(No. 3.)

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

My Lord, Castle of St. Lewis, Quebec, 3 June 1838.

No. 9.
The Earl of Durham to Lord Glenelg, 3 June 1838.

I HAVE the honour to forward to your Lordship the enclosed copies of a communication from several magistrates of Brockville, relative to the destruction of the steam-boat, "Sir Robert Peel," and of the deposition of the master of that vessel, both of which I have received this morning.

I have, &c.

(signed) *Durham*.

Enclosure 1, in No. 9.

Encl. 1, in No. 9.

May it please your Excellency, Brockville, 30 May 1838.

WITH feelings of the deepest regret, we, the magistrates residing in Brockville, have to enclose to your Excellency the accompanying deposition of Capt. Armstrong, relative to the destruction of the British steam-boat, "Sir Robert Peel," which event took place this morning, at two o'clock.

It would be superfluous in us to enter into the particulars of this distressing and too well-attested affair, one which may possibly prove but the precursor of more serious evils.

When we take into consideration certain reports touching preparations said to be in progress on the American frontier, together with this practical demonstration of hostility, it becomes our bounden duty to forward to your Excellency, without delay, our united prayer that your Excellency may cause to be stationed here forthwith such a sufficient military force, selected from Her Majesty's regular troops, as may prevent acts of aggression; and we would at the same time state our conviction that it would be advisable to place a small protective force at the village of Gananoque.

And the undersigned, as in duty bound, will ever pray.

(signed) *Bartholomew Carley*, J.P.
Jas Morris, J. P.
Joseph K. Hartwell, J. P.
J. D. Campbell, J. P.
Henry Jones.

Enclosure 2, in No. 9.

Upper Canada,
District of Johnston, to wit.

Encl. 2, in No. 9.

JOHN B. ARMSTRONG, now of Brockville, in the district of Johnston, gentleman, aforesaid, maketh oath and saith, That he was master of the steam-boat "Sir Robert Peel," plying this season between Prescott and Niagara and Lewiston; that he left Prescott, on the trip upwards, with the said boat on the evening of Tuesday, the 29th day of May instant, with a considerable number of cabin and deck passengers; that the boat arrived at an island called Wells' Island, where the said boat usually stopped to take in wood on her upward trip, about 12 o'clock at night, and stopped at a wharf on the south side of the said island, for the purpose of taking wood as usual; that about two o'clock in the morning, when they had nearly finished taking in the wood required, this deponent was in the gentlemen's cabin below, and was alarmed by a great noise and shrieking on deck, and upon going on deck, this deponent found that the boat had been suddenly attacked by a large number of armed men, who were then in possession of her; this deponent was seized by several armed men and forced on shore, and he saw many of the passengers and men off the boat on shore, who had been driven off the boat by the armed force attacking her; the boat was then cast off from the wharf, and this deponent (fearful that it was the intention of those seizing the vessel to arm and man her with a view of attacking some place in the province), directly after she was cast off from the wharf, left the place and procured a row-boat to bring him to the Canada shore, in order to send an express to Kingston with the information; this deponent, while proceeding to procure a boat to bring him to the Canada shore, and about 20 minutes after the steam-boat had been cast off from the wharf, saw that the said steam-boat had been set on fire, and was burning furiously, and this deponent has no doubt but that she was completely destroyed; although coming off from the island for the purpose of sending to Kingston, as aforesaid, he lost sight of the vessel before she was utterly consumed; this deponent thinks the force attacking the steam-boat numbered from 50 to 70 men, but it is impossible for him to speak as to their number with certainty, and they were armed with pikes, muskets and bayonets, and had boats with them, in which they left the vessel after setting her on fire; and this deponent verily believes that the said steam-boat was attacked and destroyed by persons who had come from the American or southern shore of the St. Lawrence; this deponent

No. 9.
The Earl of Durham to Lord Glenelg, 6 June 1838.

deponent cannot say whether any lives were lost of those on board the said steam-boat, and her crew and passengers were totally unarmed, and could not and did not offer any resistance, not at all expecting any attack to be made upon them; and the said island, to the best of this deponent's belief, and as he has been informed, is within the territory of the United States.

(signed) *John B. Armstrong.*

Encl. 2, in No. 9.

Sworn before me at Brockville aforesaid,
this 30th day of May 1838.
(signed) *Jas Norris*, J. P.

—No. 10.—

(No. 5.)

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

No. 10.
The Earl of Durham to Lord Glenelg, 6 June 1838.

My Lord, Chateau, St. Lewis, Quebec, 6 June 1838.

I DO myself the honour to transmit to your Lordship copies of despatches which I have written to the Lieutenant-governors of Upper Canada, New Brunswick, Prince Edward's Island, and to the Governor of the island of Newfoundland, in pursuance of your Lordship's despatch (No. 8) of the 3d April last.

I have, &c.
(signed) *Durham.*

Enclosure 1, in No. 10.

Sir, Chateau, St. Lewis, Quebec, 1 June 1838.

I HAVE directed the transmission to you of a copy of my commission as Governor-general of all the North American provinces, and of the islands of Newfoundland and Prince Edward, which will accompany this despatch. Encl. 1, in No. 10.

I have also to request your Excellency, in pursuance of Lord Glenelg's instructions respecting the official correspondence to be carried on in future between us, to enter into the most free and confidential communications with me on all subjects affecting the island of Newfoundland, both as regards its internal condition and the state of affairs in its vicinity.

Your Excellency will of course understand that this request does not contemplate any interference with the administration of the government, but refers to the necessity which exists that I, as Governor-general of all the North American provinces, should be immediately informed of all matters of general interest affecting the high and important mission which has been confided to me.

It will be my duty as well as my inclination to uphold your authority, not only from the respect I must entertain for you personally, but from a due regard to the efficiency of the public service.

I have, &c.
His Excellency Captain Prescott, R. N. (signed) *Durham.*
&c. &c. &c.

(True copy.) *E. Couper.*

Enclosure 2, in No. 10.

Sir, Chateau, St. Lewis, Quebec, 1 June 1838.

I HAVE directed the transmission to you of two commissions which will accompany this despatch. Encl. 2, in No. 10.

I have also to request your Excellency, in pursuance of Lord Glenelg's instructions respecting the official correspondence to be carried on between us in future, to enter into the most free and confidential communications with me on all subjects affecting the province of Upper Canada, both as regards its internal condition and the state of affairs on the frontiers.

Your Excellency will of course understand that this request does not contemplate any interference with your administration of the government, but refers to the necessity which exists that I, as Governor-general of all the North American provinces, should be immediately informed of all matters of general interest affecting the high and important mission which has been confided to me.

It will be my duty as well as my inclination to uphold your authority, not only from the respect I must entertain for you personally, but from a due regard to the efficiency of the public service.

I have, &c.
To their Excellencies the Lieutenant-governors of Upper Canada, (signed) *Durham.*
New Brunswick and Prince Edward's Island.

(True copy.) *E. Couper.*

—No. 11.—

(No. 6.)

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

No. 11.
The Earl of Durham to Lord Glenelg, 8 June 1838.

My Lord, Chateau St. Lewis, Quebec, 8 June 1838.

YOUR Lordship is doubtless aware that in the execution of the important mission confided to me, my presence will be frequently required, at a few hours' notice, at Quebec, Montreal, and at various intermediate places on both banks of the St. Lawrence. To enable me to visit those places, a steam-vessel, well manned and armed, will be essentially necessary, and I have therefore directed the Commissary-general, to ascertain the terms upon which a vessel of that description can be procured.

By the report of this officer it appears, that a certain company has established an entire monopoly of the steam conveyance between Montreal and Quebec, and that the consequent impositions upon Government have been of a very extravagant nature. As an instance, it may be mentioned, that on Sir John Colborne proceeding a few days ago to the frontier of Upper Canada, this company charged 200*l.* (currency) for the transport of himself, the officers of his staff and their horses, from Quebec to Montreal, the passage being accomplished in 20 hours.

This company declines to supply a steam-vessel for the use of the Government at a lower rate than 100 *l.* (currency) per diem, and to these terms I shall be of course compelled to accede.

Her Majesty's steam-vessels, Medea and Dee, which have been ordered to this station, and are daily expected, are, from their heavy draught of water, altogether unfit for the navigation of the St. Lawrence above Quebec. I very earnestly recommend, therefore, that a steam ship of war, of a draught of water not exceeding 11 feet, be immediately sent out to Quebec, and placed at my disposal.

By this arrangement the conveyance of all troops and military stores between Quebec and Montreal may be performed in a much more satisfactory and efficient manner than at present, the monopoly of the steam-boat company, so far as Government is concerned, would be obviated, one of the larger steam ships of war may be dispensed with, and a considerable saving would accrue to the public.

I have, &c.
(signed) *Durham*.

—No. 12.—

(No. 7.)

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

No. 12.
The Earl of Durham to Lord Glenelg, 16 June 1838.

My Lord, Castle of St. Lewis, Quebec, 16 June 1838.

I HAVE the honour to enclose you copies of my despatch to Mr. Fox, to which I referred in my despatch (No. 2), and of my instructions to Lieutenant-colonel Grey.

I have, &c.
(signed) *Durham*.

Enclosure 1, in No. 12.

Encl. 1, in No. 12.

Copies of these Reports were forwarded to Lord Glenelg, in Despatch No. 2, dated 2 June 1838.

Sir, Chateau, St. Lewis, Quebec, 5 June 1838.

I HAVE to enclose you, with feelings of the deepest regret, copies of reports from Colonel Dundas, together with communications from Major Young and Captain Whitney, relating to the burning of the "Sir Robert Peel" steamer, at Wells' Island, and the state of the frontiers in the neighbourhood. I also enclose you a copy of the proclamation which I issued immediately on receiving accounts of the occurrence of this infamous outrage.

Sir John Colborne left Quebec yesterday for the purpose of repairing to the frontiers; and I have this day despatched Lieutenant-colonel the Hon. Charles Grey, who will be the bearer of this, that he may have personal communication with you.

Captain

No. 12.
The Earl of Durham to Lord Glenelg, 16 June 1838.

Captain Arthur, who arrived this morning with despatches from Sir George Arthur, informs me that his Excellency had forwarded to you accounts of this act of aggression. You will therefore be prepared for receiving from me the most earnest representations, to be conveyed to the President of the United States, that this state of things should no longer be permitted to exist by the American government.

Encl. 1, in No. 12.

Colonel Grey is instructed by me to acquaint you of my firm determination to protect the lives and properties of Her Majesty's subjects against such lawless attacks by all the means, civil and military, which I can command. I am convinced that the government of the United States will feel it due to their national honour to prevent the repetition of offences, the longer continuance of which, and of the impunity with which they have been hitherto perpetrated, is a disgrace to all civilized governments.

I request you to obtain for Colonel Grey an interview with the President; immediately after which he is instructed to return to head quarters.

I have, &c.

His Excellency Henry Stephen Fox, Esq.
Minister Plenipotentiary, Washington.

(signed) *Durham.*

(True copy.) *G. Couper.*

Enclosure 2, in No. 12.

Sir, Chateau, St. Lewis, Quebec, 5 June 1838.

I HAVE to request that you will immediately proceed to Washington. On your arrival there you will deliver the enclosed despatch to Her Majesty's minister.

Encl. 2, in No. 12.

I have directed Mr. Fox to request an interview for you with the President of the United States. You will be pleased to express to him my feelings of sincere respect for him and his country; and assure him, that in the discharge of my duty as Governor-general of British North America, I shall be most anxious to cultivate relations of amity and cordiality with the government of the United States. You will acquaint him that I feel persuaded that he will view the outrage at Wells' Island with feelings of as much indignation as myself, and that I confidently rely on the most prompt and efficacious means being taken by the American authorities to bring the perpetrators of this heinous offence to condign punishment. At the same time you will make him understand that something more is required from the United States' government; that the redress of this particular outrage must also be accompanied by measures for the prevention in future of similar crimes. The British frontier cannot be left exposed to these perpetual attacks and this constant irritation; and I have a right to call on the American government to fulfil the most sacred of all duties, the due observance of the faith of treaties, and the strict maintenance of the rights of friendly powers. I earnestly hope that the executive power on the American side will be effectively and promptly employed. In justice to those of Her Majesty's subjects the insecurity of whose lives and properties, in consequence of these repeated attacks proceeding from the United States, is daily and hourly represented to me, I make this communication. In all circumstances, and at all hazards, I must afford them protection; and it will give me the sincerest pleasure to find that my task is rendered easier by the co-operation of the American government.

I have, &c.

Lieut.-colonel the Hon. Charles Grey.

(signed) *Durham.*

(True copy.) *E. Couper.*

— No. 13.—

(No. 8.)

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

My Lord, Castle of St. Lewis, Quebec, 16 June 1838.

No. 13.
The Earl of Durham to Lord Glenelg, 16 June 1838.

I HAVE the honour to enclose you two reports from Captain Sandom, of the Royal Navy, on the state of the naval force under his command at Kingston, together with a despatch from Sir John Colborne, on the same subject.

In consequence of these representations, I communicated with Vice-admiral Sir Charles Paget, who arrived here from Halifax on the 13th instant, and stated to him that an augmentation of Captain Sandom's force was necessary, for the purpose of protecting the British frontiers on the St. Lawrence and Lakes Erie and Ontario, against the systematic attacks of pirates and robbers, who in defiance of the laws of nations, and especially of those of Great Britain and the United States, were continually engaged in assailing and plundering Her Majesty's subjects.

No. 13.
The Earl of Durham to Lord Glenelg, 16 June 1838.

The Admiral has promptly complied with the demand, and has placed under Captain Sandom's command the requisite amount of officers and men, who will immediately proceed to Kingston. I have given Captain Sandom the strictest orders to confine his operations to the defence of our own shores, in our own waters, and never, under any circumstances, to attack any vessels on the American coast. Any outrage committed by such vessels, so situated, must be dealt with by the respective governments of the two countries, and not by any summary mode of attack or retaliation.

I am convinced that the sight of this small force even, manned by British officers and seamen, will tend more than any thing else to re-establish confidence amongst our own people, and to overawe the lawless ruffians who now infest those districts with impunity.

I have, &c.
(signed) *Durham.*

Enclosure 1, in No. 13.

(Extract.)

My Lord, Quebec, 11 June 1838.

Encl. 1, in No. 13. I HAVE the honour to inform your Excellency, that on my arrival in Canada, agreeable to instructions from the Lords Commissioners of the Admiralty, I communicated with his Excellency Sir John Colborne (then acting as Governor-general) my orders to co-operate for the good of Her Majesty's service on the lakes of Canada or waters of the St. Lawrence, in any manner that he might deem requisite.

That I prepared by his Excellency's suggestion two small vessels and boats to act on Lake Erie, or wherever else they might be required; but that I did not definitively agree for the purchase of a steam-vessel for the Upper Lakes (agreeable to Sir John Colborne's wishes), because I had not proper officers or persons to place on board such vessel.

The excitement consequent upon the piratical act of the destruction of the "Sir Robert Peel," induced me to urge forward the preparations I was making, and further to charter two schooners, which are in a state of preparation for armament, or otherwise, as your Excellency may direct.

I beg leave to state to your Excellency, that in consequence of positive assurances which reached Kingston, that certain persons lately concerned in the outrage upon the British steam-vessel were proceeding westward from French Creek and Wells' Island on board a schooner and four row-boats, with the intention of maturing certain plans for making a descent upon the Canadian shores in the neighbourhood of Bath, and that probably they would take refuge upon the "Ducks" Islands, I felt it my duty to acquiesce in the suggestions of the authorities of Kingston; and with the hope, by appearing along the shores which were threatened by this lawless band, to afford countenance and protection to Her Majesty's loyal subjects, I embarked in a steam-vessel with a small detachment of troops, and taking with me an armed schooner proceeded along the Canadian coast westward of Kingston; from thence to the "Ducks" Islands, and down the British shore to the town of Gananoque. In all these places I found the greatest excitement prevailing from the dread of the threats of a chief of these lawless persons being put in execution by the destruction of their possessions; and I have much satisfaction in being able to state to your Excellency, that the assurances I felt it my duty to give of a watchful protection and aid in case of need were productive of the most beneficial results, in tending to quiet the minds of persons so alarmed, and to give them confidence.

I beg to draw your Excellency's attention to the fact of the "Ducks" Island, part of Her Majesty's dominions, being almost constantly occupied by 30 or 40 wood-cutters, who are in the habit of felling the fine cedar which abounds on the island, and of sending it to the American towns of Oswego and Rochester.

From the position of these islands, and the advantage of a sheltered and excellent harbour, they are particularly calculated to afford protection to the bands of lawless persons lately so troublesome, or others who may have ulterior views upon the tranquillity of the neighbouring British dominions.

I would therefore take the liberty of suggesting to your Excellency the propriety of these islands being placed under the surveillance of the naval authorities at Kingston, and that one small vessel should, for the present, be stationed there, or occasionally visit them.

If your Excellency approves of it, and the means of manning and protecting the vessels can be afforded, I shall be immediately ready to conclude the charter or purchase of a steam-vessel for Lake Erie, and also to place an armed vessel and boats in the British Channel near the "Thousand Islands," in the vicinity of the towns of Gananoque and Brockville, where the alarm exists from the dread of an attack from the marauders who are said to be still lurking in the neighbourhood.

His Excellency the Earl of Durham, &c. &c. &c. (signed) *William Sandom.*

Enclosure 2, in No. 13.

No. 13.
The Earl of Durham to Lord Glenelg, 16 June 1838.

Encl. 2, in No. 13.

My Lord, Quebec, 12 June 1838.

In reply to your Lordship's question as to what steps I had taken on Lake Ontario to prevent the recurrence of similar outrages to that lately committed by the destruction of the steam-vessel the "Sir Robert Peel," and with which the neighbourhood of Kingston is threatened by a lawless band of depredators, I have the honour to acquaint your Excellency that I have deemed it my duty to put arms on board two or three small vessels, and to prepare them to go in pursuit of any such persons, and (if found within the British dominions) with orders to bring them before the proper tribunal for investigation; and that I purpose, with your Excellency's approbation, to keep these vessels I have so armed for this purpose ready, should their services be required, for the suppression of crimes of this sort, and for the protection of the peaceable inhabitants of the neighbourhood.

I have, &c.

To his Excellency the Earl of Durham, G.C.B., Governor-general, &c. &c. &c. Quebec.

(signed) *William Sandom.* Captain R. N.

(True copy.) *E. Couper.*

Enclosure 3, in No. 13.

Encl. 3, in No. 13.

My Lord, Kingston, Upper Canada, 8 June 1838.

With reference to your Excellency's letter of the 4th inst. and to the application of Captain Sandom, Royal Navy, I have the honour to acquaint you, that without the zealous co-operation of the authorities of the United States, it appears impossible to protect our extensive water frontier from the incursions of the pirates now acting in small parties in this vicinity; but I think that Captain Sandom should be authorized to fit out a small armed vessel, with three or four row-boats, and be instructed to cruize constantly between the island of Tanti, the Thousand Islands and Brockville. With this establishment, and occasionally hiring a steam-boat, I have no doubt that confidence will be restored, and the present excitement speedily allayed. I am of opinion, also, that Captain Sandom should be directed to hire a steam-boat on Lake Erie, and fit out two gun-boats; and that they should be stationed near Long Point, in the London district.

From the several enclosures, your Excellency will perceive the state of alarm existing at Toronto, in consequence of the rumours of a contemplated combined attack on the part of the refugees and the American marauders, supposed to be collected at Rochester, Lockport, Buffalo and on the Erie Canal. As far as I can judge, I am persuaded the whole of the information is very loose and vague; I am, however, of opinion, that such precautionary measures are necessary as may give confidence in the districts at present under great alarm, and I have reason to believe that with 3,000 regular troops and Captain Sandom's flotilla, no danger whatever is to be apprehended from the menaced operations of that part of the American population apparently beyond the control of the Governor of the State of New York and the United States' Government.

Copies of the depositions relating to the outrages committed on the island of Tanti yesterday morning are annexed for your Excellency's information.

I have, &c.

(signed) *J. Colborne.*

His Excellency the Right hon. the Earl of Durham, G.C.B. &c. &c. &c.

(True copy.) *E. Couper.*

—No. 14.—

(No. 9.)

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

No. 14.
The Earl of Durham to Lord Glenelg, 16 June 1838.

My Lord, Castle of St. Lewis, Quebec, 16 June 1838.

Lieutenant-general Sir John Colborne returned this day from the Upper Province, having completed his tour of inspection, and made all the necessary arrangements for the distribution of the troops along the whole line of frontiers.

His Excellency states, that he found great excitement prevailing amongst the volunteers, who were worked upon by the most exaggerated reports of invasion, purposely kept up along the American lines. He has replaced them in all cases, where it was possible, by regular troops, and in every instance placed them under the control of Her Majesty's officers.

He is of opinion that the organization of Captain Sandom's force will have an excellent effect, and, together with his own arrangements, will effectually provide

No. 14.
The Earl of Durham to Lord Glenelg, 16 June 1838.

for the security of the Upper Province. His Excellency states, however, that it is in a very feverish state internally, and recommends my going there as soon as possible.

I shall, in consequence, leave Quebec the first week in July, and, passing through Montreal, go to Kingston, Toronto and the Niagara frontier. On my return, I shall visit the disaffected districts, where the late disturbances took place.

Sir John Colborne informs me that Governor Marcy stated to a gentleman, who was his informant, that the feeling along the whole frontier of the state of New York was so strong, that it was beyond his control, by any means at his command.

But then, it must be remembered, that the whole population referred to are of the worst class and description—squatters, refugees and smugglers; and that the executive power of the United States' government is a perfect nullity.

All the accounts I receive concur in reporting that ninety-nine out of a hundred of the respectable and influential citizens, whatever may be their politics, unite in condemning the conduct of the frontier population, and in deprecating the idea of a war with England.

I have, &c.
(signed) *Durham.*

—No. 15.—

(No. 10.)

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

No. 15.
The Earl of Durham to Lord Glenelg, 16 June 1838.

My Lord, Castle of St. Lewis, Quebec, 16 June 1838.

I AM compelled to request your immediate attention to a deficiency in the legislative power of the special council, which it appears to me absolutely necessary that Parliament should as speedily as possible remedy.

The 3d section of the 1st of The Queen, c. 9, directs the special council to impose no "tax, rate or impost, save only in so far as any tax, duty, rate or impost, which at the passing of this Act is payable within the said province, may be thereby continued."

I can perfectly appreciate the laudable forbearance of the Imperial Parliament in withholding the power of taxation from the legislative body, which is substituted for a while in place of that formerly representing the commons of the province; but my short experience of the actual state of affairs in the province convinces me that without such a power it is impossible for me to discharge duties of the most urgent importance, the expense of which would be cheerfully defrayed by those on whom the necessary tax would be imposed.

Nothing is of more urgent necessity than the establishment in this province of municipal institutions on a scale more or less extended, but an essential part of any such system is the giving to the municipal bodies a power of taxing the localities for local purposes. Under the provisions of the Act the special council is precluded from giving any such power, because it cannot of course have the power of delegating to others authority to do that which it cannot do itself.

I have found the police of Quebec in a most disgracefully inefficient state; I have taken measures to put it on a satisfactory footing; but the special council has no power to levy on the inhabitants any tax for the purpose of defraying an expense to which all would cheerfully contribute.

No provision whatever is made for the lighting, paving, or other municipal wants of Quebec or Montreal. Local taxes were formerly levied for these purposes under the authority of provincial Acts, which have shared the common fate of other temporary Acts during the last three or four years, and were consequently not in force at the passing of the late Act.

These taxes, though always cheerfully paid during their continuance, and unobjectionable in their nature, cannot under the power vested in the present legislature of the province be revived. The masters of ships have represented to me the very defective state of the police in particular parts of the town as producing the worst effects on their interests, and have requested me to impose on them a slight tax which would defray the whole charge of an efficient police for the city of Quebec, and to which they would most cheerfully contribute, in order

to

No. 15.
The Earl of Durham to Lord Glenelg, 16 June 1838.

to obtain from the Government a protection which they greatly need, and have a right to demand; but I have no power to accept their offer.

It appears to me probable that a demand of a yet more urgent and extensive nature may be made on the provincial government for the continuance and maintenance of public works either uncompleted or going to ruin for want of timely repairs; I have not yet had time to collect sufficient information on this head; it will probably hereafter be the subject of a separate despatch; I advert to it merely to point out another class of important and urgent public services, for which no adequate provision can be made with my present power.

I beg to suggest that application be made to Parliament before the close of the Session, to extend the powers given to the special council in this respect. There seems to be no reason why a general power of taxation should not be given to the special council, subject to a provision that every ordinance imposing a tax should be laid on the table of both Houses of Parliament, so that an opportunity might be afforded to either House to address the Crown to withhold its assent to any such ordinance of which it might not approve; or, if such a course were not deemed advisable, it might afford a sufficient remedy for the most pressing evils if the special council were enabled to impose local taxes for local purposes, or to give a power of so doing to such municipal bodies as it may hereafter establish.

Whichever course your Lordship may think proper to propose, or Parliament to adopt, I have only to repeat that it appears to me essential to the best interests of the province that some extension of the powers of the special council should be made before the close of the present Session of Parliament.

I have, &c.

(signed) *Durham.*

— No. 16. —

(No. 13.)

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

No. 16.

My Lord, Castle of St. Lewis, Quebec, 18 June 1838.

I HAVE the honour to enclose your Lordship copies of a despatch which I have this day received from Sir George Arthur, and of my answer to his Excellency.

I have, &c.

(signed) *Durham.*

Enclosure 1, in No. 16.

(Extract.)

My Lord, Government House, Toronto, 9 June 1838.

I WAS yesterday honoured by the receipt of your Lordship's despatch, No. 1, of the 1st instant. Encl. 1, in No. 16.

I had also the honour to receive, at the same time, the two commissions mentioned by your Lordship; one appointing your Lordship Captain-general and Commander-in-chief of this province; the other renewing my office as Lieutenant-governor; both commissions were this day read and published before the executive council.

Your Lordship will, I hope, permit me to congratulate you on your safe arrival in Canada, and to tender the expression of my sincere and most earnest desire for the complete success of the high and important mission entrusted to your Lordship by Her Majesty.

In pursuance of Lord Glenelg's instructions, and in compliance with your Lordship's request, I shall be ready to enter into the most free and confidential communication with your Lordship; and, as soon as I am in possession of the outline of your Lordship's general plan, I shall use every means in my power to work in unison with it, and, so far as I am able to do so, zealously promote a cause with which the honour and glory of England is now interwoven, and upon which the happiness and prosperity of thousands is dependent.

Since my arrival in this province, on the 23d March last, I have had some highly important and embarrassing questions to consider, in the final disposal of which I shall be but too happy to be enabled to solicit your Lordship's counsel and assistance; and as soon as the necessary papers can be prepared, I shall have the honour to address your Lordship upon them.

No. 16.
The Earl of Durham to Lord Glenelg, 18 June 1838.

Encl. 1, in No. 16.

I sincerely thank your Lordship for your very kind declaration of confidence in me, and for the determination which your Lordship has expressed of upholding my authority.

It is peculiarly gratifying to me to receive these assurances from your Lordship, for I ought in candour to say, that from the time I received Lord Glenelg's "Circular," I have been very apprehensive of the embarrassment which might arise out of the new relative position in which I found myself most unexpectedly placed. The immeasurable distinction between your Lordship's station and my own must satisfy your Lordship that this has proceeded from no vain jealousy, on personal grounds, of the control of a superior. With diminished influence I feared the ability of being useful to Her Majesty's Government and to this province would be taken away; for I have to co-operate with a legislature which must have a reasonable degree of confidence of my powers to act in unison with them, and to fulfil my professions.

As regards the condition of this province, and the state of affairs on the frontier, I could not afford your Lordship my deliberate opinion of them more clearly than by extracting a passage from a private letter which I addressed to Lord Glenelg a few days ago. "Rebellion in arms had certainly been put down when I arrived on the 23d March last; but I found the province in a most distracted state." * * * * * * * * * * * * * * *

Such a state of things is most unsatisfactory, but by no means hopeless. A great point, as I feel it to be, is the adjustment of the clergy reserve question, which has been a subject of jealousy and excitement for many years. By seeing all kinds of persons connected with this question, as I have done during the last two months, and entering with them into the most unreserved communication, I hope and believe that asperities have been to a degree already softened, and that I shall have the great gratification of seeing this long-pending contest terminated at the next meeting of the Legislature, upon nearly the same principle as it was settled in Van Dieman's Land under my administration two years ago.

Johnson and his gang committed another outrage, on Thursday last, at Amherst Island. I had determined, with the advice of the council, to send a steam-boat with a party of our best local militia along the coast, and to offer the governor of New York to co-operate with him in capturing those pirates; but, as it was expected that Sir John Colborne will be here to-night, I have thought it more advisable to confer with him before any step is taken.

Your Lordship will have heard that, most unfortunately, two of our militia sentries fired into the American steam-boat "Telegraph" some days ago; as soon as it was reported to me, I issued a militia general order, of which a copy is enclosed. I hope it effectually disarms the Americans from bringing forward that affair hereafter as a ground of complaint.

The patriots made an attempt to cross the Niagara on Thursday night, but retired when they found our troops ready to receive them.

I have, &c.
(signed) *Geo. Arthur.*

His Excellency the Right hon. the Earl of Durham, G.C.B.
&c. &c. &c.

(True copy.)
E. Couper.

Adjutant-general's Office, Toronto, 4 June 1838.

MILITIA GENERAL ORDER.

IT has been reported to his Excellency the Lieutenant-governor, that two sentries, stationed at Brockville, lately fired into the American steam-boat "Telegraph," whilst passing up the river St. Lawrence.

The officer commanding very properly caused the subject to be strictly investigated, in the presence of Mr. Perkins, district attorney, of St. Lawrence county, and Mr. Stilwell, collector, of Oswegatchie; and it has afforded the Lieutenant-governor the greatest satisfaction to peruse the certificate of those gentlemen, in which they declare their conviction that the circumstance was purely accidental.

Sir George Arthur, however, cannot refrain from expressing his disappointment at findin that greater precautions were not taken to avoid the possibility of such an accident. It is not enough for a non-commissioned officer to give an order to a sentry: it behoves him to satisfy himself that the order is fully understood by the sentry.

The Lieutenant-governor, in his proclamation of the 31st ultimo, has expressed his conviction that the utmost justice will be done by the American Government towards the subjects of Her Majesty, who have suffered from the atrocious outrage committed by a body of ruffians from the American shore, in the destruction of the "Sir Robert Peel," and the plunder and ill-treatment of the passengers. It was an unprovoked act of wickedness, revolting to human nature; and in that light must be regarded, not only by the Government, but by the respectable body of the people of America, who cannot suffer their shores to be disgraced by the perpetration of deeds so foul, without pursuing the offenders with the utmost vigilance and rigour.

Information

No. 16.
The Earl of Durham to Lord Glenelg, 18 June 1838.

Information has already been received that the outrage upon the "Sir Robert Peel" was committed by some rebels, who fled from Canada conjointly with their wicked associates, who, under the name of "Patriots," have banded themselves together to perpetrate deeds of violence, robbery and piracy.

Characters, thus exposed, always meet their due reward in every civilized nation, at the hands of the ordinary ministers of justice. Whilst, therefore, the Lieutenant-governor undoubtedly expects that the militia of the country will continue to perform their duties, as they have hitherto done, with the same zeal and vigilance as Her Majesty's regular troops; and whilst every energy must be applied to apprehend and secure the pirates and robbers who are infesting the islands in the lakes of the upper province, his Excellency, at the same time, most strictly enjoins that no act of retaliation or violence be committed towards the peaceable citizens of the United States, or any interruption given to them whilst engaged in the transaction of commercial intercourse, either within the waters or at the ports of Upper Canada.

Encl. 1, in No. 16.

This order will be read at the head of every corps or detachment of the embodied militia, at two successive parades.

By command.

(signed) *Richard Bullock*,
Adjutant-general, Militia, Upper Canada.

(True copy.)
E. Couper.

Enclosure 2, in No. 16.

Sir, Castle of St. Lewis, Quebec, June 18, 1838.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch, No. 1, which I received this morning. Encl. 2, in No. 16.

I beg you to be assured, that no act of mine will tend, in the remotest degree, to diminish your influence and authority in the upper province. I rather hope, that before long you will find that the result of the extended commission which Her Majesty has been graciously pleased to grant me will be to afford you additional support. I repeat to you, that I have no wish to interfere with the local administration of the affairs of any of the provinces included in my general government.

Those functions will be vested, as before, in the Lieutenant-governors; but it is essential to the success of my mission, and to the due execution of my duties, more especially in the present disturbed state of our relations with the frontier population of the United States, that I should be promptly and directly made acquainted with all events bearing on these important questions.

I request you, therefore, to continue your communications in the same spirit as that which pervades the one which I have just received from you, and which is as gratifying to me as it must be of advantage to the public service.

I have, &c.
(signed) *Durham.*

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

(True copy.)
E. Couper.

—No. 17.—

(No. 16.)

EXTRACT of a DESPATCH from the Earl of *Durham*, G.C.B., to Lord *Glenelg*, dated Castle of St. Lewis, Quebec, 23 June 1838.

No. 17.
The Earl of Durham to Lord Glenelg, 23 June 1838.

I HAVE the honour to acquaint your Lordship that Colonel Grey returned to Quebec yesterday from Washington, and delivered to me a despatch from Mr. Fox, a copy of which I enclose.

I also have the honour of transmitting to you Lieutenant-colonel Grey's report to me of his proceedings, with two enclosures.

Immediately after his arrival I communicated with Sir John Colborne and Sir Charles Paget, and requested their Excellencies to send, by that night's mail, instructions to Colonel Dundas and Captain Sandom to enter into immediate communication with General Macomb.

This they agreed to, and the despatches were forwarded last night.

It seemed to me of the highest importance to bring the fair intentions of the American government to a practical test as soon as possible after receiving such hearty assurances of co-operation. I am also of opinion that a great and salutary effect will be produced by the sight of the two flags united in one common

No. 17.
The Earl of Durham to Lord Glenelg, 23 June 1838.

effort to put an end to this unnatural excitement on the frontiers. It has been kept up in a great measure by the rumours which have been circulated of the bad faith and real wishes of the United States' government, and nothing can so much tend to allay it as a public unanswerable act of combined rigour, evincing the good understanding existing between the military authorities of both nations.

Directed as I trust the application of this force will be, at least whilst I am here, no legitimate grounds of national jealousy need be apprehended on the part of the United States; but the sight of our efficient means of protecting the tranquillity of our colonies and the interests of Her Majesty's subjects will go a great way towards removing those vague expectations of disunion and dissension amongst ourselves, from which the unscrupulous and enterprising portion of the Americans anticipated increased profit to themselves and additional power to their country.

I must therefore earnestly request your Lordship to keep up the amount of our naval and military force to the fullest possible extent during the present year.

Enclosure 1, in No. 17.

(Extract.)

My Lord, Washington, 16 June 1838.

Encl. 1, in No. 17.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch (No. 1), dated the 5th instant, which was delivered to me on the 12th by Lieutenant-colonel the Honourable Charles Grey. The mission of Colonel Grey has been highly satisfactory to me, and will, I believe, have been productive of material advantage to the interests of Her Majesty's service. Colonel Grey has had interviews with the President, and with the Secretary of State, Mr. Forsyth, and also with Mr. Poinsett, the Secretary-at-war, under the immediate direction of whose department the operations of the United States' government on the frontier are conducted.

I have the honour to enclose the copy of a letter from the United States' Secretary-at-war, stating the measures which have now been adopted, with the hope of restoring order on the frontier. Colonel Grey will state to you, verbally, some further details communicated to him by the President and by Mr. Poinsett. I beg to assure you of my sincere desire to co-operate with you to the best of my power in all things that may tend to the benefit of Her Majesty's service, and to the success of the honourable and arduous mission which your Lordship has undertaken.

I have, &c.
(signed) *H. S. Fox.*

The Right hon. the Earl of Durham, G.C.B., &c. &c. &c.

(True copy.) *E. Couper.*

Enclosure 2, in No. 17.

Sir, Department of War, 11 June 1838.

Encl. 2, in No. 17.

IT appears important that the authorities of Her Majesty's dominions in Canada should be informed of the measures now in progress, under the directions of the President, to maintain the peace of the frontier.

Unarmed steamers are to be employed on Lake Erie and Lake Ontario for public purposes, to be commanded by officers of the army or navy of the United States, and to carry about fifty soldiers each.

A force has been ordered to Sackett's Harbour, in order to scour that portion of the Thousand Islands which lies within the limits of the United States, for the purpose of executing the laws of the United States.

General Macomb, commander-in-chief of the American army, is to proceed forthwith to the northern frontier, to conduct operations there.

Hon. John Forsyth, Secretary of State. Very respectfully, &c.

(True copy of a copy.) (signed) *J. R. Poinsett.*
E. Couper.

No. 17.
The Earl of Durham to Lord Glenelg,
23 June 1838.

Encl. 3, in No. 17.

Enclosure 3, in No. 17.

My Lord, Quebec, 22 June 1838.

I HAVE the honour to inform you, that in pursuance of the instructions contained in your Excellency's letter of the 5th instant, I proceeded to Washington, where I arrived on the 12th, and delivered the despatches with which I was charged to Mr. Fox.

The following day I had the honour of an interview with the President of the United States, but being in company with Mr. Fox, I contented myself with adding my testimony to the representations which he made as to the excited state of feeling on the Canadian frontier, reserving any further communication for the next day, when, being invited to dine with the President, I hoped to find an opportunity, in obedience to your Excellency's orders of speaking to him in private.

By going early I obtained this opportunity, when I informed him that your Excellency's object in sending me to Washington was, that I might give him the direct assurance from yourself of your anxious wish, in the discharge of your duty as Governor-general of British North America, to cultivate the most cordial relations with the government of the United States, and to express your earnest hope that you might meet with the effectual co-operation of that government in your endeavours to preserve the peace of the frontier.

At the same time I pointed out to him, that your *first* duty was to give efficient protection to Her Majesty's subjects in Canada, who for the last six months, during which time the provinces themselves had been perfectly tranquil, had been kept in a constant state of excitement and alarm by attacks and outrages against life and property, committed by men who had been permitted, almost without interruption, to assemble and concert their measures within the territory of the United States. That those who had come forward so lately in defence of the Queen's Government, when there was not a single regular soldier in Upper Canada, had a right to demand such protection, and that armed as they were to the number of upwards of 20,000 men, and restrained only by their confidence in your Excellency from adopting retaliatory measures, it could not be withheld without imminent danger of their acting for themselves, in a manner which, with the best possible feeling towards each other, might make a collision between the two governments unavoidable. The President assented to every thing I stated most fully, and repeatedly desired me to assure your Excellency, "in the strongest manner," of the sincere desire of the American government to preserve the good understanding existing with England, and that you might reckon upon the fullest co-operation which their means admitted, in any measures which you might think necessary to adopt, for restoring the peace of the frontier.

He mentioned the steps which they had already taken with this view, of which your Excellency has been informed by Mr. Fox; that it was as much as their means allowed at the present moment, but that he had no doubt that the Bill before Congress for the increase of the army would very shortly pass into a law, and that then more rigorous measures should be adopted.

He entered very fully into the accusations which had been brought against the American government; that it was not sincere in its wish to preserve peace; that it had fomented the disturbances in Canada; and that it had ulterior views of its own with regard to that country: all which he denied in the strongest terms, and asserted that the annexation of Canada to the Union was not only far from the wish of the government, but directly contrary to the interests of the United States.

Later in the evening I had a long conversation on the same subject, at his own request, with Mr. Poinsett, the Secretary-at-war, in which I dwelt yet more strongly on the necessity your Excellency was under of affording, at all hazards, efficient protection to Her Majesty's subjects, and of the regret with which you would find yourself compelled to employ the large force which had been placed at your disposal in securing the Canadian frontier from hostile aggression coming from the United States. Mr. Poinsett asserted, still more strongly than the President, the anxious wish of the American government to preserve peace, and to assist in re-establishing a settled state of things on the frontier. To show what had been already done, he promised to send me the next morning a copy of the instructions given to General Macomb (which I received accordingly, and have herewith the honour to enclose), and suggested that your Excellency should open a communication with that officer as soon as possible, to whom an intimation should immediately be sent that he might expect such communication, with instructions to co-operate in any measures which might be suggested, in the first place for rooting out the band of pirates now assembled in the Thousand Islands, and afterwards for rendering the navigation of the lakes and river, and the communication between the two countries, secure.

Mr. Poinsett attached great importance to an early resumption of the usual intercourse between the countries, and "*pledged himself*" repeatedly that in the passing of the measures now before Congress for the increase of the army, any suggestion from your Excellency, as to the means of rendering that intercourse safe, should at once be attended to and acted upon; and that in the meantime no measure within the scope of their present means to adopt, for the preservation of the peace of the frontier, should be neglected.

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Encl. 3, in No. 17.

Merely transmitting Mr. Poinsett's letter of the 11th June.

Nothing could be more satisfactory than the manner of both the President and Mr. Poinsett; they seemed fully aware of the danger to the peace of the two countries, arising from the present state of things on the frontier, and really desirous of putting an end to it. At the same time it is evident that there has been hitherto a culpable inactivity on the part of the United States' government; and I cannot but attribute their present measures to the firm tone taken by your Excellency in your proclamation after the burning of the "Sir Robert Peel," and to their knowledge that you have under your orders a force sufficient for the purpose of protecting Her Majesty's subjects, even without their co-operation. Your Excellency will observe that the communication from Mr. Forsyth to Mr. Fox is only dated the 12th June, the day of my arrival in Washington; that the instructions to General Macomb, and the general order of that officer, which I also enclose, bear the same date. Mr. Fox, however, only received Mr. Forsyth's communication on the 13th, in my presence, after my interview with the President had been arranged; and I cannot but think that the whole of these measures were then adopted, in anticipation of the communication which from your proclamation they had been led to expect from your Excellency, and of which it was supposed I was the bearer.

I have, &c.

(signed) *C. Grey*, Lt. Col.

His Excellency the Earl of Durham, G. C. B.
&c. &c. &c.

(True copy.) *E. Couper.*

Enclosure 4, in No. 17.

Sir, Washington, 12 June 1838.

Encl. 4, in No. 17.

DESIROUS of adopting every measure in the power of the Government to maintain the Treaty Stipulations existing between the United States and Great Britain, and to restrain our own citizens and others within our jurisdiction from committing outrages upon the persons and property of the subjects of Her Britannic Majesty, the President has desired me to direct you to proceed without unnecessary delay to the frontier of Canada, and to take the command there.

You will collect such regular force as can be drawn from other stations, without serious inconvenience to the public service, and distribute them so as to occupy the most exposed positions. These appear to be the neighbourhood of Buffalo, Sackett's Harbour, and the country between it and Fort Covington, Champlain and Plattsburg, in the state of New York; and Swanton, Derby and Troy, on the frontier of Vermont.

Information having been communicated to this department by the government of New York, that a gang of desperate men have assembled in that part of the river St. Lawrence called the "Thousand Islands," and within the territory of the United States, with the intention of committing hostilities upon that of a friendly power, you will proceed immediately to scour those islands, first informing the British authorities in Canada of the object of the expedition. Under the Act of the 10th March last, you are empowered to seize such arms and munitions of war as you may find there; and, under that of the 20th April 1818, to arrest all persons engaged in hostile expeditions against the peace of a friendly power.

From the respect of the laws, hitherto so signally evinced by the citizens of the United States on all occasions, it is apprehended that the border inhabitants of the northern frontier are not generally acquainted with the enactments which may render their conduct penal; you will therefore, on your arrival on the frontier, cause to be published and widely circulated, copies of the laws of the United States.

Having made known these laws to our own citizens and to the Canadian subjects of Her Britannic Majesty, who have lately taken up their residence within the limits of the United States, you will proceed to adopt all necessary measures to carry them into prompt and rigorous execution; using every exertion to detect the unlawful combinations against the peace of a neighbouring and friendly power, and to prevent and repress any outrage that may be meditated or attempted against the persons or property of its subjects; and otherwise preserve inviolate the good faith of this government towards Great Britain.

The Governor of New York had advised this department, that he deems it prudent to call out a small militia force, and such force as has actually assembled in the place of rendezvous, under this call, you are authorized to have mustered into the service of the United States from the period of their assembling, in order that they may be paid from that time by the United States. You will not, however, retain them one moment longer than is absolutely necessary, but have them discharged and paid as soon as they can be dispensed with, in order that they may return to their homes, as this is the season of the year when it will be particularly onerous to them to be obliged to be absent on military service.

Major-general A. Macomb,
Commanding-in-chief,
U. S. Army.

Very respectfully yours, &c.

(signed) *S. R. Poinsett.*

(True copy). *E. Couper.*

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The Earl of Durham to Lord Glenelg, 23 June 1838.

Encl. 5, in No. 17.

Enclosure 5, in No. 17.

GENERAL ORDERS, No. 16.

Head Quarters of the Army, Adjutant-general's Office, Washington, 12 June 1838.

THE following laws of the United States are published for the guidance of the officers of the army serving on the frontiers, and for all whom it may concern.

By order of *Alexander Macomb*,
Major-general Commanding-in-chief.

H. Jones, Adjutant-general.

AN Act, in addition to the "Act for the Punishment of certain Crimes against the United States," and to repeal the Acts therein mentioned.

Sec. 1. Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That if any citizen of the United States shall, within the territory or jurisdiction thereof, accept and exercise a commission to serve a foreign prince, state, colony, district or people, in war, by land or by sea, against any prince, state, colony, district or people, with whom the United States are at peace, the person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than two thousand dollars, and shall be imprisoned not exceeding three years.

Sec. 2. And be it further enacted, That if any person shall, within the territory or jurisdiction of the United States, enlist or enter himself, or hire or retain another person to enlist or enter himself, or to go beyond the limits of jurisdiction of the United States with intent to be enlisted or entered in the service of any foreign prince, state, colony, district or people, as a soldier, or as a marine or seaman, on board of any vessel of war, letter of marque or privateer, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding one thousand dollars, and be imprisoned not exceeding three years: Provided, That this Act shall not be construed to extend to any subject or citizen of any foreign prince, state, colony, district or people, who shall transiently be within the United States, and shall, on board of any vessel of war, letter of marque or privateer, which, at the time of its arrival within the United States, was fitted and equipped as such, enlist or enter himself, or hire or retain another subject or citizen of the same foreign prince, state, colony, district or people, who is transiently within the United States, to enlist or enter himself to serve such foreign prince, state, colony, district or people, on board such vessel of war, letter of marque or privateer, if the United States shall then be at peace with such foreign prince, state, colony, district or people.

Sec. 3. And be it further enacted, That if any person shall, within the limits of the United States, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly be concerned in the furnishing, fitting out or arming, of any ship or vessel, with intent that such ship or vessel shall be employed in the service of any foreign prince or state, or of any colony, district or people, to cruise or commit hostilities against the subjects, citizens or property of any foreign prince or state, or of any colony, district or people with whom the United States are at peace, or shall issue or deliver a commission within the territory or jurisdiction of the United States for any ship or vessel, to the intent that she may be employed as aforesaid, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than ten thousand dollars, and imprisoned not more than three years; and every such ship or vessel, with her tackle, apparel and furniture, together with all materials, arms, ammunition and stores, which may have been procured for the building and equipment thereof, shall be forfeited, one-half to the use of the informer, and the other half to the use of the United States.

Sec. 4. And be it further enacted, That if any citizen or citizens of the United States shall, without the limits thereof, fit out and arm, or attempt to fit out and arm, or procure to be fitted out and armed, or shall knowingly aid or be concerned in the furnishing, fitting out or arming any private ship or vessel of war, or privateer, with intent that such ship or vessel shall be employed to cruise or commit hostilities upon the citizens of the United States, or their property, or shall take the command of, or enter on board of, any such ship or vessel for the intent aforesaid, or shall purchase any interest in any such ship or vessel, with a view to share in the profits thereof, such person so offending shall be deemed guilty of a high misdemeanor, and fined not more than ten thousand dollars, and imprisoned not more than ten years; and the trial for such offence, if committed within the limits of the United States, shall be in the district in which the offender shall be apprehended or first brought.

Sec. 5. And be it further enacted, That if any person shall, within the territory or jurisdiction of the United States, increase or augment, or procure to be increased or augmented, or shall knowingly be concerned in increasing or augmenting, the force of any ship of war, cruiser or other armed vessel, which, at the time of her arrival within the United States, was a ship of war or cruiser, or armed vessel in the service of any foreign prince or state, or of any colony, district or people, or belonging to the subjects or citizens of any such prince or state, colony, district or people, the same being at war with any foreign prince or

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state, or of any colony, district or people, with whom the United States are at peace, by adding to the number of the guns of such vessel, or by changing those on board of her for guns of a larger calibre, or by the addition thereto of any equipment solely applicable to war, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not more than one thousand dollars, and be imprisoned not more than one year.

Sec. 6. And be it further enacted, That if any person shall, within the territory or jurisdiction of the United States, begin or set on foot, or provide or prepare the means for any military expedition or enterprise, to be carried on from thence against the territory or dominions of any foreign prince or state, or of any colony, district or people with whom the United States are [at] peace, every person so offending shall be deemed guilty of a high misdemeanor, and shall be fined not exceeding three thousand dollars, and imprisoned not more than three years.

Sec. 7. And be it further enacted, That the district courts shall take cognizance of complaints, by whomsoever instituted, in cases of captures made within the waters of the United States, or within a marine league of the coasts or shores thereof.

Sec. 8. And be it further enacted, That in every case in which a vessel shall be fitted out and armed, or attempted to be fitted out and armed, or in which the force of any vessel of war, cruiser or other armed vessel shall be increased or augmented, or in which any military expedition or enterprise shall be begun or set on foot, contrary to the provisions and prohibitions of this Act; and in every case of the capture of a ship or vessel within the jurisdiction or protection of the United States as before defined; and in every case in which any process issuing out of any court of the United States shall be disobeyed or resisted by any person or persons having the custody of any vessel of war, cruiser or other armed vessel of any foreign prince or state, or of any colony, district or people, or any subjects or citizens of any foreign prince or state, or of any colony, district or people, in every such case it shall be lawful for the President of the United States, or such other person as he shall have empowered for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, for the purpose of taking possession of, and detaining, any such ship or vessel, with her prize or prizes, if any, in order to the execution of the prohibitions and penalties of this Act, and to the restoring the prize or prizes in the cases in which restoration shall have been adjudged, and also for the purpose of preventing the carrying on of any such expedition or enterprise from the territories or jurisdiction of the United States against the territories or dominions of any foreign prince or state, or of any colony, district or people with whom the United States are at peace.

Sec. 9. And be it further enacted, That it shall be lawful for the President of the United States, or such person as he shall empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia thereof, as shall be necessary to compel any foreign ship or vessel to depart the United States, in all cases in which, by the laws of nations, or the treaties of the United States, they ought not to remain within the United States.

Sec. 10. And be it further enacted, That the owners or consignees of every armed ship or vessel sailing out of the ports of the United States, belonging wholly or in part to citizens thereof, shall enter into bond to the United States, with sufficient sureties, prior to clearing out the same, in double the amount of the value of the vessel and cargo on board, including her armament, that the said ship or vessel shall not be employed by such owners to cruise or commit hostilities against the subjects, citizens or property of any foreign prince or state, or of any colony, district or people with whom the United States are at peace.

Sec. 11. And be it further Enacted, That the collectors of the customs be and they are hereby respectively authorized and required to detain any vessel manifestly built for warlike purposes, and about to depart the United States, of which the cargo shall principally consist of arms and munitions of war, when the number of men shipped on board, or other circumstances, shall render it probable that such vessel is intended to be employed by the owner or owners to cruise or commit hostilities upon the subjects, citizens or property of any foreign prince or state, or of any colony, district or people with whom the United States are at peace, until the decision of the President be had thereon, or until the owner or owners shall give such bond and security as is required of the owners of armed ships by the preceding section of this Act.

Sec. 12. And be it further Enacted, That the Act passed on the fifth day of June, One thousand seven hundred and ninety-four, intituled, "An Act, in addition to the Act for the Punishment of certain Crimes against the United States," continued in force for a limited time by the Act of the second of March, One thousand seven hundred and ninety-seven, and perpetuated by the Act passed on the twenty-fourth of April, One thousand eight hundred; and the Act passed on the fourteenth day of June, One thousand seven hundred and ninety-seven, intituled, "An Act to prevent Citizens of the United States from privateering against Nations in amity with, or against the Citizens of, the United States;" and the Act passed the third day of March, One thousand eight hundred and seventeen, intituled, "An Act more effectually to preserve the neutral Relations of the United States," be and the same are hereby severally repealed: Provided nevertheless, That persons having heretofore offended against any of the Acts aforesaid may be prosecuted, convicted and punished as

if

if the same were not repealed; and no forfeiture heretofore incurred by a violation of any of the Acts aforesaid shall be affected by such repeal.

Sec. 13. And be it further enacted, That nothing in the foregoing Act shall be construed to prevent the prosecution or punishment of treason, or any piracy defined by the laws of the United States.

Approved April 20, 1818. *James Monroe.*

An Act supplementary to an Act, intituled, "An Act, in addition to the Act for the Punishment of certain Crimes against the United States, and to repeal the Acts therein mentioned." Approved 20th of April 1818.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the several collectors, naval officers, surveyors, inspectors of customs, the marshals and deputy marshals of the United States, and every other officer who may be specially empowered for the purpose by the President of the United States, shall be and they are hereby respectively authorized and required to seize and detain any vessel or any arms or munitions of war which may be provided or prepared for any military expedition or enterprise against the territory or dominions of any foreign prince or state, or of any colony, district or people conterminous with the United States, and with whom they are at peace, contrary to the sixth section of the Act passed on the 20th of April 1818, intituled, "An Act, in addition to the Act for the Punishment of certain Crimes against the United States, and to repeal the Acts therein mentioned," and retain possession of the same until the decision of the President be had thereon, or until the same shall be released as hereinafter directed.

Sec. 2. And be it further enacted, That the several officers mentioned in the foregoing section shall be and they are hereby respectively authorized and required to seize any vessel or vehicle, and all arms or munitions of war about to pass the frontier of the United States, or any place within any foreign state or colony conterminous with the United States, where the character of the vessel or vehicle, and the quantity of arms and munitions, or other circumstances, shall furnish probable cause to believe that the said vessel or vehicle, arms or munitions of war are intended to be employed by the owner or owners thereof, or any other person or persons, with his or their privity, in carrying on any military expedition or operations within the territory or dominions of any foreign prince or state, of any colony, district or people conterminous with the United States, and with whom the United States are at peace, and detain the restoration of the same until the decision of the President be had for the same, or until such property shall be discharged by the judgment of a court of competent jurisdiction: Provided that nothing in this Act contained be so construed as to extend to or interfere with any trade in arms or munitions of war conducted in vessels by sea with any port or place whatsoever, or with any other trade which might have been lawfully carried on before the passage of this Act, under the law of nations and the provisions of the Act hereby amended.

Sec. 3. And be it further enacted, That it shall be the duty of the officer making any seizure under this Act to make application with due diligence to the district judge of the district court of the United States within which such seizure may be made, for a warrant to justify the detention of the property so seized; which warrant should be granted only on oath or affirmation, showing that there is probable cause to believe that the property so seized is intended to be used in a manner contrary to the provisions of this Act; and if said judge shall refuse to issue such warrant, or application therefor shall not be made by the officer making such seizure within a reasonable time, not exceeding ten days thereafter, the said property shall forthwith be restored to the owner; but if the said judge shall be satisfied that the seizure was justified under the provisions of this Act, and issue his warrant accordingly, then the same shall be detained by the officer so seizing said property, until the President shall order it to be restored to the owner or claimant, or until it shall be discharged in due course of law, on the petition of the claimant, as hereinafter provided.

Sec. 4. And be it further enacted, That the owner or claimant of any property seized under this Act may file his petition in the circuit or district court of the United States in the district where such seizure was made, setting forth the facts in the case; and thereupon such court shall proceed with all convenient despatch, after causing due notice to be given to the district attorney and officer making such seizure to decide upon the said case, and order restoration of the property, unless it shall appear that the seizure was authorized by this Act; and the circuit and district courts shall have jurisdiction, and are hereby vested with full power and authority to try and determine all cases which may arise under this Act; and all issues in fact arising under it shall be decided by a jury in the manner now provided by law.

Sec. 5. And be it further enacted, That whenever the officer making any seizure under this Act shall have applied for and obtained a warrant for the detention of the property, or the claimant shall have filed a petition for its restoration, and failed to obtain it, and the property so seized shall have been in the custody of the officer for the term of three calendar months from the date of such seizure, it shall and may be lawful for the claimant or owner to file with the officer a bond to the amount of double the value of the property so seized and detained, with at least two sureties, to be approved of by the judge of the circuit or district court, with a condition that the property, when restored, shall not be used or employed by the owner or owners thereof, or by any other person or persons with his or their privity, in carrying on any military expedition or operations within the territory or dominions of any foreign prince or state, or any colony, district or people conterminous with the United States, with whom the United States are at peace; and thereupon the said officer shall restore such property to the owner or claimant thus giving bond: Provided that

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such restoration shall not prevent seizure from being again made in case there may exist fresh cause to apprehend a new violation of any of the provisions of this Act.

Sec. 6. And be it further enacted, That every person apprehended and committed for trial for any offence against the Act hereby amended shall, when admitted to bail for his appearance, give such additional security as the judge admitting him to bail may require, not to violate nor to aid in violating any of the provisions of the Act hereby amended.

Sec. 7. And be it further enacted, That whenever the President of the United States shall have reason to believe that the provisions of this Act have been or are likely to be violated, that offences have been or are likely to be committed against the provisions of the Act hereby amended within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, martial and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy and convenient arrest and examination of persons charged with the violation of the Act hereby amended; and it shall be the duty of every such judge or other officer, when any such requisition shall be received by him, to attend at the place and for the time therein designated.

Sec. 8. And be it further enacted, That it shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as shall be necessary to prevent the violation, and to enforce the due execution of this Act, and the Act hereby amended.

Sec. 9. And be it further enacted, That this Act shall continue in force for the period of two years, and no longer.

M. Van Buren.

Approved, 10 March 1838.

(Separate.) — No. 18.—

No. 18.
The Earl of Durham to Lord Glenelg, 25 June 1838.

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

My Lord, Castle of St. Lewis, Quebec, 25 June 1838.

I HAVE the honour to enclose you a copy of a despatch which I have this day forwarded to Her Majesty's minister at Washington.

I have, &c.

(signed) *Durham.*

Enclosure in No. 18.

Sir, Castle of St. Lewis, Quebec, 25 June 1838.

Encl. in No. 18.

I HAVE the honour to acknowledge the receipt of your despatch, No. 1, by Lieutenant-colonel Grey.

It gave me sincere pleasure to hear that the United States Government had at length taken active measures to co-operate with us in restoring peace to the frontiers. Immediately after Colonel Grey's arrival, instructions were forwarded to Colonel Dundas and Captain Sandom, the officers commanding in the district where the late outrage occurred, to communicate with General Macomb, for the purpose of effecting a joint movement on the part of the forces of Her Majesty and those of the United States.

Despatch No. 8. June 16, 1838.

Captain Sandom had been previously ordered to equip a sufficient naval force on the St. Lawrence and the two lakes, and I enclose you a copy of my despatch to Lord Glenelg on the subject, together with Vice-admiral Sir Charles Paget's instructions, addressed to the captains of the Hastings and Hercules.

I transmit you these papers that you may be enabled to prove satisfactorily to the United States' Government that any preparations or equipments that we may make on the above-mentioned waters are solely for the defence of our own frontiers, and are not in any degree in contravention of the declaration made to the United States' Government by Sir Charles Bagot on the 28th of April 1817.

If there is any difference in the tonnage of the vessels equipped by Captain Sandom, it is a very trifling one, and only arises from the difficulty of procuring them precisely of the size named in the treaty, viz., 100 tons. Their armament also will be according to the letter of the agreement, as long as the necessity of the case does not imperatively require more efficient means of defence. I mention these circumstances to you that you may be in possession of the feelings and intentions of Her Majesty's Government in these provinces with regard to any steps that they may take for their security, and that you may be prepared, in the event of the cabinet of Washington showing any jealousy on the subject, which I trust will not be the case, at once to give them the fullest assurances of my determination to authorize no act which could, directly or indirectly, immediately or remotely, bear the semblance of hostility or distrust towards the United States.

Our measures are of those of self-defence, not against the United States, but against pirates and outlaws, alike proscribed by both governments.

I have, &c.

His Excellency Henry Stephen Fox, Esq. (signed *Durham.*
Minister Plenipotentiary, Washington.

(True copy.)
(signed) *E. Couper.*

No 18.
The Earl of Durham to Lord Glenelg, 25 June 1838.

H. M. S. Cornwallis, Quebec, 14 June 1838.

It being expedient to strengthen the means of defence already established for the protection of the British frontier on the St. Lawrence, and the Lakes Ontario and Erie, against the repeated attacks of certain robbers and ruffians, who, in defiance of the laws of Great Britain and the United States, assail and plunder Her Majesty's subjects:

Encl. in No. 18.

You are hereby authorized to communicate to the officers, seamen and marines of Her Majesty's ship under your command, that they are at liberty to volunteer their services for the purpose of being employed on the lakes, for the protection of our own shores against any future attempts of piracy and robbery which may be made by these hordes of buccaneers.

(signed) *Charles Paget,*
Vice-admiral and Commander-in-chief.

To the Captains of Her Majesty's ships
Hastings and Hercules.

(True copy.) (signed) *E. Couper.*

No. 17.) —No. 19.—

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

No. 19.
The Earl of Durham to Lord Glenelg, 29 June 1838.

My Lord, Castle of St. Lewis, Quebec, 29 June 1838.

I have the honour to inform you, that, in consequence of despatches received yesterday, both by Sir John Colborne and myself, from Sir George Arthur, I have acceded to the desire expressed by the Commander of the Forces, and directed the 43d regiment to be sent from Montreal to the Upper Province.

Sir John Colborne also submitted to me the propriety of bringing up from Halifax another regiment, to replace the 43d in the Lower Province. I have, therefore, written to Sir Colin Campbell to send the 93d regiment, as the Commander of the Forces is anxious, if possible, to have a Scotch regiment, it having been found that desertions are much less frequent amongst the Scotch than the English or Irish soldiers.

Sir Charles Paget has, on my requisition, placed at my disposal Her Majesty's ship "Malabar," which ship will sail immediately for Halifax, for the purpose of bringing up the regiment.

I have, &c.
(signed) *Durham.*

(Extract. No. 4.) Enclosure in No. 19.

My Lord, Government House, Toronto, 22 June 1838.

In my despatch of the 18th instant (No. 3), I communicated to your Lordship all the information which up to that period had reached me, respecting the movements of the bands of marauders who were hovering upon our frontiers, and I expressed my solicitude for the maintenance of a respectable militia force within this province for some time to come.

Encl. in No. 19.

That I was not influenced in the latter particular by erroneous impressions is proved by the occurrences of the last two days, in explanation of which I beg leave to transmit your Lordship copies of the reports which I received last night from officers on the Niagara frontier.

From these documents your Lordship will collect, that a numerous band of men, well armed, and wearing badges, surrounded a house in the township of Pelham, which was occupied by a small detachment of cavalry, and, after discharging a volley at it, set it on fire, and thus compelled the party to surrender. One of the troopers appears to have been wounded, and it is supposed that some of the assailants were also wounded. The troopers, after being deprived of their horses, arms and other equipments, were then liberated by their captors, who appear to have committed other acts of violence, as detailed in the accompanying documents. I have not yet ascertained whether the gang which has been concerned in this affair was composed of the men who fled a few months since into the United States, and who have since returned in small parties into the province, or of insurgents who have never quitted the province. I am, however, inclined to think that there were persons of both classes engaged in this outrage, because the country in the rear of Chippawa and Drummondville is known to abound with malcontents.

Your Lordship, in perusing the memorandum of information received from General Brady, will not fail to perceive that the American authorities are somewhat apprehensive of the hostile movements against Upper Canada now projected within their borders.

I have just had the pleasure of an interview with Captain Sandom, now commanding the Royal Navy on the lakes, who has cordially promised to co-operate, and has laid down a scheme for the naval defence of our coast.

I beg to inform your Lordship that not a day elapses without bringing intelligence, from various sources, worthy of credit, that a general movement, in numerous detached parties, is intended against the province.

I have, &c.
(signed) *Geo. Arthur.*

P. S.—I make now no communications myself to the American Government, and have troubled your Lordship with all these particulars, as a representation will of course come with far greater force from your Lordship.

His Excellency the Right honourable
the Earl of Durham, &c. &c. &c.

(True copy.) *E. Couper.*

No 19.
The Earl of Durham to Lord Glenelg,
29 June 1838.

Encl. in No. 19.

No. 1.

Sir, Drummondville, 21 June 1838.

I HASTEN to inform you that information was brought in this morning of the party of lancers stationed at St. John's having been attacked and cut off. I immediately sent out Lieutenant Magrath with all the men of the troop he could collect here to reconnoitre, and procure such information as he could collect of the circumstance. I enclose his report. The serjeant who was in command has this instant arrived, and states, that about two o'clock A. M., the house in which they were quartered was surrounded by a party of armed men, having white ribands in their hats, and an eagle on the side to the amount of 200; they fired several volleys into the house, wounding one man; the lancers resisting until the house was set fire to, when they surrendered, and were marched four miles into the country prisoners; they were then released, their arms being taken from them.

I have ordered Lieutenant Magrath to withdraw his detachment, and shall not replace them or divide my forces until it can be ascertained where the marauders have taken shelter. Three of the enemy are said to be wounded.

I have called upon the magistrates, &c. to put the country on the alert, and I shall do all in my power to have the scoundrels seized and brought to justice; but I cannot help thinking that there is an unaccountable degree of apathy or unwillingness on the part of the community to turn out or give information. Something more than infantry are required to route these ruffians out of their strongholds, and a few Indians I imagine would be desirable to scour the woods and break up their camp.

I shall write again on the subject as soon as I have received further information; in the mean time I am anxious to put his Excellency in possession of what has already come to my knowledge.

I have, &c.

Colonel Halkett, (signed) *H. D. Townshend,*
Assistant Military Sec. &c. &c. &c. Major 24th Regiment and Colonel.

(True copy of a copy.)
E. Couper.

No. 2.

Sir, Drummondville, 21 June 1838.

I HAVE the honour to report to you for the information of his Excellency the Major-general Commanding, that I was yesterday waited upon by Captain Sibley, aide-de-camp to Brigadier-general Brady, United States army, who sent him over for the purpose of communicating to me such intelligence as he had been able to collect of the intentions of the pirates, now infesting both frontiers, and which I have embodied in the document No. 1.

The general begged his name might not be mentioned; but having been down to the neighbourhood of Sackett's Harbour, Oswego, &c., the aide-de-camp assured me the intelligence was collected from a person in the confidence of Bill Johnson. He also informed me that General Macomb had arrived at Sackett's Harbour, and that General Brady was now on his return to Detroit, where he was fearful some mischief was in agitation against our frontier.

No. 4, is a deposition made before Major Elliot of the Queen's Own, and is confirmatory of the intelligence already laid before his Excellency.

I have, &c.

Colonel Halkett, (signed) *H. D. Townshend,*
Assistant Military Sec. &c. &c. &c. Major 24th Regiment and Colonel.

(True copy of a copy.)
E. Couper.

No. 3.

"THE steamer 'Great Britain' was to have been seized near Queenston, and armed with 10 guns, which are somewhere concealed in the woods, and are already mounted on high carriages; with the 'Great Britain,' the other boats on the lake were to have been captured. Johnson was to have had the command, the 'Sir Robert Peel' was burned, on the supposition that the 'Great Britain' had been captured the night before.

"Johnson and others say that the war is to be continued in small guerilla parties; all loyalists to be seized, their arms, blankets and provisions to be taken from them; if they resist, they are to be treated roughly, and this is to be done by persons in their respective neighbourhoods who are little suspected, and who will commit the depredations in disguise at night, and return to their usual occupations by day; the intention is to scatter the troops, and then attack them in detail; some great affair is shortly to take place, which will cast the burning of the 'Peel' in the shade.

"Some great outbreak will very soon be effected in the western frontier, near Amherstburgh.

"Johnson will soon leave the Thousand Islands, and proceed to the interior, to a part extremely mountainous, and covered with lakes; a number of rifles was not long since sent to Canada, from a place called Goose Creek, or that neighbourhood.

"Many

No. 19.
The Earl of Durham to Lord Glenelg, 29 June 1838.

Encl. in No. 19.

"Many militia officers who have been discharged, and are but little suspected, encourage the 'Patriots,' and are privy to their plans.

"The outlaws have a point of rendezvous about 20 miles back of Kingston, where they assemble, and where Bill Johnson often meets them.

"Johnson has a light skiff, which three men can carry, and in which he travels from place to place."

Drummondville, 20 June 1838.

(True copy of a copy.)
(signed) *E. Couper.*

Niagara District, to wit.

No. 4.

PERSONALLY came before me, George Elliot, Esq., one of Her Majesty's justices of the peace in and for the district of Newcastle, and major of the "Queen's Own."

Robert Doan, of the township of Crowland, of Upper Canada, innkeeper, who, being duly examined and sworn, doth say, that on his way home from Port Robinson, on the night of the 19th instant, between Port Robinson and Cook's Mills, he, the said deponent, met a body of armed men to the number of 20 or more; some of the party, on passing him, called him a damned Tory, and that deponent considered his life in danger, and made the best of his way home.

(signed) *Robert Doan.*

Given under my hand and seal at Cook's Mills, this 20th day of June 1838.

(signed) *Geo. Elliot,* J. P.

(True copy of a copy.)
(signed) *E. Couper.*

No. 5.

Sir, St. John, ½ past 6 A. M.

I HAVE just arrived here, and found all my men disarmed, and one wounded in the head —(send out a doctor).

There were about 100 well armed. They first fired a volley into the house; it is completely riddled; my men fought well, they wounded three, and they believe that one is killed; all the arms and ammunition and horses are taken; my men said they would never give up, and the rebels set fire to the house, when the men surrendered.

The rebels went towards the river, and it is supposed they have a camp there, and amounting to more than 300.

I will reconnoitre here till the arrival of the infantry. Some of my men are missing.

The rebels took about $1,000 from Mr. Overhalt, and took Mr. Davis's horse. If I find it practicable, I will advance a picquet. Let there be no time lost in sending out the infantry. The people here are in great excitement.

Word is gone to St. Catherine's.

I have, &c.

Colonel Townshend, &c. &c. &c.

(signed) *James Magrath,* jun.
Lieut. Queen's Lancers.

(True copy of a copy.)
(signed) *E. Couper.*

No. 6.

Sir, Queenston, 12 o'clock A. M., 21 June 1838.

I HAVE the honour to state, for the information of his Excellency Major-general commanding, that I have just been informed by most unquestionable authority, that a party of rebels attacked the detachment of the Queen's lancers, stationed at the Short Hills, by surprise, last night; that the lancers fired on and killed four, and wounded others; that the rebels then set fire to the barracks, which obliged the lancers to surrender as prisoners; the rebels then took possession of their arms, ammunition, clothing and horses, and allowed the men to escape.

It is further stated, that a general attack is anticipated from the American frontier this night, and that the rebels do not apprehend the slightest opposition from the American troops.

I consider it my duty, under present circumstances, to make this report direct.

I have, &c.
(signed) *John H. Palmer,*
Capt. Command. Detachment.

Since writing the above, Lieut.-colonel Clark has arrived from the Falls, and confirms the above report; the strength of the rebel force is unknown. *J. H. P.*

To Colonel Halkett, Military Secretary,
&c. &c. &c.

(True copy of a copy.)
(signed) *E. Couper.*

—No. 20.—

(No. 18.)

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

No. 20.
The Earl of Durham to Lord Glenelg, 29 June 1838.

My Lord, Castle of St. Lewis, Quebec, 29 June 1838.

Amongst the many difficult and important questions the settlement of which I found awaiting my arrival here, that of the trial of the prisoners engaged in the late revolt was by far the most delicate and dangerous.

On referring to your Lordship's despatch to Sir J. Colborne, of the 19th of March, I find that your Lordship was quite aware, from the representations of the law officers of the Crown in this province, and of the magistrates of Montreal, that little expectation was to be entertained of a conviction by the ordinary juries before the regular courts, but that, nevertheless, in your instructions, both to my predecessor and to myself, your Lordship and Her Majesty's Government declined to sanction any departure from the established course of judicial proceedings.

In these circumstances it was very difficult to decide upon what would be the most judicious steps to be taken. If a trial took place, there existed the danger of an acquittal, which would have been considered as a triumph [and naturally] by the disaffected, and would have produced the worst consequences. On the other hand, even if a conviction was obtained, the excitement of the proceedings, the exposure of the acts of treason and disaffection, and the revival of the whole question, would have again re-opened and inflamed all those party animosities, the calming of which was an indispensable preliminary to the final settlement of Canadian affairs; at the same time it was absolutely necessary to make an example which should deter others from the commission, in future, of the like crimes. The loyal and well-affected had a right to require security for the future, and the due punishment of those guilty persons who had plunged the province into rebellion and civil war. The first step which I took on my arrival was to examine most carefully the list of prisoners, and the depositions affecting each. In so doing I discovered that against only eight or nine there existed any evidence which would warrant the application of great severity, the chief leaders and instigators of the revolt having fled from the province, and being in safety in the United States. I next applied myself, by answers to addresses and private applications, to the discouragement of any notion of the possibility of a general amnesty, and announced that my determination was to punish the guilty, and to extend mercy to the misguided, for which purpose I issued a special commission for the trial of the prisoners, and sent the Attorney-general with it to Montreal.

These measures produced the salutary consequences which I expected, and, joined to other means through which they became convinced that I would not suffer the guilty to escape, induced the ringleaders to plead guilty, and throw themselves on the mercy of the Crown.

Yesterday I summoned a special council, a list of the members of which I enclose your Lordship, and passed an ordinance, by which the prisoners who pleaded guilty are transported from the continent of America during Her Majesty's pleasure. M. Papineau and his associates who fled from justice are prevented from re-entering the province, and the remainder are enlarged, on giving security for their good conduct. I also issued a proclamation in Her Majesty's name, which announces the latter act of grace, at the same time with the ordinance which inflicts the punishment.

These measures have met with the entire approbation of Sir John Colborne, and of the heads of what is called the British party. They declared that they did not require any sanguinary punishment, but they desired security for the future, and the certainty that the returning tranquillity of the province should not be arrested by the machinations of these ringleaders of the rebellion, either here or in the United States. This I have effected for them to their contentment.

I did not think it right to transport these persons to a convict colony, for two reasons:—First, Because it was affixing a character of moral infamy on their acts which public opinion would not sanction; and secondly, Because I hold that it would be impolitic to force on the colony itself persons who would be looked upon in the light of political martyrs, and thus acquire perhaps a degree of influence which might be applied to evil uses in a community composed of such dangerous elements.

On

No. 20.
The Earl of Durham to Lord Glenelg, 29 June 1838.

On consultation, therefore, with Vice-admiral Sir Charles Paget, I determined on sending them to Bermuda, where they could be placed under strict restraint and surveillance. There is, however, little fear of their attempting to escape, as such an act would close at once, and for ever, the door against their ever re-entering their native country.

Sir Charles Paget has ordered the Vestal to be prepared to take the prisoners, eight in number, to Bermuda, immediately on their arrival here; and I trust, therefore, that in a very few days there will not remain in confinement one single person charged with treasonable and seditious practices in this province. Of course I do not refer to the murderers of Lieutenant Weir, who will be arraigned in the usual manner at the usual assizes, and whose case ought to be clearly excepted from the class of political offenders.

I have, &c.
(signed) *Durham.*

Enclosure 1, in No. 20.

From the *Quebec Gazette*, Thursday, 28 June 1838.

Secretary's Office, Quebec, 28 June 1838.

Encl. 1, in No. 20.

His Excellency the Governor-general has been pleased to appoint—
Sir Charles Paget, Grand Cross of the Hanoverian Order, Vice-admiral of the White;
Major-general Sir James Macdonnell, K.C.B. and K.C.H;
Lieut.-colonel the Hon. Charles Grey;
Colonel George Couper; and
The Hon. Charles Buller, K.H.
To be Members of the Special Council.

Anno Secundo Victoriæ Reginæ.

Cap. I. No. 27.

An Ordinance to provide for the security of the Province of *Lower Canada*.

Whereas divers persons, subjects of Her Majesty in this Province, have been charged with high treason and other offences of a treasonable nature, some of which said persons are at present in custody, and others have withdrawn themselves from the pursuit of justice beyond the limits of this Province: And whereas of the persons so charged and in custody those whose names follow; that is to say, Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint Goddu, Rodolphe Des Rivières and Luc Hyacinthe Masson, all respectively now in the gaol of Montreal, in the custody of the sheriff of Montreal, have severally acknowledged their participation in the such high treason, and have submitted themselves to the will and pleasure of Her Majesty: And whereas Louis Joseph Papineau, a Member of the late Assembly of Lower Canada, and Speaker thereof, Cyrile Hector Octave Côte, also a member of the said late Assembly, Julien Gagnon, Robert Nelson, also a Member of the said late Assembly, Edmund Burke O'Callaghan, also a member of the said late Assembly, Edouard Etienne Rodier, also a member of the said late Assembly, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, a priest, George Et. Cartier, John Ryan, the elder, and John Ryan, the younger, Louis Perrault, Pierre Paul Demaray, Joseph François Davignon, and Louis Gautier, all respectively subjects of Her said Majesty, and against whom respectively warrants for high treason have been issued, have severally absconded from this Province and withdrawn themselves from the limits thereof and from the pursuit of justice: And whereas it is Her said Majesty's most gracious will and pleasure, that no further proceedings shall be had or taken against any persons whomsoever on account of such high treason or other offences of a treasonable nature, save and except as hereinafter provided; but it is nevertheless expedient to provide for the present security of this Province by effectually preventing the several persons whose names are hereinbefore set forth from being at large therein: Be it therefore ordained and enacted, by his Excellency the Governor of the Province of Lower Canada, by and with the consent and advice of the Special Council for the affairs of the said province of Lower Canada, constituted and assembled by virtue of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the authority aforesaid, that it shall and may be lawful for Her Majesty to transport to Her Majesty's Islands of Bermuda, during Her pleasure, the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint H. Goddu, Rodolphe Des Rivières, and Luc Hyacinthe Masson respectively, and to subject them or any of them to such restraints in the said Islands, as may be needful to prevent their return to this province; and it is further ordained and enacted by and with the authority aforesaid, that if the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint H. Goddu, Rodolphe Des Rivières, and Luc Hyacinthe Masson respectively or any of them, or if the said Louis Joseph Papineau, Cyrile Hector Octave Côte, Julien Gagnon, Robert Nelson, Edmund Burke O'Callaghan, Edouard Etienne Rodier, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, George Et. Cartier, John Ryan the elder, and John Ryan the younger, Louis Perrault,

No. 20.
The Earl of Durham to Lord Glenelg, 29 June 1838.

Encl. 1, in No. 20.

Pierre Paul Demaray, Joseph François Davignon, and Louis Gautier, against whom respectively such warrants for high treason have been issued, and also have so withdrawn themselves from the pursuit of justice as aforesaid, or any of them, shall at any time hereafter, except by permission of the Governor-General of Her Majesty's Provinces on the continent of North America, and High Commissioner for the adjustment of certain important questions depending on the provinces of Upper and Lower Canada, or if there shall be no such Governor-General and High Commissioner, by the permission of the Governor-in-chief, or Governor, or other person administering the government of this province as hereinafter provided, be found at large, or come within the said province, they or he shall in such case be deemed and taken to be guilty of high treason, and shall on conviction of being so found at large or coming within the said Province without such permission as aforesaid, suffer death accordingly: Provided always, That it shall and may be lawful for such Governor-General and High Commissioner, or if there shall be no such Governor-general and High Commissioner, then for the Governor-in-Chief, Governor, or other person administering the government of this Province, acting for and in behalf of Her said Majesty so soon as it shall to him appear consistent with the peace and tranquillity of this Province, by any act or instrument under his hand and seal at arms, to grant permission for the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint H. Goddu, Rodolphe des Rivières, Luc Hyacinthe Masson, Louis Joseph Papineau, Cyrile Hector Octave Côte, Julien Gagnon, Robert Nelson, Edmund Burke O'Callaghan, Edouard Etienne Rodier, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, George Et. Cartier, John Ryan the elder, and John Ryan the younger, Louis Perrault, Pierre Paul Demaray, Joseph François Davignon and Louis Gautier, or any of them, upon giving such security for their future good behaviour and loyal conduct as the said Governor General and High Commissioner, or if there shall be no such Governor-General and High Commissioner, as the Governor-in-Chief, Governor or other person administering the government of this Province shall think fit, to return to this Province and reside therein; and the said Wolfred Nelson, Robert Shore Milnes Bouchette, Bonaventure Viger, Simeon Marchessault, Henri Alphonse Gauvin, Toussaint Goddu, Rodolphe des Rivières, Luc Hyacinthe Masson, Louis Joseph Papineau, Cyrile Hector Octave Côte, Julien Gagnon, Robert Nelson, Edmund Burke O'Callaghan, Edouard Etienne Rodier, Thomas Storrow Brown, Ludger Duvernay, Etienne Chartier, George Et. Cartier, John Ryan the elder and John Ryan the younger, Louis Perrault, Pierre Paul Demaray, Joseph François Davignon and Louis Gautier, or such of them as shall receive such permission as aforesaid, shall not thenceforth be subject to any penalty or prosecution whatever, for any treason or treasonable or seditious practices by them or him at any time heretofore committed: Provided also, That in any indictment for being so found or coming within the Province without such permission as aforesaid, the burthen of proof of having obtained such permission of the said Governor-General and High Commissioner, Governor-in-Chief, Governor or other person administering the government of this Province, shall lie upon the party accused or indicted thereof.

And it is hereby further ordained and enacted, by and with the authority aforesaid, That nothing in any proclamation of Her Majesty contained, shall extend or be held or construed to extend to the cases of François Jalbert, Jean Baptiste Lussier, Louis Lussier, François Mignault, François Talbot, Amable Daunais, François Nicolas, Etienne Langlois, Gideon Pinsonault, Joseph Pinsonault, or any of them, or to the case of any other person or persons charged with the murder of the late George Weir, a lieutenant in Her Majesty's 32d regiment of foot, or with the murder of the late Joseph Chartrand; nor shall François Jalbert, Jean Baptiste Lussier, Louis Lussier, François Mignault, François Talbot, Amable Daunais, François Nicolas, Etienne Langlois, Gideon Pinsonault, Joseph Pinsonault, or any of them, nor shall any other persons suspected of being concerned in the said murders, or either of them, nor any person concerned in the escape from the custody of the Sheriff of Montreal of Louis Lussier, charged with the murder of the said George Weir, or who may have harboured the said Louis Lussier after, or aided him in such escape, derive any benefit or advantage whatsoever from any proclamation of Her most Gracious Majesty, nor shall any amnesty thereby intended to be granted be taken in any way to apply to such person or persons, or any of them.

Durham.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, at the City of Quebec, the Twenty-eighth day of June, in the second year of the reign of our Sovereign Lady Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord One thousand eight hundred and Thirty-eight.

By His Excellency's Command,
W. B. Lindsay, Clerk Special Council.

ANNO SECUNDO VICTORIÆ REGINÆ.

CAP. II. No. 28.

AN ORDINANCE for establishing an efficient System of Police in the Cities of *Quebec* and *Montreal.*

WHEREAS it is expedient to establish an efficient system of police in the cities of Quebec and Montreal, and to constitute offices of police, which, acting under the immediate authority of the Civil Secretary of the Governor of this Province of Lower Canada for the time being, shall direct and control the whole of such system of police within the said

said cities; Be it therefore Ordained and Enacted by His Excellency the Governor of the said Province, by and with the advice and consent of the Special Council for the affairs of Lower Canada, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of the Province of Lower Canada;" and it is hereby ordained and enacted by the authority of the same, That it shall and may be lawful for the Governor, Lieutenant-Governor, or person administering the government of the said Province for the time being, to cause police offices to be established in the said cities, and by a Commission under the Great Seal of the Province, to appoint fit and proper persons to be inspectors and superintendents of the police for the said cities, to execute the duties of justices of the peace at the said offices, and in all parts of the said cities, together with such other duties as shall be hereinafter specified, or as shall be from time to time directed by such Civil Secretary, for the more efficient administration of the police within the limits of the said cities, and that the Governor or person administering the government of the said Province for the time being, shall and may remove the said inspectors and superintendents of police, if he shall see occasion so to do, and may, upon any vacancy in the said offices by death, removal, or otherwise, appoint other fit persons as inspectors and superintendents of the police for the said cities, to execute the duties aforesaid, in lieu of the persons making such vacancy; and that it shall be lawful for the Governor, or person administering the government of the said Province to appoint any person to be inspector and superintendent of the police for either of the said cities, under and by virtue of this ordinance; and that it shall be lawful for any person so appointed, during the continuance of his appointment, to execute the duties of justice of the peace for the said cities, although he may not have any such qualification by estate or property, or is or may be required by law, in case of any other person being a justice of the peace for the said cities: Provided always, and it is hereby further ordained and enacted by the authority aforesaid, That no person appointed to be such inspector and superintendent of the police shall act as a justice of the peace at any court of general quarter sessions.

2. And be it further ordained and enacted by the authority aforesaid, That every person to be appointed inspector and superintendent of the police for the said cities by virtue of this ordinance, shall, before he begins to execute the duties of his office, take the following oath before a Judge of Her Majesty's court of King's Bench; (that is to say),

"I, A. B., do swear, that I will faithfully, impartially and honestly, according to the best of my skill and knowledge, execute all the powers and duties of a justice of the peace, under and by virtue of an ordinance passed in the second year of the reign of Queen Victoria, intituled, "An Ordinance for establishing an efficient System of Police in the Cities of Quebec and Montreal."

3. And be it further ordained and enacted by the authority aforesaid, That a sufficient number of fit and able-bodied men shall from time to time, by the directions of the said Civil Secretary, be appointed as a police force for the said cities, who shall be sworn by the said inspectors and superintendents of the police, to act as constables for preserving the peace and preventing robberies and other felonies, and apprehending offenders against the peace; and the men so sworn shall, within the said cities, have all such powers, authorities, privileges and advantages, and be liable to all such duties and responsibilities as any constable duly appointed now has, or hereafter may have, by virtue of the laws of this Province, or any statutes made, or to be made, and shall obey all such lawful commands as they may from time to time receive from the said inspectors and superintendents of the police for conducting themselves in the execution of their office.

4. And be it further ordained and enacted, by the authority aforesaid, That the said inspectors and superintendents of the police may from time to time, subject to the approbation of the Civil Secretary, make such orders and regulations as they shall deem expedient relative to the general government of the men to be appointed members of the police force under this ordinance, the places of their residence, the classification, rank and particular service of the several members, their distribution and inspection, the description of arms, accoutrements and other necessaries to be furnished to them, and all such other orders and regulations relative to the said police force as the said inspectors and superintendents of the police shall from time to time deem expedient, for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties; and the said inspectors and superintendents of the police may at any time suspend or dismiss from his employment any man belonging to the said police force whom they shall think remis or negligent in the discharge of his duty, or otherwise unfit for the same. And be it further ordained and enacted, That when any man shall be so dismissed or cease to belong to the said police force, all powers vested in him as a constable by virtue of this Act shall immediately cease and determine.

5. And be it further ordained and enacted by the authority aforesaid, That if any victualler or keeper of any house, shop, room, or other place for the sale of any liquors, whether spirituous or otherwise, shall knowingly harbour or entertain any man belonging to the said police force, or permit such man to abide or remain in his or her house, shop, room, or other place during any part of the time appointed for his being on duty, every such victualler or keeper as aforesaid, being convicted thereof before any two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding Five Pounds sterling money of Great Britain, as they shall think meet.

6. And it is further ordained and enacted by the authority aforesaid, That it shall and may be lawful for any man belonging to the said police force, during the time of his being on

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duty, to apprehend all loose, idle and disorderly persons whom he shall find disturbing the public peace, or whom he shall have just cause to suspect of any evil designs, and all persons whom he shall find lying in any field, highway, yard, or other place, or loitering therein, and not giving a satisfactory account of themselves, and to deliver any person so apprehended into the custody of the constable appointed under this ordinance, who shall be in attendance at the nearest watch-house, in order that such person may be secured until he can be brought before a justice of the peace, to be dealt with according to law.

7. And be it further ordained and enacted by the authority aforesaid, That if any person shall assault or resist any person belonging to the said police force in the execution of his duty, or shall aid or incite any person so to assault or resist, every such offender being convicted thereof, before two justices of the peace, shall for every such offence forfeit and pay such sum, not exceeding Five Pounds sterling money aforesaid, as the said justices shall think meet.

8. And be it further ordained and enacted by the authority aforesaid, That it shall be lawful for any justice of the peace to commit all loose, idle and disorderly persons, being convicted before him by his own view, or by his, her, or their own confession, or by the oath of one or more credible witness or witnesses, to the common gaol or house of correction, there to be kept at hard labour for any time not exceeding Two calendar Months: Provided always, That it shall be in the discretion of the justice of the peace, before whom any person apprehended as a loose, idle and disorderly person shall be brought, either to commit or discharge such person, although an act of vagrancy be proved against the person so charged; provided also, That it shall be in the discretion of such justice, on discharging such loose, idle and disorderly person, to bind him or her in a sufficient recognizance, to appear before the justices at their next general or quarter sessions of the peace, to answer such charge or charges as shall be alleged against him or her respectively.

9. And be it further ordained and enacted by the authority aforesaid, That persons who being able to work, and thereby or by other means to maintain themselves and families, shall wilfully neglect or refuse to do so;

Persons openly exposing or exhibiting in any street, road, public place, or highway, any indecent exhibition, or openly and indecently exposing their persons;

Persons loitering in the streets or highways, and obstructing passengers by standing across the footpaths, or by using insulting language, or in any other way tearing down or defacing signs, breaking windows, breaking doors or door-plates, or the walls of houses, yards or gardens; destroying fences; causing a disturbance or noise in the streets or highways, by screaming, swearing or singing; being drunk, and impeding or incommoding the peaceable passengers in the streets, or any way disturbing the peaceable inhabitants;

All common prostitutes or night-walkers, wandering in the fields, public streets or highways, not giving a satisfactory account of themselves;

Persons in the habit of frequenting houses of ill fame, not giving a satisfactory account of themselves;

Persons tippling in taverns or tap-rooms after the hour of ten at night, and before the hour of five in the morning, between the twenty-first day of March and the first day of October, and after the hour of nine at night and before the hour of six in the morning, from the first day of October to the twenty-first day of March;

Persons winning money or other valuable thing in playing at cards, dice or other chance game in taverns, shall be deemed loose, idle and disorderly persons within the meaning of this ordinance.

10. And be it further ordained and enacted by the authority aforesaid, That it shall be lawful for any justice of the peace, upon information upon oath before him made, that any persons hereinbefore described are loose, idle and disorderly persons, and are, or are reasonably suspected to be harboured or concealed in any house or houses of ill fame, tavern or taverns, boarding-house or boarding-houses, by warrant under his hand or seal to authorize any constable or other person or persons to enter at any time such house or houses, tavern or taverns, and to apprehend and bring before him or any other justice or justices, all persons found therein and so suspected as aforesaid; and if on examining such person or persons so apprehended and brought as aforesaid, it shall appear to such justice or justices that they, or any or either of them, cannot give a satisfactory account of themselves, it shall and may be lawful for such justice or justices to commit him, her or them to the common gaol or house of correction, there to be dealt with in the same manner as loose, idle and disorderly persons are hereinbefore directed to be dealt with by this ordinance.

11. And be it further ordained and enacted by the authority aforesaid, That it shall be lawful for any justice of the peace to commit any person or persons being convicted before him by his own view, or by the oath of one or more credible witness or witnesses, or by his, her or their confession, of over-loading, over-driving, or otherwise ill-treating any horse, dog or other animal, to the common gaol for any time not exceeding One calendar Month; and all constables shall and may apprehend such person or persons, and bring him, her or them before a justice of the peace, to be dealt with according to the provisions of this ordinance.

12. And for the more effectual prosecution of offences punishable by a penalty upon summary conviction by virtue of this ordinance, be it further enacted, by the authority aforesaid, that where any person shall be charged, on the oath of a credible witness, with any such offence, before any justice of the peace, the justice may summon the person charged to appear before any two justices of the peace at a time and place to be named in such summons, and if the person charged shall not appear accordingly, then (upon proof of the due service of the summons by delivering a copy thereof to such person or by delivering a

copy

copy to the wife or servant or some inmate of the family of such person, at his or her usual place of abode), the justices before whom he ought to have appeared may either proceed to hear and determine the case ex parte, or may issue their warrant for apprehending such person, and bringing him or her before them: Provided always, That the prosecution for any offence punishable by a penalty upon summary conviction by virtue of this ordinance shall be commenced within Three calendar Months after the commission of the offence and not otherwise.

13. And be it further ordained and enacted by the authority aforesaid, That every sum which by any justices of the peace shall be adjudged to be paid for any offence against this ordinance, shall be paid to Her Majesty's Receiver-general, to be by him added to and applied as part of the funds for the purposes of the police under this ordinance, and no person shall by reason of the application of any penalty to the use of the police funds be deemed to be an incompetent witness before any court or justice or justices of the peace in any proceeding whatever for any offence against this ordinance.

14. And be it further ordained and enacted by the authority aforesaid, That the justices of the peace by whom any person shall be convicted and adjudged to pay any sum of money for any offence against this ordinance may adjudge that such person shall pay the same either immediately or within such period as they shall think fit, and in default of payment at the time appointed, the said person shall be imprisoned in the common gaol or house of correction for any term not exceeding two calendar months, which said imprisonment shall cease upon payment of the sum due.

15. And be it further ordained and enacted by the authority aforesaid, That no conviction, order, warrant, or other matter made or purporting to be made by virtue of this ordinance, shall be quashed for want of form, or be removed by *certiorari* or otherwise to any of Her Majesty's courts of record, and no warrant of commitment shall be held void by reason of any defect therein; provided it be therein alleged that the party has been convicted, and there be a good and valid conviction to sustain the same.

16. And be it further ordained and enacted by the authority aforesaid, That for the protection of the persons acting in the execution of this ordinance, all actions and prosecutions to be commenced against any person for any thing done in pursuance of this ordinance, shall be laid and tried in the district where the fact was committed, and shall be commenced within six calendar months after the fact committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in such action the defendant may plead the general issue, and give this ordinance and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought by or on the behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit or discontinue any such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the action and of the verdict obtained thereupon.

17. And be it further ordained and enacted by the authority aforesaid, That it shall be lawful for the Governor or other person administering the government of the province for the time being, to pay or cause to be paid, out of any monies which may be in the hands of the Receiver-general of this province, not otherwise appropriated by law, such sums as may be required for the maintenance of the police under this ordinance; and that all salaries, allowances and contingent charges in that behalf shall be paid upon pay-lists, to be made out on the first of each month, by the Inspector and Superintendent of the police, signed by him, and approved by such Civil Secretary as aforesaid.

18. And be it further ordained and enacted by the authority aforesaid, That for the purposes of this ordinance any person acting as Secretary of the Governor, or of the person authorized to execute the commission of Governor, shall be taken to be the Civil Secretary of the Governor.

19. And be it further enacted, That for the purposes of this ordinance, the word city or cities as applied to the cities of Quebec and Montreal, wherever used in this ordinance, shall be held to denote the said cities, together with such neighbouring districts as the Governor or person administering the government of the province of Lower Canada shall at any time direct.

Durham.

Ordained and enacted by the authority aforesaid, and passed in Special Council, at the city of Quebec, the twenty-eighth day of June, in the second year of the reign of our Sovereign Lady Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord One thousand eight hundred and thirty-eight.

By his Excellency's command,

Wm. B. Lindsay, Clerk Special Council.

No. 20.
The Earl of Durham to Lord Glenelg, 29 June 1838.

Encl. 1, in No. 20.

Province of Lower Canada. } DURHAM.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To all to whom these presents shall come, or whom the same may concern, greeting.

PROCLAMATION.

WHEREAS Our province of Lower Canada hath been long disturbed by political dissensions, and was recently afflicted with rebellion and civil war, whereby it hath become necessary to suspend the constitution of the said province, and to provide for the temporary government thereof, by means of extraordinary powers conferred upon us by the imperial legislature: And whereas We are firmly resolved to punish with the utmost severity any future act of insubordination in Our province, and more especially to prevent in future, as far as is in Our power, the occurrence of dissensions similar to those by which Our said province has been long disturbed as aforesaid, by effectually removing all causes of dissension, so that Our said province may be established in peace as a loyal and truly British colony: And whereas in the exercise and in pursuance of the extraordinary powers as aforesaid, it hath been ordained and enacted by an ordinance this day made and passed, according to law, entitled, "An Ordinance to provide for the security of the Province of Lower Canada," that it shall be lawful for us to transport certain persons named in the said ordinance to Our island of Bermuda, during Our pleasure, and that if the said persons, or certain other persons, also named in the said ordinance, who have withdrawn themselves from the pursuit of justice beyond the limits of Our said province, shall at any time hereafter, except by permission of Our Governor-general of Our provinces on the continent of North America, and High Commissioner for the adjustment of certain important questions depending in the provinces of Lower and Upper Canada, or if there shall be no such Governor-general or High Commissioner, by the permission of the Governor-in-chief, or Governor, or other person administering Our government of Lower Canada, as provided in the said ordinance, be found at large or come within Our said province, they shall in that case be taken and deemed to be guilty of high treason, and shall suffer death accordingly: And whereas, under the peculiar circumstances of our said province as aforesaid, it is not less expedient in our judgment than grateful to Our heart to mark, by an act of Royal Grace, Our recollection of the ancient and well-proven loyalty of all Our Canadian subjects, rather than by any severity of punishment, Our sense of the recent disaffection of some of them: Know ye therefore, that We have ordained, directed and declared, and by these presents do ordain, direct and declare, that no further proceedings shall be had or taken against any persons whatsoever on account of any high treason, or offences of a treasonable nature, with which they now stand charged, or wherewith they may be chargeable at this time, but that all such proceedings, without exception or distinction, save as hereinafter mentioned, shall henceforth cease and determine. And it is our further will and pleasure, that with the exception of such persons as are in that behalf named in the said ordinance, and whose cases are thereby provided for, all persons at present in custody and charged with high treason or other offences of a treasonable nature, and also with such exception as aforesaid, all persons who have withdrawn themselves from the pursuit of justice beyond the limits of our said province, shall immediately upon giving such security for their future good and loyal behaviour as Our said Governor-general and High Commissioner, or if there should be no such Governor-general or High Commissioner, then the Governor-in-chief, Governor, or the person administering the government of this province shall direct, be at liberty to return to their homes, and may and shall there remain wholly unmolested by reason of any high treason or other offences of a treasonable nature, in which he or they may have been concerned.

In testimony whereof We have caused these Our letters to be made patent, and the great seal of Our said province of Lower Canada to be affixed thereto.

Witness Our right trusty and right well-beloved John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Our Most Honourable Privy Council, and Governor-general, Vice-admiral and Captain-general of all Our provinces within and adjacent to the continent of North America, &c. &c. &c. &c.

At Our castle of St. Lewis, in Our city of Quebec, in Our said province of Lower Canada, the twenty-eight day of June, in the year of our Lord One thousand eight hundred and thirty-eight, and in the second year of Our reign.

(signed) *D. Daly*, Secretary.

We are authorized to state that his Excellency the Governor-general is actively engaged in the preparation of measures, which will, as soon as it may be possible, be embodied in ordinances of the Governor and Special Council, relative to a jury law, a bankrupt law, municipal institutions for the whole province, general education, the establishment of registry offices, and the equitable commutation of feudal tenures.

— No. 127 . —

(No. 19.)

COPY of a DESPATCH from the Earl of *Durham* to Lord *Glenelg*.

No. 21.
Earl of Durham to Lord Glenelg, 29 June 1838.

My Lord, Castle of St. Lewis, Quebec, 29 June 1838.

EVERY day of my residence in this part of Her Majesty's dominions tends to convince me more and more of the importance, not to say necessity, with a view to the ultimate objects of my mission, of setting on foot a comprehensive measure of emigration from the mother country; and I may also state, that the opinion here expressed seems to prevail universally amongst the most intelligent and influential of those who are termed the British party in this province. I am further assured that, in Upper Canada, the prospect of an extensive and well-regulated system of emigration is regarded with the deepest interest.

In what degree a judicious disposal of waste lands, the property of the Crown, might be made to promote emigration, I am not yet prepared to assert with precision; but that a very large revenue, whether for emigration or any other purpose, might be raised by the adoption of a wise system in the disposal of Crown Lands, is so obvious in this part of the world, where, in the United States, the sum of 20,000,000 *l.* has been raised from that source in the course of 40 years, as scarcely to require assertion. It is my duty to add, that the practices (for I will not call them a system), hitherto pursued in the disposal of Crown lands, have been a most active cause of dissatisfaction. It would not be too much to say that this most valuable public property appears to have been squandered without regard to the public interest, and almost without benefit to the majority of those who expected to profit by the profusion.

If ever a large revenue is to be raised from this source in British North America, it appears to me indispensible that, whatever may be the system adopted, it should be extended to the whole of this group of colonies without exception; for it is plain that, in a country so intimately connected as these colonies are by the St. Lawrence, two or more different systems in different places could not but operate in counteraction of each other. Several standards of value, as it strikes me, in the same country, could scarcely be more conducive to confusion of the monetary system, than several mutually counteracting plans for the disposal of Crown lands in the British provinces, bordering on the St. Lawrence, would tend to defeat the objects of any plan. Your Lordship is of course aware, that in the United States, where the sale of public lands has produced, in one year, more than the whole expenses of the federal government, the practice of allowing different methods to prevail in the several States has long since been superseded by a uniform system, under the control of the general government, and applicable to all the States.

Impelled by the above considerations, I have issued a Commission of Inquiry into the disposal of Crown lands, and the best mode of promoting emigration for this province, and have also directed a similar inquiry for the other colonies comprised in my general government. I have the honour to enclose a copy of the Commission, as well as of a circular despatch which I addressed to the Lieutenant-governors of Her Majesty's colonies in North America, directing them to attach the great seal of their governments to a similar commission for each colony. Although I should have preferred one general commission, comprising all the colonies, the want of a particular great seal for my general government induced me to adopt this form of proceeding as the one least open to any objection, in point of form. That it is not perfectly unobjectionable on that score, I am well aware; but the defect, however unimportant in substance, could not, I believe, have been avoided, except by adopting some more questionable course.

I am happy to assure your Lordship, that the publication of this Commission, and the circular despatch, appears to have produced very general and decided satisfaction amongst those classes, both at Quebec and Montreal, who are most interested in the improvement of the country, and most desirous to strengthen the connexion between these colonies and the mother country.

I have, &c.

(signed) *Durham.*

No. 21.
Earl of Durham to Lord Glenelg, 29 June 1838.

Enclosures in No. 21.

(No. 1.)

Encl 1, in No. 21.

PROVINCE OF LOWER CANADA—Signed *Durham.*

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith.

To Charles Buller, greeting,

Whereas it is highly expedient and desirable that the disposal of the extensive tracts of waste land, the property of the Crown, in our provinces of Lower Canada, Upper Canada, Nova Scotia, and New Brunswick, and our islands of Prince Edward and Newfoundland, should be placed upon such a footing as may most effectually conduce to the increase of population and wealth in the said provinces and islands, and the general prosperity thereof, and in particular to greatly increased emigration from the mother country, both of capitalists and labourers, as permanent settlers; to the end that while the vast but imperfectly developed resources of the said provinces and islands should, as soon as possible, be made fully productive, a more intimate connexion between Britain and her colonial empire in North America, founded on common interests, and productive of mutual advantages, may be established and permanently secured. And whereas we have ordered and directed each of our Lieutenant-governors of our provinces of Upper Canada, Nova Scotia, and New Brunswick, and our islands of Prince Edward and Newfoundland respectively, to affix the great seal of the province or island of which each is respectively Lieutenant-governor to a commission addressed by us to you, to the like effect, and containing the like powers and authorities for inquiry touching the waste lands, the property of the Crown, in each such province or island respectively as are hereinafter contained. Know ye therefore, that we, reposing great trust in your zeal, ability, and discretion, have nominated, constituted, and appointed, and by these presents do nominate, constitute, and appoint you, the said Charles Buller, to proceed with the utmost despatch to inquire into the past and present methods of disposing of waste lands, woods, forests, and other domains and hereditaments, the property of the Crown, in our province of Lower Canada, and to collect information respecting the operation thereof in regard to the advancement of our said province, and in particular to the promotion of emigration thereto from the mother country. And our further will and pleasure is, that you, after due examination of the premises, do and shall, as soon as conveniently may be, report to us, under your hand and seal, what you shall find touching or concerning the premises upon such inquiry as aforesaid; and also, that you shall suggest such alterations or modifications of the laws and regulations at present in force as may appear likely to promote the objects aforesaid. And for the better discovery of the truth in the premises, we do by these presents give and grant to you full power and authority to call before you such and so many of the officers of the Crown lands department and agents for emigrants in our said province of Lower Canada, and such other officers of the Crown, and other persons, as you shall judge necessary, by whom you may be the better informed of the truth in the premises, and to inquire of the premises and every part thereof, by all other lawful ways and means whatsoever. And We do also give and grant to you full power and authority to cause all and singular the officers aforesaid in our said province of Lower Canada, or any other person or persons having in their custody any records, orders, regulations, books, papers, or other writings relating to or in anywise connected with the premises, to bring and produce the same before you. And for your assistance in the due execution of this Our commission, We do hereby authorize you to nominate and appoint such person or persons as you shall think fit to be assistant commissioner or assistant commissioners, for the purposes aforesaid, or any of them, and to delegate to him or them such and so many of the powers hereinbefore vested in you as may seem expedient. And Our will is, and We do hereby direct and ordain, that the person or persons so nominated by you shall possess and exercise any powers and authorities so as aforesaid delegated to him or them in as full and ample a manner as the same are possessed and may be exercised by you under the authority of these presents: And We do hereby further authorize and empower you, at your discretion, to appoint such person as secretary to this Our Commission as to you shall seem proper, and to frame such temporary rules, orders, and regulations with regard to the manner of disposing of such Crown lands in Our said province of Lower Canada, as may to you appear expedient, and from time to time, at such like discretion, to alter and vary the same, due regard being had in all such rules, orders, and regulations, to any provincial Act or Acts, and to any Royal instructions, now in force in our said province of Lower Canada, touching or concerning the disposal of the said waste lands, or any part thereof: And We do hereby further authorize and empower you to give instructions to the several officers of the Crown lands department and agents for emigrants, in our said province, as to the performance of the duties of their respective offices; subject nevertheless, to all such provincial Acts or Royal instructions as aforesaid, which instructions shall be in all respects binding upon the officer or officers to whom the same shall be respectively addressed.

In testimony whereof We have caused these our letters to be made patent, and the great seal of our said province of Lower Canada to be affixed thereto.

Witness our right trusty and right well beloved John George Earl of Durham, Viscount Lambton, &c. &c., Knight Grand Cross of the Most honourable Military Order of the Bath,

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one of our most honourable Privy Council, and Governor-general, Vice-admiral and Captain-general of all our provinces within and adjacent to the continent of North America, &c. &c. &c.

At Our Castle of St. Lewis, in Our City of Quebec, in Our said province of Lower Canada, the 18th day of June, in the year of our Lord 1838, and in the first year of Our reign.

(signed) *D. Daly*, Secretary.

(No. 2.)

CIRCULAR DESPATCH from his Excellency the GOVERNOR-GENERAL to the respective Lieutenant-Governors of Her Majesty's Colonies in North America.

Encl. 2, in No. 21.

Sir, Castle of St. Lewis, Quebec, 18 June 1838.

IN the exercise of the powers vested in me as Governor-general of Her Majesty's colonies in North America, and with a view to the permanent establishment of an improved system in the disposal of waste lands, the property of the Crown, in those colonies, and the promotion of emigration thereto upon the most extensive scale that circumstances will admit, I have prepared a commission, directing an immediate inquiry into the subject for each of the provinces and islands comprised in my general government; and also authorizing the commissioner therein named to issue temporary rules and regulations for the disposal of Crown lands in each colony, and to give instructions to the officers of the Crown lands department as to the performance of their duties.

I enclose the commission as prepared for the province of and have to direct that you will cause the great seal of that province to be immediately affixed thereto, and that the commission, together with a copy of this despatch, may be published in the usual manner.

As one of the incidental, though not least desirable, results of an improved system in the disposal of lands, the property of the Crown, may, I hope, be a very considerable increase in the value of all lands which have become private property, and as the expectation of such a result might lead to applications for grants of land, upon the terms now in force, to such an extent as should defeat, or at least seriously impede, the most beneficial operation of the improved system, and especially the very desirable result above mentioned, I have also to instruct you that, until further directions from me, you will, so far as it may be in your discretion, under any provincial Act, or Royal instructions, or otherwise, abstain from alienating any waste lands, the property of the Crown. You may rely on receiving those further directions in so short a time as to prevent any inconvenience from the present suspension of your discretionary powers in this respect.

I have, &c.
(signed) *Durham.*

— No. 22. —

(No. 20.)

No. 22.
Earl of Durham to Lord Glenelg, 2 July 1838.

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

Castle of St. Lewis, Quebec,
My Lord, 2 July 1838.

I HAVE the honour to transmit, for your Lordship's information, the enclosed copy of a memorial from the minister, elders, and trustees of St. Andrew's Church, in the city of Quebec, in connexion with the National Church of Scotland.

I have, &c.
(signed) *Durham.*

Enclosure in No. 22.

Encl. in No. 22.

To His Excellency the Right Honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c., &c., Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Her Majesty's Most Honourable Privy Council, and Governor-General, Vice-Admiral, and Captain-General of all Her Majesty's Provinces within and adjacent to the Continent of North America, &c., &c.

May it please Your Excellency,

WE, the minister, elders and trustees of St. Andrew's Church, in this city, in connexion with the National Church of Scotland, beg leave most respectfully to approach your Excellency for the purpose of submitting to your Excellency's consideration certain circumstances under which we feel aggrieved, encouraged by the gracious invitation which your Excellency has addressed to all classes of the community to lay their grievances before your Excellency, with the assurance that they shall receive a fair and friendly consideration.

We have to state to your Excellency, that from the period of the conquest of this Province, there has been a Presbyterian congregation in this city, in connexion with the

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National Church of Scotland, and that an annual allowance of 50*l.* sterling was granted by the British Government towards the support of a minister. This, with an allowance of equal amount to a Scottish congregation in Montreal, being the whole support granted from the British Treasury to the Church of Scotland in this Province, continued to be paid up to the death of the Reverend Doctor Harkness, in 1835. When application was made for the continuance of it, we were informed by his Excellency the Earl of Gosford, that His late Majesty's Government had come to the resolution of refusing all aid from the British Treasury to any body of provincial clergy, and that all salaries then payable were to cease on the death of the then incumbents.

It was matter of much regret to us that His Majesty's Government should have adopted this principle in reference to the Protestant Churches of this Province; but as that principle was of professedly general application, we had no special ground of complaint. We have since learned, however, that this principle has been departed from, and that the salary, or part of the salary, which had been granted to the late Bishop of Quebec is to be continued to his successor. Of this change in the counsels of Her Majesty's Government we have no disposition to complain. We entertain no feelings of jealousy or dislike towards the Church of England: we reverence her as a true Church of Christ, while yet preferring the simpler forms of worship and of ecclesiastical government which have been so long endeared to the hearts of the Scottish people, and we should heartily rejoice if all the members of the Episcopal community throughout the Province were fully supplied with the ordinances of religion according to the forms they prefer; but we think we have reason to complain that the principle announced to us by Government has been acted on as respects the Scottish Church, and the small allowances granted for her support, and departed from as respects the English Church, and the larger allowances granted to her. We cannot suppose that Her Majesty's Government can intend so partial an application of the principle. We are not aware of any principle in which a distinction between the two National Churches of the British Empire, which had been sufficiently marked before, should be thus further extended, and we beg respectfully to solicit your Excellency's good offices with Her Majesty's Government, that the allowance formerly granted to us be continued.

At the same time, we beg to state, that we now approach your Excellency not so much for the purpose of entreating that the small sum which has been withdrawn from the Corporation of St. Andrew's Church should be restored, as to bring under your Excellency's notice the general claims of the Scottish Church in this Province to the support of Her Majesty's Government. There are at present fourteen ministers of the Scottish Church in this Province, of these five are in the cities of Quebec and Montreal, the rest in various parts of the country. We should considerably overstate the average annual income of the country ministers if we rated it at 100*l.* currency; some have not more than half. It will not, we trust, be deemed an instance of clerical rapacity if these ministers should desire that the allowance which had been heretofore confined to us should be extended to them; or thought unreasonable, that we entreat in behalf of men who have received a university education, and are labouring usefully and acceptably to promote the high moral interests of a large body of the people, that they should have secured to them at least half as much as may be easily earned in this Province by an industrious labourer or mechanic. Unless such assistance is given, many congregations must speedily be deprived of religious ordinances.

Without professing to have an accurate knowledge of the religious wants of the Scottish population, we can yet state to your Excellency, on the authority of the Synod of Canada, that there are in this Province not fewer than 30 places where the settlers are chiefly Scotch, but so poor as to be wholly incapable, without assistance, of supporting a minister, or maintaining among them religious ordinances. We are sure we need not represent to your Excellency the deplorable condition of a population growing up without moral and religious instruction, or that if in any circumstances a Christian Government can be bound to provide for its people the means of religious instruction, it is when that people are evidently and confessedly incapable of doing it for themselves. Neither in respect of the Church of Scotland, for which we entreat your Excellency's support, need we appeal to the good fruits she has borne in our native land; these are known by all. And we are bold to say of the Scottish clergy in this Province, that they are surpassed by none in the zeal and assiduity with which they inculcate these great principles of religion and morals, which are alike conducive to the peace of civil society and the future welfare of immortal beings.

We have only further to state to your Excellency, that if by your Excellency's favourable representations an annual sum should be granted by Her Majesty's Government to the Scottish Church in this Province, equal to that which has been given or promised to the bishop of the English Church, it will be the means of maintaining where they are, or extending where they are not, the ordinances of religion among 20 congregations of our countrymen.

It is with sentiments of the most unfeigned respect that we submit these statements to your Excellency, and in the confident expectation that your Excellency will give to them the consideration which their importance deserves.

(signed) *John Cook*, D. D.
J. Neilson, Trustee.
Andrew Paterson, Trustee.
A. Simpson, Trustee.
D. Wilkie, Trustee and Elder.

Charles Stewart,
D. R. Stewart,
John Strong,
John Thomson,
Robert Cairns,
Joseph Morrin,
} Elders.

No. 23.
Earl of Durham to Lord Glenelg, 4 July 1838.

— No. 23. —

(No. 21.)

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

My Lord, Castle of St. Lewis, Quebec, 4 July 1838.

The state prisoners sailed this morning in His Majesty's ship Vestal, for Bermuda.

At 1 P.M. I intend leaving Quebec for the Upper Province, accompanied by Vice-Admiral Sir C. Paget.

Sir J. Colborne went on Monday last, the 2d, and will meet me either at Montreal or Kingston.

I have, &c.
(signed) *Durham*.

No. 24.
Earl of Durham to Lord Glenelg, 6 July 1838.

— No. 24. —

(No. 23.)

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

My Lord, Montreal, 6 July 1838.

I have the honour to inform your Lordship that I arrived here yesterday, and landed this day at noon, accompanied by Vice-Admiral Sir Charles Paget.

I am happy to be able to assure your Lordship that nothing could exceed the cordiality, I may say enthusiasm, with which I was received by all ranks and classes. The streets were filled with crowds, who greeted me with the loudest cheers. This reception has afforded me the truest pleasure, because it was at Montreal where I might have expected marks of coldness or disapprobation, on account of the recent ordinances, in the event of party feeling predominating over sound policy. I met, however, with no trace of opposition, either amongst the people or the merchants.

After my arrival at the Government-house I received a deputation, composed of upwards of 200 of the most respectable inhabitants of Montreal, who presented to me an address, of which I enclose your Lordship a copy, together with my answer.

I subsequently had the honour of a visit from the Catholic bishop and his clergy.

I shall remain here until Monday, when I expect to hear from Sir John Colborne, who is at Kingston, to which point of the frontiers he wishes me to direct myself in the first instance.

Lower Canada is perfectly free from internal troubles, and her frontier is not menaced by the Americans; but Upper Canada, by the last accounts from Sir George Arthur, is in a very unsatisfactory state, both as to domestic dissensions and border incursions. I am anxious, therefore, to proceed there as soon as possible.

I have, &c.
(signed) *Durham*.

Enclosures in No. 24.

(No. 1.)

To His Excellency the Right honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c. Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, Vice-Admiral and Captain-General of all Her Majesty's Provinces within and adjacent to the Continent of *North America*, &c. &c. &c. Encl. 1, in No. 24.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, inhabitants of the city of Montreal and its vicinity, respectfully congratulate your Excellency on your safe arrival in this country.

We gratefully acknowledge the wisdom and beneficence of our beloved Queen in having confided, at this important period, the government of British North America to a nobleman, whose high and varied qualifications had been honoured by so many distinguished marks of

No. 24.
Earl of Durham to Lord Glenelg, 6 July 1838.

royal favour; and we have witnessed with lively satisfaction the judgment, firmness, and impartiality evinced in the declarations of your Excellency's intended policy.

We cherish no other ambition than that of promoting the welfare of all classes of Her Majesty's subjects in these provinces, and perpetuating the integrity of the empire; and we beg to assure your Excellency that we will heartily co-operate in the arduous, but not impracticable task, of establishing peace and harmony in this province, by means of a consistent and impartial administration of the Government.

We look forward with much solicitude to the results of your Excellency's high mission, and we venture to entertain the pleasing hope, that you will ultimately reap a rich reward, in the gratitude of a united people, and in the approbation of a discerning sovereign.

(A true copy.)

Montreal, 13 June 1838. (signed) *G. Couper.*

(No. 2.)

Gentlemen,

Encl. 2, in No. 24.

I AM deeply sensible of your kindness, and acknowledge with feelings of pride and satisfaction the flattering terms in which you are pleased to notice my public services.

They are, and ever have been, freely tendered to my sovereign and my country. I now offer them to you, in the humble hope that, with your co-operation, I may be enabled to restore peace and prosperity to the Canadas.

The task is arduous, as you state, but not impracticable; more especially after the wise and judicious course which you have pursued. On my part, I promise you an impartial administration of the government. Determined not to recognize the existence of parties, provincial or imperial, of classes or races, I shall hope to receive from all Her Majesty's subjects those public services, the efficiency of which must ever mainly depend on their comprehensive nature.

Remember that you have all the same interest in the prosperity of your country; that the capital of the merchant and the estate of the seigneur, the skill of the artisan and the labour of the habitant, are alike depreciated by internal dissensions, whilst they are fostered and increased by harmony and public tranquillity. Follow up, therefore, the good work you have commenced; extend the veil of oblivion over the past; direct to the future your energies, (and where are to be found energies equal to those possessed by British merchants), and the consequences cannot be doubtful.

I will second you to the best of my abilities; and I trust that the result of our united efforts will be, to render the North American colonies as distinguished for the wisdom of their institutions, and the good conduct of their people, as they are for the magnificence of those gifts and resources which a bounteous Creator has bestowed on their territories.

(A true copy.)

(signed) *G. Couper.*

— No. 25. —

(No. 24.)

No. 25.
Earl of Durham to Lord Glenelg, 12 July 1838.

EXTRACT of a DESPATCH from the Earl of *Durham*, G.C.B., to Lord *Glenelg*, dated on Lake Ontario, 12 July 1838.

I LEFT Montreal on the 10th, and arrived at Kingston late on the following night, having passed through the Thousand Islands, where, as we subsequently learnt at Kingston, the pirate Johnson, who burned the Sir Robert Peel, was still lurking. We, however, saw no signs of him or his gang. These islands are admirably suited to his purpose; they are nearly 1,800 in number, uninhabited, rocky, covered with wood, and so close together, that the steamer, in passing, almost touches the overhanging trees; concealment therefore is easy, and the passage from one to the other, in light canoes, practicable from one end to the other. The pursuit, consequently, in row-boats by Her Majesty's Naval Officers, of such a man as Johnson, is little likely to be successful, as far as his capture by them is concerned. The moral effect, however, of this river-cruising by Her Majesty's naval forces is very great, and Captain Sandom assures me that already confidence is reviving on our banks of the river, and trade resuming its usual course.

When at Kingston, as I before stated, Captain Sandom received a report from Lieutenant Leary, who commands one of the schooners on the St. Lawrence, stating that Johnson had been seen in one of the islands on the evening of the 10th, the day before we passed, and that he was in close pursuit of him. It is so important that the insecurity, caused by his presence in the Thousand Islands, should cease,

No. 25.
Earl of Durham to Lord Glenelg, 12 July 1838.

cease, that I intend, if he is not shortly captured, to declare all the islands under martial law. This step would affect none but himself and his companions, for the islands are not inhabited.

Kingston is a highly important station, both in a commercial and military point of view. It will be the depôt of all the trade going from the west by the St. Lawrence, and the Rideau Canal and the Ottawa, to Montreal and Quebec, and its harbour is excellent for ships of any size.

I am happy to say that at every town where I have stopped, I have been most warmly and cordially received; and that nothing can be better than the feeling hitherto evinced.

— No. 26. —

(No. 25.)

No. 26.
Earl of Durham to Lord Glenelg, 16 July 1838.

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

My Lord, Niagara, 16 July 1838.

WE made Fort George early on the morning of the 13th, and proceeded up the Niagara river as far as Queenston, where I found Lieutenant-general Sir John Colborne. We then left the steamer, and rode on to Niagara, where we found the 43d regiment encamped. In the afternoon Sir George Arthur arrived, and confirmed the report which Sir John Colborne had already made to me, that the decided measures lately taken had produced the best possible effect, both on our own population and the Americans. The rapid movement and transfer, by our own steamers, of the 43d from Montreal to Niagara, their encampment there, with artillery, and the presence of the highest civil, naval, and military authorities, are such convincing proofs of earnestness of purpose, as well as of efficiency of means, that the impression produced on both sides is great and salutary.

On the following day we proceeded to Fort Erie, passing by Navy Island, and along the bank of the river where the late inroads from the American side took place. Opposite to Fort Erie, immediately on the lake, is the town of Buffalo, the head-quarters of the robbers and pirates who have so long infested this country. Its extent and appearance is surprising; the size and respectability of the buildings, and the number of masts which I could discern in the harbour, prove the value of the commerce, and the wisdom of the arrangements which have thus created in about ten years a city in the midst of the wilderness.

This prosperity is owing to the Erie Canal, which commences at Buffalo, and thus makes it the depôt of all the trade of the West flowing to New York.

All these advantages might be ours by the judicious application of not a large expenditure. The Welland Canal, which commences at the Grand River in Lake Erie, and strikes the Lake Ontario a few miles west of Fort George, has great advantages over the Erie Canal; it is open three weeks earlier in the spring, and connects the two lakes by a short passage.

If this canal was completed, and the St. Lawrence Canal, the water communication by the Lakes, the Rideau Canal, and the St. Lawrence, to the sea by Montreal and Quebec, would be complete, and all that immense trade which now flows from the west by Buffalo, and the Lockport and Grand Canals to New York, would pass through our provinces, and enrich all the towns and districts through which it was carried.

This is not a speculation of mine, but is an admitted fact by the Americans themselves; the knowledge of which leads the merchants of Buffalo to encourage these border inroads, which disturb the peace of our provinces, and prevent our attention being directed to objects which involve their complete ruin.

I enclose your Lordship an American paper, published at Oswego, in which you will find all these important considerations, to which I have briefly adverted, treated at length. I quote it for the value and correctness of its commercial anticipations, setting aside all reference to the military speculations which it contains.

No. 26.
Earl of Durham to Lord Glenelg, 16 July 1838.

I feel so strongly the importance of this subject, both as a means of restoring tranquillity to the Canadas, and of blessing the North American provinces with a degree of prosperity which has never yet been afforded them, that I feel it my duty to press it on the immediate attention of Her Majesty's Government.

I would ask of them a grant of money, to be issued on the same principles and securities as those which regulate the assistance given to harbours, railroads, canals, and other public works in England. The interest of the money advanced could be satisfactorily ensured, and I feel certain that the value of the tolls would very soon be so great that the principal would be speedily repaid. I believe, my Lord, I am not too sanguine when I assert that such a step taken would at once put an end to all discontents and disturbances in the Canadas. The Americans would see that their chances of acquiring these provinces, by holding out the temptation of a prosperity which our supremacy does not afford the Canadians, were at an end, and would discontinue their intrigues on our frontiers, whilst the inhabitants of our North American colonies would find in the increase of trade and wealth which must flow in, pursuits and occupations which would leave them neither the leisure or the desire for political agitation, or traitorous conspiracies.

On our part, we should by the judicious application of this loan, spare all the immense expense of our army and fleet, and of the volunteers and militia.

I again express my earnest conviction that the measure I recommend is, for the reasons which I have adduced above, founded on the best considerations of economy, tranquillity, and security for the present and the future; and as such I humbly submit it to the decision of Her Majesty's Government.

I have, &c.
(signed) *Durham.*

— No. 27. —

No. 27.
Earl of Durham to Lord Glenelg, 19 July 1838.

(No. 26.)

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

My Lord, Toronto, 19 July 1838.

On the 17th I reviewed the troops stationed at Niagara, the 43d regiment, and the detachments of the dragoon guards, artillery, and 24th regiment. Notice of this had been given some days previous, and the ground was crowded by many hundred Americans, who came from Buffalo and other parts, to witness the spectacle. The object which Sir J. Colborne and myself had in view was fully answered, and the effect produced on their minds by the discipline and appearance of the troops, as well as the precision of their movements in the field, was as great and salutary as could be desired. I entertained afterwards at dinner the commanding officer of the American troops at the opposite station, and all those of his countrymen whom he thought proper to present to me, together with the chief British inhabitants of the district. I am happy to say that they all informed me of the existence of the best feeling towards England amongst the respectable classes of Americans, and that a re-action was rapidly taking place even amongst those who had hitherto encouraged the late disturbances.

This latter result is, no doubt, owing to the decisive measures we have taken of late, and the efficient military and naval forces we have so rapidly concentrated on this point. But whatever may be the cause, the effect is most satisfactory.

On the 18th I left Niagara, having received two addresses and returned an answer, of which I enclose your Lordship a copy. I then visited Port Dalhousie, at the entrance of the Welland Canal in Lake Ontario, and arrived at Toronto at four o'clock. I was received by the Lieutenant-governor, Sir George Arthur, the mayor and corporation, all the authorities of the town, and a very large concourse of the inhabitants of the district. My reception was as warm and enthusiastic as at any other part of the provinces. On the following day I received the principal and most influential persons of the province, and was presented with addresses, of which I enclose your Lordship a copy, together with my answers. To-day I return to Kingston, and from thence shall proceed direct to Montreal.

I have, &c.
(signed) *Durham.*

No. 27.
Earl of Durham
to Lord Glenelg,
19 July 1838.

Enclosures in No. 27.

(No. 1.)

To his Excellency *John George*, Earl of *Durham*, Viscount *Lambton*, &c. &c. Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, and Governor-General, Vice-Admiral, and Captain-General of Her Majesty's Provinces within and adjacent to the Continent of *North America*, &c. &c. &c. Encl. 1, in No. 27.

May it please your Excellency,

We, the undersigned magistrates, clergy, members of the bar, and others, inhabitants of the town of Niagara and its vicinity, beg leave respectfully to congratulate your Excellency on your safe arrival in British North America, and to express our unfeigned gratitude to our beloved Sovereign for the gracious consideration manifested in the appointment of your Excellency, at this eventful period, to the government of this portion of the British dominions, convinced that the exalted station, constitutional knowledge, and private virtues of your Excellency pre-eminently qualify you for the discharge of so dignified and important a trust.

In cordially welcoming your Excellency to the frontier of Upper Canada, we beg leave to assure your Excellency of our undiminished attachment to the revered institutions of that glorious empire of which it is our boast to form a component part; and although political disquietude has for a time checked the hitherto rapid advancement of this noble province, we abstain from further allusion to so painful a topic, conceiving that the true interest of all in the benevolent objects of your Excellency's mission can alone be promoted by merging every feeling of political animosity in our ardent and generous efforts for the restoration of that peace and harmony so essential to our future welfare.

We confidently indulge the inspiring hope that under the vigorous and impartial administration of your Excellency's Government our country may yet realise our most fondly cherished anticipations of general prosperity.

In imploring the Divine blessing on the arduous task which your Excellency has so nobly undertaken, we fully appreciate the disinterested motives that impelled you, at this important crisis, to lend your powerful aid in preserving inviolate the untarnished glory of Britain's national honour; and no doubt exists in our minds that the labours of your Excellency will result in the perpetuation to us of those benefits we enjoy from our connexion with Great Britain, and shed a still brighter lustre on the proud eminence which your Excellency so deservedly occupies in the estimation of our Sovereign and the British nation.

To his Excellency the Right honourable *John George*, Earl of *Durham*, Viscount *Lambton*, Governor-General of Her Majesty's Provinces in *North America*.

May it please your Excellency,

We, the undersigned inhabitants of the town of Niagara and its vicinity, Upper Canada, beg leave to approach your Excellency, and in honest and sincere conviction, in the plain unsophisticated language of truth, to assure you that we hail the arrival of your Excellency as Governor-in-chief of these provinces as the brightest day that ever dawned on the Canadas.

If, sir, aught could add to the influence of your far-sounding fame, of your own personal and intrinsic merits, it is, that you are the especial appointee of our gracious and beloved Queen. Sir, you have arrived amongst us at an awful and mysterious crisis, involving alike the honour of Britain and the fate of the Canadas. Sir, in your proclamation bearing date the 29th day of May last, you declare that the disturbers of the public peace, the violators of the law, will find in you an uncompromising opponent; we, sir, on our part, respond to this your resolve. We hereby pledge ourselves to support you in the discharge of your arduous and important duties, with all our energies, physical and moral. We call on you for no pledge; we ask of you no promise. Placed as you are by your rank and station in life above the temptation of emolument, staking as you do your past political fame upon the present cast, bearing in mind that the eyes of all nations are fixed upon you, we have a sufficient guarantee that you can be influenced by no impure, no selfish motives; that you can harbour no unworthy, no sinister design, but that you are solely actuated by the laudable ambition of doing good.

In uttering these sentiments, we feel confident that we express the sentiments of the whole province, or, if there be exceptions, that they are confined to those who think that the happiness of the many should be sacrificed to the interests of the few: with such your Excellency holds no communion. We have now only to add our prayers that the Almighty may extend to you that aid which He never withholds from the deserving, and without which the arm of the most powerful is but as a broken reed.

Niagara, 21 June 1838.

No. 27.
Earl of Durham to Lord Glenelg, 19 July 1838.

Answer.

Encl. 1, in No. 27.

I FEEL very grateful to the inhabitants of Niagara for the cordial and friendly addresses with which they have greeted my arrival at this portion of my general government.

I have come here accompanied by the commanders-in-chief of Her Majesty's forces, for the purpose of inspecting the arrangements which have been rendered necessary on these frontiers by the incessant attacks of robbers and pirates. The lawless proceedings of these outlaws shall no longer continue; their speedy repression is the duty of the Government, and shall be performed. Her Majesty's peaceful subjects must not be called upon at every hour to leave their homes and their properties for the defence of the public peace.

We have ample means for the apprehension and punishment of all who dare to violate the law, and disturb the public tranquillity, and they will be speedily and summarily put in execution.

But these are not alone the duties which I have to perform; others of a higher cast devolve upon me. As Her Majesty's High Commissioner, I must propose to Her Majesty's Cabinet measures which may place on a sure foundation the welfare and prosperity of the North American Provinces. I do not for a moment doubt that I can effect this object, if I meet with the co-operation of all parties and classes.

I am happy to say that wherever I have been, in both provinces, this general aid has been tendered me. Party animosities have been softened or suspended, and the general welfare has been preferred to personal and selfish considerations. To you, and to all who have thus patriotically come forward, I tender my best thanks, and accept your assistance and support as the surest encouragement which I can receive, in the execution of the important mission confided to me by my Sovereign.

(True copies.)

(signed) *G. Couper.*

(No. 2.)

Encl. 2, in No. 27.

To His Excellency the Right honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c., Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, and Governor-General, Vice-Admiral, and Captain-General of all Her Majesty's Provinces in and adjacent to the Continent of *North America*, &c. &c. &c.

WE, Her Majesty's dutiful and loyal subjects, the Clergy of the Established Church of Upper Canada, beg leave to approach your Excellency with our cordial and sincere congratulations on your safe arrival in this province. A few weeks have only passed since your Excellency commenced the arduous duties of your exalted mission, and yet experience already justifies our confidence in your wisdom and ability, and calls forth our gratitude to our beloved Sovereign, for having selected for the government of British North America, at this important crisis, a nobleman so well qualified to maintain the dignity of the empire, and the character of Her Majesty's representative.

Deeply engaged in the duties of our sacred profession, and in strengthening the cause of order by our daily prayers and activity in diffusing religious knowledge and those principles of piety, loyalty, and obedience to the laws, for which the Church of England has ever been distinguished, we beheld with joy her rapid progress in the wilderness, notwithstanding the many difficulties which she has to encounter, and our hearts are encouraged with the hope that under your Excellency's kind auspices these difficulties will be gently removed, without detriment or just cause of offence to any other denomination, and that under the nursing care of our beloved Queen, and in accordance with your Excellency's counsel, this magnificent province will, in a short time, be filled with churches and congregations, and a numerous clergy ever prepared to support the cause of social order, and to maintain our connexion with the parent state.

Cherishing no other ambition than that of promoting the temporal and spiritual happiness of our people, and living in peace and harmony with our fellow-subjects, we fondly anticipate the greatest blessings from your Excellency's government, and earnestly hope that its remembrance may be embalmed in the grateful hearts of future generations.

That Almighty God may take your Excellency into His holy keeping, and enlighten your mind with the spirit of wisdom, is the fervent prayer of the Clergy of Upper Canada.

Answer.

I BEG that the Clergy of the Established Church will accept my best and most respectful acknowledgments for this testimony of their confidence in me.

Such a tribute coming from so venerable a body is most gratifying. Deeply convinced as I am that states as well as individuals must prosper, and deserve to flourish, in proportion as their conduct is actuated by the principles of pure religion, I shall always deem it a sacred duty to afford its ministers every encouragement in the exercise of their holy calling, know-

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ing from long experience that their lives are scrupulously devoted to the practice of the tenets which they inculcate, and to the unwearied propagation of the eternal truths of Christianity.

(True copies.)

(signed) *G. Couper.*

(No. 3.)

To his Excellency the Right honourable *John George* Earl of *Durham*, Viscount *Lambton*, Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, Vice-Admiral and Captain-General of all Her Majesty's Provinces within and adjacent to the Continent of British *North America*. Encl. 3, in No. 27.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, inhabitants of the city of Toronto and vicinity, respectfully congratulate your Excellency on your arrival at the seat of Government in the province of Upper Canada.

The selection by our gracious and beloved Queen of a nobleman of your Excellency's exalted station and commanding talents to fill the high office entrusted to your Excellency in these extensive and important provinces, is a most gratifying proof of Her Majesty's desire to maintain and advance the security and happiness of Her Majesty's loyal and devoted subjects in this distant portion of her dominions. Relying as we do in the most unreserved and cordial manner on that integrity of purpose for which your Excellency's public life has been so eminently distinguished, and fully convinced that your Excellency will foster and encourage the noble British feeling that animates the people of this province, we do not hesitate to assure your Excellency, not only as respects ourselves, but on behalf of our fellow-subjects in every part of Upper Canada, a cordial and generous support in whatever measures your Excellency may devise or adopt, having for their object the welfare of all classes of the community. And we earnestly pray, that when your Excellency shall retire from the deeply important duties with which you have been intrusted by our Sovereign, you will long live to enjoy the satisfaction of knowing that your benevolent and patriotic exertions in British North America have added to the prosperity, confirmed the peace, and increased the happiness of that portion of your Excellency's fellow-subjects over whom you have been appointed to govern, who now feel that their future destiny, as a portion of the mighty empire of which they are proud to form a part, is in a great degree dependent on your Excellency's measures.

Answer.

I thank you most sincerely for this kind and flattering expression of your sentiments.

You have well understood the feeling which animates Her gracious Majesty. Her anxious desire is to ensure the happiness and prosperity of all Her subjects; and late events must have unanswerably proved to you that for no portion of them has more solicitude been evinced, or protection afforded, than towards the inhabitants of Her Majesty's North American provinces.

They are some of the most precious ornaments to the Crown of Great Britain. Their eternal connexion with that Crown should be the object of every British statesman who values the safety and prosperity of the empire.

All my measures shall tend to that end, and I am firmly convinced that, if I obtain your co-operation, and that of the other intelligent and influential communities which compose the North American Colonies, I shall succeed in obtaining for you all political institutions which shall contribute to the permanent security of persons and property, to the possession of all just rights and liberties, and to the incalculable advancement of that agricultural and commercial prosperity, the seeds of which have been too long suffered to lie dormant and uncultivated.

For this great object I have quitted my own country. If I succeed I shall consider no labour and no sacrifices as too onerous. All I ask is, that you will assist me by the abandonment of all party and personal considerations in effecting that which is for your general welfare and happiness.

(True copies.)

(signed) *G. Couper.*

(No. 4.)

To the Right honourable the Earl of *Durham*, G. C. B., Governor-General of Her Majesty's Provinces of British *North America*, &c. &c. &c. Encl. 4, in No. 27.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, the ministers of the Wesleyan Methodist church in Upper Canada, assembled in conference, avail ourselves of the opportunity afforded

No. 27.
Earl of Durham to Lord Glenelg, 19 July 1838.

Encl. 4, in No. 27.

by our present annual meeting, most respectfully to approach your Excellency with sincere congratulation on your safe arrival at the seat of your Government, and with humble assurances of affectionate welcome, as Governor-general of Her Majesty's valuable provinces of North America, and High Commissioner, to adjust all questions affecting the future form and administration of the civil government of the Canadas.

In these congratulations and assurances, we are confident that we likewise give utterance to the sentiments and feelings of nearly 800 congregations under our pastoral instruction in this province, including from 75,000 to 100,000 souls.

Associated as your Excellency's name has long been with all that is lofty and noble in mind, disinterested and energetic in character, patriotic and skilful in statesmanship, and popular in the institutions of Great Britain, we hail your Excellency's arrival in these provinces as an additional proof, if any were wanting, of the care and solicitude of our most gracious Sovereign, for the welfare and happiness of Her Canadian subjects. The sacrifice made by a nobleman of your Excellency's rank and fortune, and connexions, in yielding to undertake the most arduous and difficult task assigned you by the Royal wish, while they awaken feelings best adapted to appreciate the difficulties which your Excellency may have to encounter, cannot fail to inspire the fullest confidence in the benevolence of your Excellency's intentions, and the equity of your prospective decisions.

While it is a matter of thankfulness to the inhabitants of these provinces, that they have the amplest security in your Excellency's principles and character, that the comprehen ive powers with which your Excellency has been invested, will be exercised to purposes the most beneficent and wise, it will also be equally gratifying to your Excellency to know and feel that those powers are to be employed in behalf of a people, the great body of whom, as far as our knowledge extends in this province, are most anxiously desirous with your Excellency, " to strengthen and consolidate the connexion between the parent state and these important colonies," a people who truly love the principles of the British constitution, and whose utmost wishes will be accomplished by the practical application of those principles in the administration of the Canadian government.

Most ardently and devoutly, therefore, will we, in our sphere, and to the best of our humble ability, and in obedience to your Excellency's parental request, " unite in the blessed work of peace and harmony," trusting that your Excellency may be enabled, by the Divine blessing, to " lay the foundation of such a system of government as will protect the rights and interests of all parties, allay all dissensions, and permanently establish, under Divine Providence, the wealth, greatness and prosperity, of which such inexhaustible elements are to be found in these fertile countries."

.. Taught by precept and example from infancy to " fear God and honour the King," it will continue to be, as it has heretofore been, our aim and employment to inculcate these essential duties upon the congregations committed to our care, whose universal determination and zeal in rallying to the maintenance and defence of the constituted authorities of the country during the late unhappy insurrection, have furnished the strongest possible proof that they yield to no class of Her Majesty's subjects in sentiments and feelings of loyalty to Her Majesty's person and government.

Our earnest prayer to Almighty God is, and will continue to be, that your Excellency may be protected, and guided, and prospered, in all your deliberations; " that all things may be so ordered and settled by your endeavours, upon the best and surest foundation, that peace and happiness, truth and justice, religion and piety, may be established among us for all generations;" and that when your Excellency shall have accomplished the objects of your benevolent mission, and shall have resigned the seals of your high offices into the hands of our Sovereign, you may enjoy the merited reward and elevated satisfaction of beholding in these provinces, a united, prosperous, and happy, as well as a loyal, people.

Answer.

I THANK you most cordially for this gratifying manifestation of your sentiments. It is a source of honest pride to me to think that my public conduct has been such as to inspire you with confidence in my intentions and actions.

My earnest desire is to render indissoluble the connexion between Great Britain and the North American provinces; to encourage, to the fullest possible extent, the practice of religion; to consolidate the rights and liberties of all classes, and to ensure permanent prosperity to agriculture and commerce.

Your co-operation and that of the congregations intrusted to your charge, will be of great assistance to me in effecting these objects, and will, I know, be afforded me in furtherance of those principles of true patriotism which have ever governed your conduct.

(True copies.)

(signed) *G. Couper.*

— No. 28. —

(No. 27.)

No. 28.
Earl of Durham to Lord Glenelg, 20 July 1838.

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

My Lord, Prescott, 20 July 1838.

HAVING landed at Kingston for a short time, to receive an address from the inhabitants, I met there Lieutenant Leary, who commands one of Her Majesty's schooners in the St. Lawrence, who reported to me that he had, a few days before, captured on one of the Thousand Islands, on the American side, two of Johnson's men with a quantity of arms and ammunition; Johnson himself managed to escape. In pursuance of an agreement with the American commanding officer, the prisoners and the arms, having been taken on American territory, were delivered up to the United States' authorities.

In my way to this place I passed closed to French Creek, the head-quarters of Johnson and his gang, within 100 yards of the town, and saw at Well's Island the wreck of the Sir R. Peel steamer; no attempt was offered to molest or annoy us.

To-morrow I shall go down the Long Sault Rapids, which will enable me to judge of the advantages to be derived from the St. Lawrence Canal, which begins at Long Sault Island, and ends at Cornwall. I understand that 50,000 *l.* is only required for its completion, and that then the water communication between Lake Ontario and Montreal will be uninterrupted.

I have, &c.

(signed) *Durham.*

— No. 29. —

(No. 28.)

No. 29.
Earl of Durham to Lord Glenelg, 24 July 1838.

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

My Lord, Montreal, 24 July 1838.

I ARRIVED here this day, having passed down all the rapids of the St. Lawrence, and personally inspected the different canals which have been constructed for the improvement of the navigation of this noble river.

I have also visited the most important points of the Upper Province, both as regards internal disaffection and American interference.

Every where, in the most insignificant village as in the most populous town, I have been received with the utmost enthusiasm; in fact, in no part of England have I ever been more warmly greeted, or received more unequivocal marks of respect from all ranks and classes.

I announce this fact to your Lordship with much satisfaction, as it is an unerring mark of the feelings with which the measures, which I have adopted for the public good, have been regarded by the great majority of the inhabitants of the two provinces.

Having suffered much from the fatigue and excitement of this expedition, I shall return to Quebec for a few weeks' repose, and then proceed to visit the French districts and the eastern townships.

I have, &c.

(signed) *Durham.*

I have the honour to enclose an address presented at Coteau du Lac, together with my reply.— *D.*

No. 29.
Earl of Durham to Lord Glenelg, 24 July 1838.

Enclosure in No. 29.

To the Right honourable the Earl of *Durham*, Governor-General of British *America*, &c. &c. &c.

Encl. in No. 29.

The Address of the Inhabitants of the Seigniories of Nouvelle, Longueuil, and Soulanges, in the County of Vaudreuil.

May it please your Lordship,

We, Her Majesty's most faithful, loyal, and devoted subjects, hail with infinite pleasure your Lordship's return to this province, as Her Majesty's Representative in this country; apart, however, from all other considerations, we are bound, in gratitude, to offer our most heartfelt thanks to your Lordship for the heroic and merciful conduct so recently and so nobly shown to our unfortunate countrymen.

Convinced, my Lord, as we are, that the strongest fortifications of Her Majesty are the hearts of Her people, and the most enduring attachment, that of gratitude, we are confident (as, we trust, the result will prove), that your policy has not been more humane than wise, and that in the magnanimous oblivion of the past will be found the best security for the future.

As faithful and loyal subjects of Her Majesty, and anxious for the success of your Lordship's administration, we should fail in our duty were we to withhold our apprehension that our connexion with the mother country, so much desired by us, can only be endangered by the continuance of those feudal burthens we have so long and so patiently borne, as well as our conviction that, in the late rebellion, many were actuated by a desire to emancipate their suffering countrymen from exactions and oppressions unknown in any other part of the free and glorious empire of Great Britain.

That we have so patiently borne these oppressions may excite your surprise; but, as a statesman, your Lordship cannot fail to perceive the impossibility of our becoming an educated and enterprising people, so long as these exactions and restraints exist.

We believe that feudal thraldom is incompatible with British institutions, commercial enterprize, or agricultural improvement; that capital, industry, and energy of character, must ever be aliens where that tenure prevails.

We beseech your Lordship, as a statesman, as well as benefactor, to examine our condition. Our confidence is in your integrity and justice. We will suggest no amelioration; and, if your Lordship should deem our feudal burthens not beyond human endurance, or human degradation, we are content that suffering shall continue the badge of all our race.

Coteau du Lac, 19 July 1838.

Answer.

I receive your kind congratulations with true pleasure. I feel happy to return to those who, like you, can justly appreciate my motives and actions.

I have exercised, in the Queen's name, one of Her Majesty's most glorious prerogatives, that of mercy, because I believed the great majority of your erring countrymen to have been deluded into a course of conduct repugnant to their real feelings and principles. The folly and criminality of these instigators having been exposed and punished, I trust I shall be spared the pain of ever again recurring to such deplorable events.

It will be the paramount duty of your countrymen to prove, by their future conduct, that I judged them aright. I have rendered myself responsible to my Sovereign for their loyalty; and I do not, for a moment, doubt that they will fully redeem the pledge I have given.

The grievances to which you allude have already attracted my attention, and I have taken steps to ensure their practical reformation, as alike required by sound policy and strict justice.

(True copies.)

(signed) *G. Couper.*

— No. 30. —

(No. 31.)

No. 30.
Earl of Durham to Lord Glenelg, 30 July 1838.

Extract of a DESPATCH from the Earl of *Durham*, G. C. B., to Lord *Glenelg*, dated Castle of St. Lewis, Quebec, 30 July 1838.

With reference to my appointments of the Executive Council having practically put an end to the Court of Appeal, I must observe it has done no such thing. On the contrary, the extreme absurdity of persons who have received no legal education sitting in appeal from decisions of the judges, has been a subject of general complaint in the province for many years. And as the right of every Executive Councillor, whether appointed by summons of the Governor or by the higher authority of the mandamus of the Crown to sit as a judge in the Court of Appeals had been established by a judicial decision in this province, by a reference to the law officers here, and confirmed by a reference to the Home Government in 1815, and by the opinion of the then Attorney-general, Sir William Garrow, and the Solicitor-general, Sir Samuel Shepherd, I determined, in compliance with what I believed to be the wishes of the public of this province, to give them as competent a Court of Appeal as my present situation would admit of.

With

No. 30.
Earl of Durham
Lord Glenelg,
30 July 1838.

With this view I abstained from summoning to the Court of Appeals those members of the Executive Council who had had no legal education, summoning, in addition to the two usual presidents (the chief justices of Quebec and Montreal), a judge of each Court, whom it is not my intention to summon to any other meetings of the Executive Council than those in which they sit judicially. I have reason to believe that this plan, as a temporary expedient, has met with general approbation.

The Court has this day closed its July sittings, having disposed of many causes, some of them of great importance, with, I believe, more satisfaction to the public than any Court of Appeal which has sat for many years.

There seems to be much misapprehension in Parliament upon the subject of the two Councils: the Executive Council under the former and still existing law, and the Special Council created by the late Act as a substitute for the two inferior branches of the Legislature under the former constitution. This, however, will form the subject of a future despatch.

— No. 31. —

(No. 33.)

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

No. 31.
Earl of Durham
to Lord Glenelg,
30 July 1838.

My Lord, Castle of St. Lewis, Quebec, 30 July 1838.

I TRUST in a few days to be enabled to transmit to you a report on the state of Lower Canada.

This communication has been alone delayed by my journey into the Upper Province, and has become more than ever necessary in consequence of the statement made by Lord Gosford in the House of Lords as to the limited extent of the disaffection which in his opinion existed.

I regret to say that, from the information I have received, and the observation I have personally made, I am warranted in coming to a directly opposite conclusion.

The disease was general, not partial, and its recurrence can alone be prevented by the most decisive remedies.

I have, &c.
(signed) *Durham.*

— No. 32. —

(No. 34.)

EXTRACT of a DESPATCH from the Earl of *Durham*, G.C.B., to Lord *Glenelg*, dated Castle of St. Lewis, Quebec, 31 July 1838.

No. 32.
Earl of Durham
to Lord Glenelg,
31 July 1838.

I HAVE had the honour to receive your Lordship's despatch of the 9th of May (No. 35), requesting me to take into consideration the claim made upon Her Majesty's Government, by the British North American Land Company, for a modification of the terms of their original agreement; and further desiring that I should report to you my opinion on the subject.

I have consequently endeavoured to make myself acquainted with all the circumstances of the case, and especially with such as bear upon the application of the company; and it is now my duty to inform your Lordship, that in my opinion it would be inexpedient, with a view to the public interests of this colony, and even unjust towards other purchasers of lands from the Crown, to comply with the desire of the company. I am also of opinion, without reference either to the public advantage, or to other private interests, that the claim of the company upon Her Majesty's Government has no reasonable foundation.

The grounds upon which I have arrived at these conclusions may be briefly stated. In the first place, as respects the public advantage, evils of the most serious nature have arisen in this province from a practice, which seems to have prevailed at all times, of neglecting to enforce the conditions upon which waste land had been granted by the Crown. In order to prevent similar evils in future, and especially in order to set on foot a comprehensive measure of colonization in British North America, which is of the highest importance with a view to the political condition as well as to the individual benefit of the inhabitants of

No. 32.
Earl of Durham to Lord Glenelg, 31 July 1838.

British origin, it appears to me essential that provision should be made for the strict performance of the conditions which have been or may hereafter be attached to grants of public land; and such a provision will, I have no doubt, form a leading feature of any general plan that I may be induced to recommend in consequence of the labours of the Commission of Inquiry respecting Crown Lands and Emigration, which I have recently appointed. For a more particular statement of the views with which I have instituted that inquiry, I beg leave to refer your Lordship to my despatch of the 29th June (No. 19); but may assert here, that those views comprise no other objects but such as relate to the advantage of individuals and of the public in these colonies. I repeat, that for the accomplishment of those important objects it appears to me indispensable that the performance of conditions attached to grants of land should be strictly enforced; and in pursuance of this conviction, I have just directed the Crown Lands department in this province to require from the holders of land purchased from the Crown, but whose instalments are in arrear, the immediate payment of all sums that remain due. With what grace, therefore, could I recommend an exceptional indulgence in favour of the British North American Land Company? By doing so I should, as it were, stultify the rest of my own proceedings as to the disposal of Crown lands, and should certainly do that which would tend to defeat their object.

For let me assure your Lordship that, in respect to the disposal of Crown lands, it will be difficult to persuade the people of this country to rely upon the observance of any rule that may be laid down. This assertion is sufficiently illustrated by a single fact. By the Treasury Instructions of 1826, it was determined that, with certain unimportant exceptions, free grants of land in this Province should thenceforth cease, and that in future public land generally should be disposed of by sale only. These instructions were confirmed and further enforced by those of Lord Ripon in 1831. Yet, what has actually occurred? Sale by auction was to be the rule; whereas since 1826 more land has been disposed of by free grant than by sale. So numerous have been the exceptions to the rule, that, in truth, there has been no rule; or rather, the exceptions have become the rule. It is but natural therefore that Her Majesty's subjects in this colony should be incredulous as to the observance of any rule.

To grant the application of the British North American Land Company, would be to add another, and a very remarkable case, to the vast mass of cases in which the Government has virtually set aside its own rules and regulations, and counteracted its own deliberate proceedings; and on this account alone, having reference to the objects which I hope to see accomplished by a very different system in the disposal of Crown lands, I should have the strongest objections to admit the claim of the company.

But, in the next place, even if it had not appeared to me so inexpedient, on the grounds above stated, for the Government to abandon important conditions which they had deliberately required, still I should have felt that, by granting such favour to the company, and insisting upon the performance of conditions with regard to other purchasers of land, Her Majesty's Government would expose themselves to a well-founded charge of partiality and injustice. The ground upon which the company claim indulgence as to the payment of their purchase-money is, that they are entitled to compensation for losses sustained through the hostility of the late House of Assembly to their undertaking, and the recent political state of this Province. It appears to me, however, considering the dislike which for years past the Canadians have evinced to projects of British colonization, that such hostility on the part of the House of Assembly might have been foreseen; and I have little doubt that it was to some extent aggravated by the company themselves, in appointing, as their first commissioners, two gentlemen who had taken a very conspicuous and decided part in the politics of the Province. The House of Assembly, moreover, seem to have been hostile to every sort of British enterprize, and it is certain that all British subjects who had embarked capital here have suffered more or less from recent political events. If the principle were admitted of a right to compensation for losses arising from the hostility of the House of Assembly, or the recent political state of the country, there would be no end to claims similar to that made by the company. The admission of such a principle would, as it strikes me, lead to endless mischief; and if the principle be not admitted, then it is impossible to comply with the wish of the company, except as a matter of favour, that is, without injustice to others from whom similar favour should be withheld. Such partiality could not but occasion discontent,

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discontent, nor fail to prove injurious to the company in the long run, by increasing the jealousy with which, even amongst the people of British origin, the terms of their purchase have been regarded.

For I need scarcely remind your Lordship that the original agreement with the company was exceptional from the general system, and exceptional in their favour. Instead of being subjected to the competition of auction at the established upset price of the district in which their land is situated, they were allowed to appropriate an immense tract, consisting in part of Crown reserves, of the most valuable land in the Province, and for a price considerably below the average price then required from all other purchasers of Crown land in that district. I have never listened a moment to those who would set aside the grant to the company. No member of the company can be more anxious than myself that the bargain to which the faith of Government was pledged should be held sacred by the Government and Parliament. But whilst I would defend to the uttermost the rights of the company, I must also regard those of the public; and I believe that by doing so, by insisting on the performance by the company of their part of the agreement, the rights which they have acquired will be most effectually defended.

Convinced that such undertakings as that of the company are greatly for the advantage of this Province as well as of the mother-country; being most desirous to promote the investment of British capital, and the settlement of a British population upon the naturally fertile wastes of Lower Canada; satisfied indeed that, except by this means, it will be scarcely possible to apply a permanent remedy to the political evils of the Province, I should have felt deep regret at being compelled, though by a sense of justice towards others, to recommend a course of proceeding which was likely to impede the operations of the company, or so to diminish their profits as to discourage similar undertakings. But I have no such apprehension. The information which I have received from various quarters satisfies me that the company made an excellent bargain with the Government; that they have acquired a property, the value of which exceeds, even now, the amount of their purchase-money; and that, if the disposal of Crown lands in this Province be placed on an uniform system, with a view to emigration, and the settlement and improvement of the country, they will be able to re-sell their land at prices sufficient to yield a very high profit on their investment of capital.

I am prepared to sustain this opinion by the most conclusive of arguments. Supposing the company to entertain a different opinion, and to be desirous of disposing of their property in Lower Canada without any other loss than may be due to an injudicious expenditure, I should recommend to Her Majesty's Government to assent to a proposal from them for the resumption by the Crown of the land purchased by them. * * * * * * * * * *
Believing that the land which has been sold to the company would, in the course of time, and under an improved system in the disposal of Crown lands, sell for a great deal more than they have agreed to pay, I am of opinion that terms favourable to them might be accepted with advantage to the public. * * * *
If the company should be disposed to cede their property to the Crown upon some such terms, and such a measure were agreeable to Her Majesty's Government, then I should recommend that an agent of the company be authorized to enter into and conclude an agreement with me here, where alone an accurate knowledge of all the circumstances of the case can be obtained, and, of course, that I should be authorized to enter into and conclude such an agreement on the part of the Crown.

In confirmation of the opinion here expressed, I wish to state that there is now before me an application, from gentlemen of known wealth and the highest respectability, for a grant of Crown land to the extent of 225,000 acres, in the immediate neighbourhood of the British North American Land Company's main grant, but not including any Crown reserves, upon the very same terms as those which were required from the company; and that, in consequence of my belief that such terms are not sufficiently favourable to the public, I have found myself compelled to decline the proposal. The chief ground upon which their application has been urged is, that a company, the stockholders of which reside in the colony, "should have the same advantages and facilities as those granted to the British North American Land Company.

No. 33.
Earl of Durham
to Lord Glenelg,
9 August 1838.

— No. 33. —

(No. 36.)

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

My Lord, Castle of St. Lewis, Quebec, 9 August 1838.

THE information which my residence here has enabled me to obtain as to the condition of the two Canadas is of such a nature as to make me doubt whether, if I had been fully aware of the real state of affairs in this part of the world, any considerations would have induced me to undertake so very difficult a task as is involved in my mission. I do not, however, wish it to be understood that I consider success impossible. On the contrary, I indulge in a hope that if the difficulties and dangers that are now so apparent to me are appreciated by Her Majesty's Government, so as to lead to their adoption of measures sufficiently comprehensive and decided to meet the emergency, the objects of my mission may be accomplished.

My sole purpose, therefore, in adverting to circumstances which threaten a different result is to impress upon your Lordship my own conviction, which has been formed by personal experience, that even the best informed persons in England can hardly conceive the disorder or disorganization which, to the careful inquirer on the spot, is manifest in all things pertaining to Government in these colonies.

Such words scarcely express the whole truth: not Government merely, but society itself seems to be almost dissolved; the vessel of the State is not in great danger only, as I had been previously led to suppose, but looks like a complete wreck.

It is needless to point out the wide difference between this representation and the opinions on the subject which were, and probably still are, held by Her Majesty's Ministers; but since one who had the benefit of whatever information they possessed is nevertheless compelled to acknowledge that the truth, as it now appears to him, differs so much from his previous conceptions of it, what can he infer but that distance has precluded them from acquiring an accurate knowledge of the whole subject? This is my belief, and it becomes, therefore, an imperative duty on my part to convey to your Lordship the exact impressions which I have derived from personal inquiry and observation. I will not shrink from the performance of that duty.

On the present occasion, however, I propose to confine myself to a particular class of circumstances; that is, to those which relate to the Lower Province, and are of the most unfavourable character; my object in making such a selection being to state without reserve, in a separate despatch, certain facts and opinions, as to which, as coming from me, it is most inexpedient that any publicity should be given for the present: this despatch will therefore be marked "Secret."

The first point to which I would draw your attention, being one with which all others are more or less connected, is the existence of a most bitter animosity between the Canadians and the British, not as two parties holding different opinions and seeking different objects in respect to Government, but as different races engaged in a national contest.

This hatred of races is not publicly avowed on either side; on the contrary, both sides profess to be moved by any other feelings than such as belong to difference of origin; but the fact is, I think, proved by an accumulation of circumstantial evidence more conclusive than any direct testimony would be, and far more than sufficient to rebut all mere assertions to the contrary. If the difference between the two classes were one of party or principles only, we should find on each side a mixture of persons of both races, whereas the truth is that, with exceptions which tend to prove the rule, all the British are on one side, and all the Canadians are on the other. What may be the immediate subject of dispute seems to be of no consequence; so surely as there is a dispute on any subject, the great bulk of the Canadian and the great bulk of the British appear ranged against each other. In the next place, the mutual dislike of the two classes extends beyond politics into social life, where, with some trifling exceptions again, all intercourse is confined to persons of the same origin. Grown-up persons of a different origin seldom or never meet in private society; and even the children, when they quarrel, divide themselves into French and English like their parents. In the schools and the streets of Montreal, the real capital of the province, this is commonly the case. The station in life, moreover, of an individual of either race seems to have no

influence

influence on his real disposition towards the other race; high and low, rich and poor, on both sides—the merchant and the porter, the seigneur and the habitant —though they use different language to express themselves, yet exhibit the very same feeling of national jealousy and hatred. Such a sentiment is naturally evinced rather by trifles than by acts of intrinsic importance. There has been no solemn or formal declaration of national hostility, but not a day nor scarcely an hour passes without some petty insult, some provoking language, or even some serious mutual affront, occurring between persons of British and French descent. Lastly, it appears, upon a careful review of the political struggle between those who have termed themselves the loyal party and the popular party, that the subject of dissension has been, not the connexion with England, nor the form of the constitution, nor any of the practical abuses which have affected all classes of the people, but simply such institutions, laws, and customs as are of French origin, which the British have sought to overthrow and the Canadians have struggled to preserve, each class assuming false designations and fighting under false colours—the British professing exclusive loyalty to the Crown of England, and the Canadians pretending to the character of reformers. Nay, I am inclined to think that the true principles and ultimate objects of both parties, taken apart from the question of race, are exactly the reverse of what each of them professes, or, in other words, that the British (always excluding the body of officials) are really desirous of a more responsible Government, while the Canadians would prefer the present form of Government, or even one of a less democratic character. I shall have more to say on this head presently, having mentioned the subject here only for the purpose of citing another fact which tends to prove the existence of a deep-rooted national sentiment on both sides. Such a contradiction between the real and avowed principles of each party, could not have occurred if all the people had been of one race, or if every other consideration had not given way to the sentiment of nationality.

This general antipathy of the Canadians towards the British, and of the British towards the Canadians, appears to have been, as it were, provided for at the conquest of the province, and by subsequent measures of the British Government. If Lower Canada had been isolated from other colonies, and so well peopled as to leave little room for emigration from Britain, it might have been right at the conquest to engage for the preservation of French institutions, for the existence of a "Nation Canadienne;" but, considering how certain it was that, sooner or later, the British race would predominate in the country, that engagement seems to have been most unwise. It insured such a strife as has actually taken place; for, notwithstanding the division of Canada into two provinces, for the purpose of isolating the French, the British already predominate in French Canada, not numerically of course, but by means of their superior energy and wealth, and their natural relationship to the powers of Government.

It was long before the Canadians perceived that their nationality was in the course of being over-ridden by a British nationality. When the Constitutional Act bestowed on them a representative system, they were so little conversant with its nature, and so blind to the probable results of British emigration, that they described the constitution as a "machine Anglaise pour nous taxer," and elected to the House of Assembly almost a majority of Englishmen. But with the progress of British intrusion, they at length discovered, not only the uses of a representative system, but also that their nationality was in danger; and I have no hesitation in asserting that of late years they have used the representative system for the single purpose of maintaining their nationality against the progressive intrusion of the British race. They have found the British pressing upon them at every turn, in the possession of land, in commerce, in the retail trade, in all kinds of industrious enterprize, in religion, in the whole administration of government, and though they are a stagnant people, easily satisfied and disinclined to exertion, they have naturally resisted an invasion which was so offensive to their national pride.

The British, on the other hand, impeded in the pursuit of all their objects, partly by the ancient and barbarous civil law of the country, and partly by the systematic opposition of the Canadians to the progress of British enterprize, have naturally sought to remove those impediments, and to conquer, without much regard to the means employed, that very mischievous opposition. The actual result should have seemed inevitable. The struggle between the two races, conducted as long as possible according to the forms of the constitution, became too violent to be kept within those bounds. In order to preserve some sort of govern-

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ment, the public revenue was disposed of against the will of the Canadian people represented by their Assembly. The consequent rebellion, although precipitated by the British from an instinctive sense of the danger of allowing the Canadians full time for preparation, could not, perhaps, have been avoided; and the sentiment of national hostility has been aggravated to the uttermost, on both sides, by that excessive inflammation of the passions which always attends upon bloodshed for such a cause, and still more by this unusual circumstance, that the victorious minority suffered extreme fear at the beginning of the contest, and that the now subdued majority had been led to hope everything from an appeal to force.

There seems to me only one modification of this view of the subject. The employment by the Canadians of constitutional and popular means for their national purpose, has taught some of them, consisting chiefly of the most active and able, higher political views than such as belong to the question of nationality. These men are not at heart friendly to the barbarous institutions of their ancestors, but would readily adopt a more enlightened system, if they could do so without losing their own importance. Their necessary dependence on the prejudiced mass has alone restrained them from joining in many of the views for the improvement of the country which are entertained by the British. They have also learned to estimate the practical abuses of Government which affect all classes, and to wish for many reforms without reference to Canadian nationality. They even had, to some extent, succeeded in disseminating their opinions amongst the mass of their countrymen, and they are not unlikely to play a valuable and distinguished part under any new system of government that may put an end to the strife between hostile races; but, unfortunately, their number is so small as scarcely to affect my opinion of the temper of the Canadian people.

Supposing my view of that subject to be correct, your Lordship will readily understand that the bulk of the Canadian people are as disaffected as ever, and that the British part of the population regard the Canadians with vindictive jealousy. The Imperial Government is distrusted by both parties; by the Canadians because they fear, or rather expect in gloomy silence, that advantage will be taken of their late rebellion to remove the very causes of dissension, by giving a British character to the institutions and laws of the province, so that there shall no longer be any serious impediment to British colonization and enterprize; and by the British, on the other hand, because they doubt whether the Imperial Government will ever sufficiently understand the state of parties here, to approve of the great changes which must inevitably take place, if another period of legislative strife, and perhaps another rebellion, are to be averted.

And here I must notice a fact of great importance. The more discerning of the Canadians are perfectly aware that if the authority of the United States should ever extend to this country, whether by means of war or of a peaceful union, the peculiar institutions, and even the language, of French Canada would be extinguished as soon as possible, yet are they willing, with the exception perhaps of a considerable portion of the clergy, to incur the loss of all that they have held most dear, in order to gratify the sentiment of vengeance that has now got possession of them. I would not exaggerate the amount of the sacrifice that they are willing to make for the sake of revenge. It is right to add, therefore, that, in my opinion, they almost despair, come what may, of preserving those ancient usages and that distinct nationality, in defence of which they have struggled so many years.

But be this as it may, whether they are moved by a sentiment of mere vengeance, or by revenge mixed with despair, I am well convinced that an American invasion of this province would be highly acceptable to most of them.

Satisfied of the disaffected temper of the Canadians as a people, I have naturally taken pains to acquire correct information as to the state of feeling in the United States as respects these colonies and the mother country.

All reports concur in assuring me that the present government of the Union, and a vast majority of the American people, are decidedly adverse to a rupture with England. Having already conveyed this assurance to your Lordship, I need not dwell upon it here; but there are points in the state of American feeling towards these colonies, and especially near the frontier, of so much moment as to require particular notice.

In the first place, although some persons in the States, and the more so if they have visited this country, are aware of the true nature of the late rebellion, it is a common opinion in America that the contention in this province has been between the executive government on the one hand, supported by a minority, and the majority

jority of the people, without distinction of race, on the other; and that the subject of disagreement has been, practical grievances and general principles similar to those which formed the matter of dispute between England and her old colonies in America.

As their fathers rebelled in defence of those old English charters of local self-government, which placed local taxation and revenue at the sole disposition of popular assemblies, so they think that the Canadian majority was justified in withholding supplies, and in resisting by force the violation of their constitution by the British Parliament.

They believe, in a word, that the majority in Lower Canada has contended for the maintenance of popular rights, and that arbitrary government is the aim of the minority. The mistake is easily accounted for: it is only on the spot that one learns how the subject of strife in Lower Canada has been a question of nationality; everywhere else, the false professions and designations employed by both parties, combined with the plain fact that the contest has been between a majority and a minority, is apt to mislead the inquirer, by keeping out of view the distinction of races. If the whole subject were understood by Americans, they would probably sympathize with those who are of the same origin as themselves, who resemble them in numerous particulars, and who seek objects which, if this country were under American rule, would be unhesitatingly accomplished, as similar objects have been attained in the Dutch colony of New York, and the French colony of Louisiana.

There is no people under the sun to whom the feudal institutions and most defective civil laws of the Canadians would be more intolerable, than to the Anglo-Saxon race of the United States. But they have misunderstood the case. They have fallen into the not uncommon mistake of confounding means with ends. Believing that the means employed by the Canadians, in the Assembly, were constitutional and popular, and seeing that the British, being in a minority, necessarily clung to the local executive and the imperial authority; above all, regardless of the accident (for so it may be termed with respect to the question of nationality), by which the Canadians happen to constitute a majority, Americans have supposed that the objects of both parties in the colony were of the same nature respectively, as to the means on which each party has relied. An ever active sentiment of national pride is, perhaps, the most remarkable feature in the American character. It might have been foreseen, therefore, that the Americans, proudly recollecting the origin and progress of their own revolutionary war with England, should sympathize with the Canadians, or rather with the majority, who happen to be Canadians. Whether they may ever comprehend the false position assumed by both parties in this colony, I will not venture to predict; but so long as their view of the subject shall remain unchanged, they will, I believe, continue to sympathize with that side which has the air of contending for democratic principles and popular objects, and to wish that it may prevail over the other, which appears in the light of an oppressive minority.

Secondly: Having regard to the national pride of America, it is certain that the temper and tone of the British party towards that country, tends to stir up angry passions throughout the Union, and especially near the frontier, where articles from the colonial newspapers are generally reprinted. Hitherto the national pride of America has not been deeply wounded by these means (and I do all in my power to mitigate the national influence of such affronts to it); but I am credibly informed that these unceasing attacks have not been without effect, and that they form a subject of growing irritation.

Thirdly: By the existence of a state of things out of which it is easy to see that war might spring, the American mind becomes more and more familiar with the idea of war. Differing as the Americans do, from all other nations, in the universal diffusion of an active interest in public affairs, and in a habit which belongs to all ranks, of calculation as to the future, they are led, by the political state of these provinces, to discuss the subject of war hypothetically, if I may use the expression; they are reminded of the events of the last war, and one of them in particular, the capture of Washington, which inflicted a deep wound on the national pride, and by frequently conversing on such exciting topics, they gradually approach that state of feeling under which the government, necessarily impelled by the people, would find it hard to maintain friendly relations with England.

Fourthly: It is not to be denied that the distracted state of these colonies occasions no little inconvenience to the frontier states, and to the federal government;

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it calls for an increase of the army, a sort of military array on the frontier, and the exercise of new powers by the executive, which are opposed to the habits, if not the institutions, of the American people. All the expense and annoyance are attributed to the British Government. A dispassionate American admits that his government is bound, at whatever cost, to prevent aggressions on the Canadian frontier, and he does not deny that the obligation has been inadequately fulfilled; but when reminded of the inefficiency of the laws for that purpose, and the weakness of the American executive, he answers that the true source of every difficulty is the weakness of the British Government in Canada, which has not maintained order amongst its own subjects, nor is able to protect the United States from such a nuisance as arises from the conduct of British refugees within their territory. This retort, without stopping to examine its justice, suffices to show that, until order shall be restored in these colonies, a great cause of irritation in America will probably continue to operate with increasing force.

Fifthly: The boundary question, being much mixed, as it unavoidably is in America, with considerations arising out of the state of these colonies, forms a more active element of hostile feeling than would otherwise have been the case.

Lastly: It is certain that, amongst the frontier population of the United States, which, I should observe, has very greatly increased since the last war, there exists a numerous body of men, young, active, energetic, and self-relying, who, from various motives, long for an opportunity of invading Canada. Some of them are moved by an opinion, which it would not be easy to question, that if these colonies were laid open to American enterprize, a great impulse would be given to the industry and trade of that part of the States which now constitutes the frontier; some are influenced by one or other of the circumstances to which I have already adverted; some by that love of adventure merely which belongs to the American character; and some by a reasonable calculation of the gain and distinction which, in troubled times, usually fall to the most active and daring. The manner in which these people talk of invading the Canadas exemplifies the self-reliance of American citizens. They do not expect that the federal government should open the way for them by military operations; they even avow their belief that, in a contest of troops only, the British would surely prevail; but they reckon upon the friendly disposition towards them of great numbers on this side, and upon swarming over the line in such numbers, and at so many places simultaneously, as to get possession of the country in spite of military obstacles. I do not pretend to weigh such calculations, but state them as they have been reported to me. If I am not misinformed, it is well that I should remind Her Majesty's Government of the invasion of Texas by a body of American citizens, who, without the least aid from their government, have seized an extensive country, defeated armies, got possession of the soil, and established themselves as a nation, with constitutional government, a judicial system and municipal institution, as complete as any in America. There is certainly no immediate danger of such an attack upon these colonies; and I have mentioned the subject only for the purpose of indicating the probable character of the contest that would take place here, if all the causes now in operation should finally produce one. It was in consequence of all these important considerations that, during my late residence on the American frontier, I courted the most unreserved communication with all respectable Americans, for the purpose of impressing them with a more sound and accurate conception of the real state of things; with a more just appreciation of our system of government, and its real objects; and with a due sense of the danger which would arise to themselves, if their government remained a passive spectator of all these proceedings, tending, as they did, to destroy all confidence in its executive strength, and all reliance on the national honour.

I am happy to say that my efforts have been successful, that a great change has taken place in public feeling on the American side, and that my exertions to restore tranquillity and good order are encouraged and supported by the most influential portions of the press and of society in the United States.

Except as it has been noticed for the purpose of explaining the temper of the Canadians, and one of the causes of irritation in the United States, a most important subject yet calls for your Lordship's attention; I allude to certain feelings and views of the British section of Her Majesty's subjects in this province.

Your Lordship is already informed of the general satisfaction expressed by the British party at my having, when I assumed the Government, avoided connecting myself with the old body of officials. It may be supposed that the body in question

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tion did not participate in that sentiment. I very soon became aware therefore of the existence of some difference between the official body and the British in general. Subsequent observation has convinced me that, except in their common hostility to the Canadians, there is no sympathy between these two classes.

That this should be the case is really not surprising when one discovers how all the powers of Government have been neglected and abused for many years past in this colony. Not to go further back than the commencement of serious differences between the Canadians and British as such; since, when the two branches of the legislature have neglected their proper functions to pursue the contest between races, a long time has passed without anything like beneficial legislature, and not a few of the many evils resulting from this perversion of legislative powers have, by a very natural mistake, been attributed to neglect and corruption in the Executive. At the same time it must be confessed, that the Executive has been both neglectful and corrupt. I need not remind your Lordship of those flagrant instances in which the Imperial Government has been led to interfere for the correction of administrative abuses, nor is this a fit occasion for entering on that subject in detail; but I am bound to add, that the Government of this province, including the administration of justice, has not obtained the respect of the people, and that, according to all my information, there has been ample ground for the distrust and suspicion with which authority is regarded.

This leads to another feature in the disposition of that portion of the British inhabitants which may be termed "independent." Their main object, as I have before explained, has been to remove the obstacles which the ignorance, the apathy, and the ancient prejudices of the Canadians opposed to the progress of British industry and enterprize; to substitute, in short, for Canadian institutions, laws and practices, others of a British character. In this pursuit they have necessarily disregarded the implied, not to say precise, engagement of England to respect the peculiar institutions of French Canada. But the Imperial Government, on the contrary, never quite forgetting that ancient pledge, has rather extended its protection to the Canadians than espoused the cause of the British settlers. It were to be wished, perhaps, that this policy had been consistently pursued from the beginning, as in that case a British community might not have grown up here with feelings, wants, and a degree of power which make it simply impossible to pursue such a policy now. But it has not been consistently pursued. By a variety of measures, and especially by promoting emigration to this colony, the Imperial Government have really undermined the Canadian nationality which they perhaps intended to preserve. A similar contradiction may be observed in their treatment of the national struggle which has ended in civil war. Never taking a decided part with either section in the colony, they have wavered between them, now favouring the one and then the other, but neither decidedly, and finally displeasing both sections in about the same degree. Under such a system, if it may be called one, no governor could have pursued a consistent course, or have attached either the Canadians or the British to the Imperial Government.

I should not permit myself to say this reproachfully, even if there were room for an accusation, which in my humble opinion there is not; but I mention it as a necessary result of the original false step, and for the purpose of explaining the present disposition of the British party. Deeply offended at every measure or decision of the Imperial Government which thwarted their own British or Anti-Canadian views, they are also wanting in that respect for the supreme authority which is sometimes felt by the discontented subjects of a decided and vigorous Government. Restrained (though not entirely) from the public expression of their sentiments by a hope that the Imperial Government may yet accomplish the object on which their heart is set, they have no such reserve amongst themselves, nor do they at all care who knows of the language commonly held by them when speaking of the Imperial Government, and the connexion between this colony and the mother country.

I am assured that the leaders and their followers, one and all, are in the habit of declaring, that rather than be again subject to the French (meaning, rather than see another majority of Canadians in the Assembly), they shall find a way to take care of themselves.

I should be sorry to report any idle conversation upon such a topic, but have no doubt that language of this kind is commonly uttered with an earnestness of manner which should prove its sincerity. And this is not all: for the sentiments expressed are enforced by deliberate arguments, such as that, considering the exasperation of the Canadians produced by late events, there can be no permanent safety for

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people of British descent, except by rendering the colony thoroughly British; and that if the Imperial Government should not provide for the security of its British subjects, the time will soon be past for obedience to any other law than that of self-preservation.

That such views are currently expressed amongst the British party, there can be no doubt; and I am the more disposed to believe them sincerely entertained, because, having reference to a future contingency, they are not inconsistent with those loud professions of loyalty and attachment to England by which the British minority has hitherto sought to enlist the Imperial Government against the Canadian majority. At present, of course, such views are merely speculative, everything being held in suspense by the large powers awarded to me, and by the hope of a happy settlement of affairs upon my recommendation.

Notwithstanding, however, the very unfavourable representations contained in this despatch, I am induced to hope with confidence, that success may ultimately attend the measures with respect to this country which have been recently adopted by the Imperial Government. My principal reason for this assurance is drawn from the good effect already produced by decided and vigorous action. The exercise of the very extensive powers placed in my hands seems to have operated as a sort of charm, like oil poured upon troubled waters. At this moment all is still. A stranger would hardly believe that the country had been recently distracted by civil war. Expectation for the future is, I trust, taking the place of angry passions occasioned by the past. I must, however, conclude by assuring your Lordship, that whatever hopes I entertain of the future, depend altogether on the supposition that Her Majesty's Government and Parliament will not shrink from the adoption of permanent measures of remedy and prevention, proportioned to the greatness of the difficulties with which I have yet to contend, and will sanction such measures as will effectually provide for the abstraction of all legislation on British interests from the control of a French majority. I am of opinion that this great object can be legitimately effected without violence to Canadian rights, and in strict accordance with the soundest principles of constitutional government.

The time is fast approaching when I shall be enabled to bring these measures under the consideration of Her Majesty's Government; and in the meantime I recommend to their serious attention the important points to which I have referred in the present communication.

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(No. 40.)

No. 34.
Earl of Durham to Lord Glenelg, 11 August 1838.

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

My Lord, Castle of St. Lewis, Quebec, 11 August 1838.

I HAVE the honour to enclose your Lordship copies of a Despatch which I received from Sir Charles Augustus Fitzroy, of my answer to his Excellency, and of my communication to Her Majesty's Minister at Washington.

I have, &c.
(signed) *Durham*.

Enclosures in No. 34.

(No. 1.)

My Lord, Government House, Prince Edward Island, 7 July 1838.

Encl. 1, in No. 34.

I REGRET to have to inform your Lordship of an act of piracy which has been perpetrated off the North Cape of this island by an American fishing schooner on a British merchant vessel, the barque Sir Archibald Campbell, from Miramichi, bound to Sunderland. It appears that this vessel struck on a reef off the North Cape on the evening of the 17th of June; the Royal Gazette of the 26th of June, which I have the honour to transmit herewith, contains an account of the manner in which this outrage was committed, and which, in

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in consequence of the local authorities near the spot not being sufficiently aware of the necessity of making an official report to the Government, was the first intimation I received of its occurrence.

I immediately directed the Attorney-general to issue instructions to an intelligent magistrate to proceed without loss of time to the North Cape to take the depositions of the master and crew of the Sir Archibald Campbell and others, who could give authentic information as to the facts, and I was in hopes I should have been able to forward them to your Lordship by this post, but from some informality in the magistrate's certificates I have been obliged to return them for correction. As soon as I receive them again I will transmit them, but in the mean time I am enabled to state to your Lordship that the account in the Gazette is, as far as it goes, perfectly correct, and that I have ascertained the name of the schooner to be "The Four Brothers," of Castine, in the State of Maine.

I avail myself of this opportunity to inform your Lordship that the American fishermen have been particularly troublesome and daring, during the present season, in the depredations they have committed on our fisheries on the coasts of this island, where they literally swarm. They not only fish close in shore, regardless of the limits within which they are bound by the treaty between the British and American Governments not to encroach, but they enter the harbours and bays in the more remote parts of the colony to carry on their operations, landing when and where they please to commit petty depredations, and to smuggle, and by their numbers and audacity set all attempts to restrain them at defiance, there being no local force at my disposal adequate to keep them in order.

I would, therefore, beg to suggest to your Lordship, that a ship of war should be directed to cruize off the shores of this island, bordering on the Gulf of St. Lawrence, during the fishing season; for if the Americans are permitted to continue their depredations, and the destruction of the fish and bait on these coasts with impunity, our fisheries, which must, at no distant period, become a source of great wealth to the population of this and of Her Majesty's other colonies in the neighbourhood, will be utterly destroyed. I should add, that the schooner still remains on the coast, having taken the precaution to paint out her name. She can, however, I am informed, be easily recognized.

I have, &c.
(signed) *Chs. A. Fitzroy.*

His Excellency
The Right Hon. the Earl of Durham, G.C.B.
&c. &c. &c.

(True Copy.) (signed) *G Couper.*

(No. 2.)

EXTRACT from the Royal Gazette, Vol. 8, dated *Charlotte Town, Prince Edward Island,* Tuesday, 26 June 1838, No. 412.

ON the evening of Sunday, the 17th instant, the barque Sir Archibald Campbell, Tait, from Miramichi for Sunderland, in a thick fog, and the sea running high, struck on the reef off the North Cape of this island, and is a complete wreck. The crew got on shore the same night. Next morning a boat put off for the wreck for the purpose of saving what they could. An American fishing vessel was seen leaving the wreck; and on the boat's crew arriving on board, they found that the cabin had been rummaged by the Americans, the lockers broken open, and that all the provisions and every article they could lay their hands upon in the cabin carried off, except two flags. Not contented with this, they had also carried off the hawsers, two new sails, part of the rigging, and the jolly boat. Another boat had, in the meantime, put off from the shore after the American, and demanded the barque's jolly-boat, which they observed her to have in tow. On their demanding it, they were told to be off or they would sink them. The shore boat was close enough to discern the name of the schooner, and the port she belonged to. Encl. 2, in No. 34.

Captain Tait and his crew were busily employed landing all they could from the wreck, but as there were no less than 48 sail of American fishermen close in upon the reef, he was under continual apprehension that some of their crews would land and plunder what he had saved.

It is certainly high time that some means were adopted to put an end to such depredations on our coasts, and for the protection of the fisheries from the Americans. A few days ago there were a number then in the harbour of Richmond Bay carrying on their avocation.

(True Extract.)
(signed) *G. Couper.*

No. 34.
Earl of Durham to Lord Glenelg, 11 August 1838.

(No. 3.)

Sir, Castle of St. Lewis, Quebec, 1 August 1838.

I HAVE the honour to acknowledge the receipt of your despatch (No. 1), dated 7th July 1838, and to inform you that Vice-Admiral Sir Charles Paget will, as soon as possible, dispatch Her Majesty's sloop the Pearl, Captain Lord C. Paget, who will be stationed, with the Charybdis, in the Gulf of St. Lawrence during the remainder of the season, for the protection of the fisheries.

Encl. 3, in No. 34.

I shall communicate with Her Majesty's minister at Washington, on the subject of the outrage committed on the barque Sir Archibald Campbell.

I have, &c.
(signed) *Durham.*

His Excellency Sir Charles A. Fitzroy,
&c. &c. &c.

(True copy.)
(signed) *G. Couper.*

(No. 4.)

Sir, Castle of St. Lewis, Quebec, 1 August 1838.

Encl. 4, in No. 34.

I HAVE the honour to enclose your Excellency a copy of a despatch which I have received from his Excellency Sir Charles A. Fitzroy, stating the particulars of an outrage committed on the wreck of a British vessel by the crew of an American schooner. You will, of course, deem it right to bring the subject immediately under the notice of the United States Government.

Her Majesty's sloop of war the Pearl, Captain Lord C. Paget, will be dispatched as soon as possible, with orders to cruize, in company with the Charybdis, Captain Gore, in the Gulf of St. Lawrence, and afford all due protection to the fisheries.

I have, &c.
(signed) *Durham.*

His Excellency
Henry Stephen Fox, Esq., Minister Plenipotentiary,
Washington.

(True copy.)
(signed) *G. Couper.*

— No. 35. —

(No. 41.)

No. 35.
Earl of Durham to Lord Glenelg, 12 August 1838.

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

My Lord, Castle of St. Lewis, Quebec, 12 August 1838.

I HAVE the honour to enclose your Lordship the copy of a communication which I have just received from his Excellency the Commander of the Forces.

I have, &c.
(signed) *Durham.*

Enclosure in No. 35.

My Lord, Sorel, 10 August 1838.

Encl. in No. 35.

I HAVE the honour to acquaint your Excellency, that I returned yesterday from my tour of inspection of the Western districts of the Upper Province; and to transmit to you the accompanying copy of a communication which I have forwarded to the General Commanding-in-chief upon the subject of the military arrangements considered necessary, in consequence of the alarm occasioned on the frontier, by the reported hostile schemes of the American marauders associated with the refugees from Upper Canada.

The best spirit prevails in all the townships on the river St. Clair, which I visited; and at Sandwich, Amherstburg, and in the townships in that vicinity. In fact, few instances of disaffection appear to have occurred in that section of the country; and I am inclined to believe that the information received by the local government respecting the encouragement held out to the American gangs on the United States frontier, cannot be depended on.

His Excellency the Earl of Durham, G.C.B.
&c. &c. &c.
Governor-general.

I have, &c.
(signed) *J. Colborne.*

(True copy.) (signed) *G. Couper.*

— No. 36. —

(No. 43.)

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

No. 36.
Earl of Durham to Lord Glenelg. 15 August 1838.

My Lord, Castle of St. Lewis, Quebec, 15 August 1838.

VICE-ADMIRAL Sir Charles Paget being on the point of leaving this station, and proceeding to Bermuda and the West Indies, I cannot refuse to myself the gratification of reporting to your Lordship, that the interests of Her Majesty's service have been essentially promoted by the able, zealous, and unremitting co-operation which that officer has afforded me, in his capacity of Commander-in-Chief of Her Majesty's naval forces.

The arrangements which he has made so promptly and vigorously for the establishment, on a proper footing, of the armaments on Lakes Erie and Ontario, and the personal inspection which he made, in my company, of the whole line of frontier, have greatly contributed to the restoration of confidence and the maintenance of public tranquillity in both Provinces.

I feel it therefore my bounden duty to transmit to Her Majesty's Government my cordial acknowledgments of Sir Charles Paget's services, and to request that this expression of my sentiments may be communicated to the Lords Commissioners of the Admiralty, whose instructions the Vice-Admiral has so ably carried into effect.

I have, &c.
(signed) *Durham*.

— No. 37. —

(No. 46.)

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

No. 37.
Earl of Durham to Lord Glenelg, 25 August 1838.

My Lord, Castle of St. Lewis, Quebec, 25 August 1838.

WITH reference to my despatches (No. 17) of the 29th June and (No. 21) of the 4th ultimo, upon the subject of the State prisoners sent from this province to the Bermudas, I have now the honour to enclose the copy of a despatch from Major-general Sir Stephen R. Chapman, stating the arrangements made for the detention of the State prisoners in those islands, together with the copy of my reply.

I have, &c.
(signed) *Durham*.

Enclosures in No. 37.

(Extract.)

(No. 1.)

My Lord, The Bermudas, 28 July 1838.

I HAVE had the honour to receive your Lordship's despatch of the 3d instant by Her Majesty's ship Vestal, conveying to me a copy of the Ordinance passed in Lower Canada on the 28th of June, among other purposes for banishing from the province to this colony eight persons therein named, lately implicated in treasonable practices; and announcing to me that those persons are now sent to the Bermudas, and requesting me to take charge of them, and place them under such restraint as I may deem advisable. Encl. 1, in No. 37.

I have also been favoured with a private letter from Vice-admiral Sir Charles Paget enclosing to me a paper signed by those individuals, promising on their parole of honour not to escape, nor attempt to escape from the Vestal, nor from the Bermudas during their residence here; accompanied by a note from your Lordship to the Admiral, intimating your Lordship's feeling sure their parole may be depended upon, in which sentiment the Admiral appears to concur, and transmits these papers to me as an inducement for allowing the parties to be [*sic in orig.*] treated.

I shall not withhold from your Lordship that this matter has occasioned me no small degree of anxiety.

Upon reference made to the law officers of the Crown in this colony to ascertain what authority I have to impose restrictions on those prisoners in the event of their being landed

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Earl of Durham to Lord Glenelg, 25 August 1838.

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here, those gentlemen were of opinion that those persons are not liable to be treated as convicts transported to the hulks here, and that I have no authority to impose restrictions upon them with a view to their detention in this colony, and that I should have no legal means of enforcing any such restrictions, by confinement or otherwise. This opinion was confirmed by the chief justice, and I could not but feel that in permitting them to land here, without my being armed with powers to restrain them from escaping, I should be taking on myself a heavy degree of responsibility.

I should also observe to your Lordship, that from the great abundance of small decked boats in this colony, and numerous coves all along the coast, great facilities exist, especially in the summer months, for clandestinely quitting these islands; and instances have frequently occurred of debtors and other persons going off in that way and arriving safe in America, or falling in with American coasters, while there are merchant vessels keeping up a constant intercourse with New York and other ports.

On the other hand, I could not but feel deeply sensible that to refuse to allow these offenders to land, and thus perhaps occasion their being sent back to Canada, might prove very embarrassing to your Lordship, and might possibly have a tendency to thwart some of your measures for restoring tranquillity to those provinces, in which I should feel most happy to co-operate to the extent of my ability; and as your Lordship expressed such confidence that their parole was to be relied upon (and your means of judging of that are so superior to my own), I ultimately came to the conclusion that I should most effectually meet your Lordship's wishes, and promote the public service, by permitting those persons to land here.

I have accordingly requested Captain Carter to permit them to land upon their signing a paper, promising on their parole of honour, during their residence here, not to go beyond such limits as may from time to time be prescribed to them by the governor for the time being. They have signed the paper, and landed at Hamilton.

But I trust I may be excused for earnestly requesting your Lordship that they may be removed from here at the earliest moment compatible with the public service, and that no others persons under similar circumstances may be sent hither, where there exist such difficulties in securing them, and such serious objections to their being allowed to reside.

The limits to which I contemplate restricting them for the present, are between the Ferry and Somerset-bridge, a space of 18 or 20 miles, which will exclude them from the naval yard and St. George's.

I have, &c.

His Excellency the Earl of Durham,
&c. &c. &c.

(signed) *S. R. Chapman,*
Governor, &c.

(No. 2.)

Sir, Castle of St. Lewis, Quebec, 24 August 1838.

Encl. 2, in No. 37.

I HAVE the honour to acknowledge the receipt of your Excellency's despatch of the 28th July, and to tender you my best thanks for the promptitude with which you have met my views with regard to the State prisoners sent to Bermuda from this province. I have also to express my entire concurrence in the arrangements which your Excellency has made for their safe detention.

I have, &c.

His Excellency
M. Gen. Sir S. R. Chapman, K. C. H.
&c. &c. &c.

(signed) *Durham.*

(True copy.)
(signed) *G. Couper.*

— No. 38. —

(No. 47.)

No. 38.
Earl of Durham to Lord Glenelg, 25 August 1838.

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

My Lord, Castle of St. Lewis, Quebec, 25 August 1838.

I HAVE the honour to enclose your Lordship copies of a correspondence which has taken place between Sir George Arthur and myself, on the subject of the late convictions for high treason in Upper Canada.

I have, &c.
(signed) *Durham.*

No. 38.
Earl of Durham to Lord Glenelg, 25 August 1838.

Enclosures in No 38.

(No. 1.)

Encl. 1, in No. 38.

Sir, Castle of St. Lewis, Quebec, 16 Aug. 1838.

I HAVE been applied to by members of the family of Samuel Chandler and Benjamin Waite, now under sentence of death in Upper Canada, for high treason, as under the late Act against foreigners, for an extension of the Royal mercy to those persons, and for the grant to them of Her Majesty's pardon.

I am unwilling to interfere with the course which, in your Excellency's opinion, might seem the most advisable; and I feel that, without full information and report of the circumstances, I have no means of forming an accurate judgment whether any person convicted of treason by a competent court, is or is not a fit object of the Royal clemency, or the extent to which it might be proper to grant it. But on a careful and attentive perusal of my commissions and instructions, it appears evident that I am called upon to exercise my judgment, as Governor-general of British North America and Her Majesty's High Commissioner, in all cases arising out of the recent insurrection in the two provinces.

You are in possession of a copy of Lord Glenelg's Despatch addressed to me on the 3d of April last, No. 8, in pursuance of which I opened my commission of Governor-general and High Commissioner, as well as that of Governor-in-chief of Lower Canada, on my arrival here. It is, therefore, unnecessary to do more than refer your Excellency in general terms to the tenor of that Despatch, but I am not aware whether your Excellency is in possession of any copy of Lord Glenelg's Despatch to me of the 21st of April 1838, No. 21, chiefly upon the subject of the revolt in both the Canadas; it is, therefore, as well that I should state to your Excellency some of the passages in that Despatch.

Lord Glenelg observes: "The late revolt in the Canadas has been followed by the arrest and imprisonment of a very considerable number of persons both in the Lower and Upper Province. In regard to Upper Canada, I have not even to this time been informed of the course contemplated by the local authorities for bringing such prisoners to trial." After giving various instructions as to Lower Canada, his Lordship proceeds: "From the very commencement of the late disturbances it has been, as your Lordship is aware, the earnest desire of the Government that the utmost lenity, compatible with public safety, should be exercised towards the insurgents. This is the principle inculcated in my various despatches to the authorities in Lower and Upper Canada." "The course of events and the circumstances in which we may venture to assume you will find the Provinces, will supply, as it appears to us, new facilities as well as fresh inducements to the carrying of this principle into effect." "In order to enable you to act with promptitude in this respect, you are relieved from the restriction by which your predecessors were prevented, in the case of treason, from giving an absolute pardon, or granting more than a respite, till the Royal pleasure should be known. In your commission, that restriction is omitted."

In consequence of these instructions, I have to request that your Excellency will forward to me a full report of the cases of all the prisoners, with the judges' report upon them, and that your Excellency will also favour me with your own views upon each particular case, and a statement, as far as in your power, of the previous character and conduct of each of the prisoners, and any recommendation to mercy which the juries who tried them may have given.

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

I have, &c.,
(signed) *Durham.*

(True copy.)
(signed) *G. Couper.*

(No. 2.)

Encl. 2, in No. 38.

My Lord, Cornwall, 20 August 1838.

I HAVE the honour to acknowledge the receipt, whilst on a tour of inspection through the eastern districts of this Province, of your Lordship's despatch, No. 7, of the 16th instant, framed upon an appeal which has been made to your Lordship by the members of the family of Samuel Chandler and Benjamin Waite.

The measure which your Lordship has considered yourself called upon to adopt in consequence of this appeal, that of depriving the officer administering the Government of Upper Canada of the powers expressly vested in him by the Royal Commission, is so important in its nature and in its inevitable effects, that I must beg your Lordship will excuse my delaying to reply to it, at any length, until my return to Toronto on Monday next.

In the meantime, I beg at once to inform your Lordship of the course it had been, after long and most anxious consideration in the Executive Council, my determination to pursue towards all the prisoners convicted in the affair on the Niagara frontier.

Morrow, the leader of the expedition, who was an American, has been executed; if any distinction could be made, when all the cases were reported, the worst offender, being a subject of Her Majesty, was also to suffer capitally; the remainder were to be pardoned on condition of transportation, or some other secondary punishment.

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Earl of Durham to Lord Glenelg, 25 August 1838.

The cases of Waite and Chandler are very aggravated; but before I left Toronto, I directed their sentences to be respited.

That your Lordship has misapprehended the intention of the instruction of the Secretary of State which you have quoted, I think may be deduced from the whole tenor of Lord Glenelg's correspondence with me, respecting the cases of the persons convicted of treason, and, more especially, from a despatch which I have very recently received, dated the 12th ultimo (July), in which his Lordship conveys to me the gratifying assurance that Her Majesty's Government entirely coincides in the measures I have adopted, and the views I have expressed myself to entertain in this important matter, and directly refers me to the power of pardoning for treason vested in the officer administering this government under your Lordship's commission as Governor-in-Chief.

Encl. 2, in No. 38.

His Excellency
The Right Hon. the Earl of Durham, G.C.B.,
&c. &c. &c.

I have, &c.
(signed) *Geo. Arthur.*

(True copy.)
(signed) *G. Couper.*

Encl. 3, in No. 38.

(No. 3.)

Sir,

Montreal, 21 August 1838.

Dated 14 July 1838.

I HAD the honour of receiving here, yesterday, your Excellency's communication of the 20th instant, to which I defer replying, as I am on the point of setting out for Quebec. In the meantime, I enclose your Excellency the copy of a despatch which I have received from the Secretary of State.

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

I have, &c.
(signed) *Durham.*

(True copy.)
(signed) *G. Couper.*

Encl. 4, in No. 38.

(No. 4.)

Sir,

Castle of St. Lewis, Quebec, 24 August 1838.

IN referring again to your Excellency's despatch of the 20th instant, I cannot but notice with very sincere regret some indication of an absence of that spirit of perfect and cordial co-operation which I have hitherto found, and expected to continue to find, in our communications. I neither intended, nor was I able to "deprive your Excellency of the powers expressly vested in you by the Royal commission." My purpose was simply to exercise that superintending authority, as Governor-general, which is vested in me by my commissions, and my instructions, in terms too clear to admit of doubt or discussion. Nor could I, without, in my own judgment, a dereliction of duty, abstain from exercising it in a matter, which not only belongs to that class of "more considerable questions" on which I am required to "maintain uniformity of principle in the administration of the different North American Governments," but which has been specifically referred to me in repeated despatches. I cannot agree with your Excellency in supposing that I could have misapprehended the many passages quoted in my despatch of the 16th instant, or that I could have erred in inferring from the whole tenor of Lord Glenelg's correspondence with me, that the disposal of the political prisoners in Upper, as well as in Lower Canada, was a matter especially committed to my control; nor do I think it possible for me to err in concluding, from Lord Glenelg's despatch of the 14th July, of which I had the honour of transmitting your Excellency a copy on the 21st instant, that his Lordship's intentions, and even directions, must have been, that you should take no step with regard to the persons implicated in the late rebellion in Upper Canada, without communicating and making sure that you were acting in concert with me.

I am aware of the power of pardoning for treason possessed by you in virtue of that clause in my commission which devolves on you, during my absence, all the powers therein entrusted to me; and which, consequently, invests you with powers of pardon never hitherto committed to the Governors of these Provinces. But I know of nothing that exempts this delegated authority from the general subordination to instructions from the Governor-general.

Your Excellency's explanation of the policy which you had determined on adopting with regard to the prisoners convicted at Niagara does not immediately strike me as indicating a course so obviously correct that I can dispense with the information which I required in my despatch of the 16th instant. I cannot quite admit the propriety of selecting some one subject of Her Majesty to share the fate of Morreau, the leader of the expedition, who happened to be a citizen of the United States. The fate of Her Majesty's subjects should be

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be determined on a view of their own conduct, and of the circumstances which have led the juries to accompany their verdict of guilty, in every case, with a recommendation to mercy.

I must, therefore, repeat my request for the reports, statements and information, which I previously desired your Excellency to transmit to me; taking for granted that you will, as a necessary consequence, respite all the prisoners until I shall have had time to make the inquiries which I propose.

I have, &c.
(signed) *Durham.*

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

(True copy.)
(signed) *G. Couper.*

— No. 39. —

(No. 57.)

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

No. 39.
Earl of Durham to Lord Glenelg, 12 Sept. 1838.

My Lord, Castle of St. Lewis, Quebec, 12 September 1838.

THE period fixed for the trials of the murderers of Lieutenant Weir and Chartrand is passed, and the result of the proceedings, in both cases, is precisely that which I anticipated, and to which I referred in my despatch, No. 18, when I stated to your Lordship that, in political cases, "little expectation was to be entertained of a conviction by the ordinary juries before the regular courts."

In the case of the murderer of Lieutenant Weir, the principal witness was induced to keep out of the way, and the prosecution for the Crown was rendered impossible. In these circumstances, the judges remanded the accused until next term.

In the case of Chartrand, the most clear and indisputable evidence of the guilt of the prisoners was adduced, but the jury, French Canadians (all others upon the panel, as had been foreseen, having been got rid of by the challenges of the accused, allowed by the existing law), brought in a verdict of "not guilty."

I have applied for a copy of the judge's notes, which shall be transmitted to your Lordship. According to the present state and practice of the jury law, an equitable decision on any case, I fear, is hardly to be expected.

What has passed in these instances proves, I think, clearly, the sound policy of the course I pursued with regard to the prisoners charged with treason. It is now certain that no jury but a French Canadian could have been empanelled, and that the acquittal of one and all would have been certain, however strong the evidence of their guilt.

I have, &c.
(signed) *Durham.*

— No. 40. —

(No. 58.)

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

No. 40.
Earl of Durham to Lord Glenelg, 13 Sept. 1838.

My Lord, Castle of St. Lewis, Quebec, 13 September 1838.

HER Majesty's steam-ship the Medea arrived yesterday morning, having on board two deputations from Nova Scotia and Prince Edward's Island, selected and sent by Sir Colin Campbell and Sir Charles Fitzroy, for the purpose of conferring with me on the subject of the general arrangement for the future government of the North American Provinces.

The deputations are composed as follows:

From Nova Scotia: Mr. Johnston, Solicitor-general; Mr. Uniacke, Member of the Executive Council; Mr. Young, Member of the House of Assembly; and Mr. Almon, banker and merchant.

From Prince Edward's Island: Mr. Dalrymple, Speaker of the House of Assembly; Mr. Haviland, Treasurer of the Island; Mr. Pope, merchant and Member of the House of Assembly.

 I shall

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Earl of Durham to Lord Glenelg, 13 Sept. 1838.

I shall lose no time in conferring with these gentlemen, who seem to me well qualified to give me all the information I require.

I have every reason to believe that they are all impressed with the necessity of a general union of the Provinces, as the most likely measure to preserve their connexion with the British Crown.

I have, &c.
(signed) *Durham.*

No. 41.
Earl of Durham to Lord Glenelg, 17 Sept. 1838.

— No. 41. —

(No. 59.)

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

My Lord, Castle of St. Lewis, Quebec, 17 September 1838.

I HAVE the honour to enclose copies of a Report on the subject of militia claims to land, made to me by the Commission of Crown Lands and Emigration, and also of a Proclamation which I have issued in consequence of that report.

At the same time it behoves me to assure your Lordship, that if any reliance is to be placed on the concurrent testimony of all from whom I have derived information on this subject, the Report in question contains but a faint description of the injury inflicted on this Province, and of the cruel injustice done to the militiamen, by the manner in which the intentions of the Home Government, with respect to these claimants, have been defeated by the local executive.

The intention of the Prince Regent in awarding land to those officers and men of the militia, who had loyally and gallantly served during the last American war, was, in part, it may be presumed, to promote the settlement of wild lands and the consequent prosperity of the Province, but chiefly, there can be no doubt, to bestow upon that body of loyal and gallant men, some extraordinary recompense for the privations and dangers which they had cheerfully incurred in defence of the country. I am satisfied that neither result was obtained in any but so slight a degree as to be scarcely worth notice. But on the other hand results occurred, as to the great majority of cases, precisely opposite to those which the Home Government had in view. The official delays and obstacles interposed between the militia claimants and the grants to which they were entitled,—the impossibility, in many cases, of ever obtaining a grant even after the most vexatious impediments and delays,—the mode of allotting the land in such a manner that the grant, when obtained, was often worth nothing at all, and seldom worth the expense and trouble of obtaining it,—the necessity of employing and paying agents acquainted with the labyrinths of the Crown lands and Surveyor-general's departments,—the expense, uncertainty, and harassing trouble attendant upon the pursuit of such a claim,—all these circumstances, for which I am compelled to believe that the public offices were alone to blame, had the effect, I am convinced, in the majority of cases, of converting what the Prince Regent had intended as a boon, into a positive injury to the militiamen. As a natural consequence, the militiamen disposed of their claims, often for a mere trifle, to land speculators who never intended to settle upon the grant, and who have, for the most part, kept the land in a state of wilderness, thereby defeating the only other intention with which the Home Government could have determined on making these grants. From a careful inspection of the evidence taken on this subject, from official gentlemen as well as others, I am led to concur entirely in that part of the Commissioner's Report, which states, that " there has been the maximum of injury to the Province, with the minimum of benefit to the militiamen."

This crying grievance has been over and over again, and in various forms, represented to the Government, but without any attempt, as far as I can discover, to provide an adequate remedy for it. I am encouraged to hope that the measure on which I have determined, may, as respects the claims yet unsettled, be the means of carrying into effect, however tardily, the objects of the Prince Regent, by conferring a considerable boon on these meritorious but long-disappointed claimants, and conducing to the settlement of the lands which may thus be alienated by the Crown.

I have, &c.
(signed) *Durham.*

No. 41.
Earl of Durham to Lord Glenelg, 17 Sept. 1838.

Encl. 1, in No. 41.

Enclosures in No. 41.

(No. 1.)

Militia Claims.

Special Report to his Excellency the Governor-General, from the Commissioner of Crown Lands and Emigration.

To his Excellency the Governor-General.

My Lord,

Having nearly concluded the inquiry into the disposal of Crown lands and Emigration in the Province of Lower Canada, I beg leave to report upon the subject of the militia claims to grants of land; a matter which appears to require the immediate interposition of Government, and cannot, without great inconvenience, be postponed till the completion of the inquiry in the neighbouring Provinces, which must precede any general report.

It appears that grants of land to individuals who served in the militia during the last American war, were first directed by instructions which, in 1818, were transmitted by the Home Government to the Duke of Richmond, then Governor of the Province, under which all subsequent proceedings seem to have been taken; though as no record of these instructions is extant in the colony, and no measures have been adopted to procure a copy of them from England, it is impossible to determine positively the parties to whom grants of land were directed to be made. From an Act of the Provincial Parliament, 59 Geo. 3, c. 23, appropriating 3,000*l.* for the survey of townships within which the grants were to be situated, it would seem that the instructions referred almost entirely to the embodied militia.

Under this Act just referred to several townships were surveyed and laid out, and the 2d of November 1822, a proclamation was issued by Lord Dalhousie, directing all persons who had served in the six battalions of embodied militia, and such as had marched to the frontier, to bring in their claims before the 1st of May 1823. The time fixed by this proclamation as the limit within which claims were to be made, was afterwards enlarged by another proclamation to the 1st of May 1824; and again, on the 29th of July 1829, by another proclamation, to the 1st of August 1830.

Under these proclamations claims to a very considerable extent appear to have been made, and upwards of 200,000 acres have been granted. A question however arose, at an early period, as to the character of the individuals to whom the original proclamation was intended to apply. In addition to the six battalions of embodied militia there were several corps of the sedentary militia, which had been called out during the course of the war, and had, for a short time, marched to the frontier; the members of which contended that they were entitled, under the terms of the proclamation, to the same benefit as those who had belonged to the six battalions of embodied militia. The claims of many of these individuals were favorably received by the Executive Council, and upon their report recommending grants, two or three persons received location tickets. When, however, the subject was brought under the notice of Lord Dalhousie, he refused to confirm the report of the council in favour of an individual belonging to the sedentary militia, who had for a short time marched to the frontier, on the ground that the proclamation was only intended to apply to the six incorporated battalions. It does not appear that any claims of this nature have been subsequently allowed, with the exception of two or three, which were sanctioned during Lord Dalhousie's temporary absence from the colony, by Sir Francis Burton, the Lieutenant-governor.

All the grants made to claimants under this proclamation were made upon conditions of settlement. The grantee was to reside upon his property during a period of three years, to erect a dwelling-house, and clear and cultivate four acres of land. These conditions were complained of as burdensome; and, in 1837, Lord Gosford issued a proclamation, since confirmed by instructions from the Secretary of State for the Colonies, stating that the claims of the officers and men who served in the embodied militia during the last American war had been brought under the notice of Government, and that such of the officers and men as had lodged their claims previous to the 1st of August 1830 should obtain land free from all conditions, except that of performing the public and joint labour required by the laws of the Province. By the same proclamation a board was constituted, to whom all claims were to be referred.

The claimants before that board have been of three classes: 1st, those who had served in the six battalions of embodied militia, and had lodged their claims previously to 1830; 2d, those who had belonged to other corps, and who, according to the rule laid down by Lord Dalhousie, had no title under the original proclamation, but who had lodged their claims before 1830; and 3d, those of whatever class who had not made their claims before that period. The number of individuals of the first class amounts to 2,195, of the second class to 2,598, and of the third to 1,669.

Upon the claims of the first class no question can arise. According both to the spirit and the letter of the proclamation of Lord Gosford, they must be admitted. As little doubt can arise as to the third class, who are expressly excluded by the same proclamation. But there appears to be some difficulty with regard to the second class, arising partly from the ambiguous language of the proclamation of Lord Dalhousie, and partly from the fact that some few individuals belonging to that class have actually been admitted to the benefit of

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the proclamation. The conduct of Lord Dalhousie himself is explicit as to the meaning that he attached to his own proclamation; and it may be inferred from the sum granted by the Assembly, for the purpose of surveying, that they did not contemplate these cases, which, if admitted, would have doubled the amount of land required as included in the proclamation; since they would, in that event, have hardly granted a sum so entirely inadequate to the purpose. It is however stated that there were one or two corps who were incorporated in the same manner, and performed the same services, as the six battalions. If this is the case, individuals belonging to these corps, as their services were equal, would seem to be entitled to similar reward; and the terms of the original proclamation, as well as those of all the addresses of the House of Assembly on the subject, and of the last proclamation, are sufficiently comprehensive to include them. The question for the decision of the Board to whom these claims have been referred appears to be a question of facts. It would appear that those who were embodied and actually served on the frontier in the same manner as the six battalions, ought to be considered as entitled to the benefit of the proclamation, while all but these are altogether excluded. It may be mentioned that the exclusion of those belonging to the third class, who, notwithstanding ample notice and two separate enlargements of time, neglected to make any claim in due time, is strictly in accordance with the view expressed by the Home Government in their Despatch to Lord Gosford, and with Lord Gosford's answer to the House of Assembly.

The proclamation of Lord Gosford, directing that letters patent for the land to be granted should contain none of the conditions formerly imposed, was founded upon an address from the House of Assembly, representing those conditions as onerous to the militiamen, and destructive of the value of the grant. There appears to have been much justice in this representation; since the greater part of the locations allotted to militiamen were distant from settlement, and the expense of clearing and cultivating the requisite quantity of land, away from a market, and with no practical roads leading to the spot, was very considerable, amounting in many cases to more than 5 *s.* per acre, upon the whole grant, while in this part of the province land was selling as low as 1*s.* 3*d.* per acre. The performance of these settlement duties would not have been burdensome if the individual acquiring the land had been about to establish himself upon it; but in a great number of cases the grantee had land elsewhere, from which he did not choose to remove, or the lot assigned to him might be 15 or 20 miles from a settlement, and in all such and similar cases the conditions were performed solely with a view to enable the individual performing them to obtain his patent. The grant was so situated generally, as to be useless for the purpose of settlement; and the conditions to which it was subject rendered it of no value in any other point of view.

The House of Assembly, in urging the abandonment of these conditions, seems, however to have overlooked, or to have been ignorant of circumstances which have appeared in evidence before this commission, and which would entirely defeat the intentions of the House, so far as they were desirous of conferring advantages upon the militiamen. It has been stated by all the witnesses who have been examined upon this subject, that the majority of the militiamen have already disposed of their claims, and that this has been done, in most instances, for very inadequate considerations. They were induced to do this partly by the difficulty and trouble of urging their claims in person, and the expense of employing an agent, and partly by the nature of the conditions which they were required to fulfil. To such an extent is this sale of militia claims stated to have been carried, that it would seem almost as though the militiamen themselves were not more interested in any facilities for the acquisition of these grants, or relaxation of the conditions attached to them, than any other class of the community, and the benefit which, by a compliance with the wishes of the Assembly, Government designed to secure for a numerous and deserving class, would be reaped chiefly, if not entirely, by speculators, by whom these claims have been bought, and who, even supposing their bargain with the militiamen to have been fair, had assuredly no claim to any particular consideration from the Government. They had purchased the claims subject to the conditions of settlement, and paid a proportionably low price for them; and the abandonment of these conditions was a boon to them entirely uncalled for by the real circumstances of the case.

It is, in fact, obvious, that upon any system of land-granting to such a body as the militia, a similar result to that which has been described as having actually taken place, must to a certain extent be expected. The majority of the militia were French Canadians, who have not hitherto been, and are not now an emigrating people. Those of them, too, who might have been disposed to settle upon their lands, would find that the desert round them, consisting of lands which had been granted to non-resident militiamen, rendered their success as settlers impossible. They would have been isolated, or thinly scattered over a large tract of wilderness, away from society, and removed from all manner of religious instruction, to which they attach the highest importance; deprived of all succour, and without the superintendence to which they had been accustomed. Under such circumstances nothing could be expected but that they would sell their land, and generally for an inadequate consideration, since they would estimate its value by what, under the circumstances, it seemed to be worth to them. From the evidence of Mr. Morin, this appears to be so much the case, that any indication of a favourable disposition on the part of Government in regard to these claims, has had no other effect than that of stimulating speculation in them, and instead of inducing the militiaman to obtain the lands for himself, in order that he or his family might settle upon them, has only increased in some small degree the price which he could obtain for his claims.

But while the grant of land, as land being useless to the militiaman, is merely equivalent to

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Encl. 1, in No. 41.

to him to a grant of some very small variable amount in money, its effects upon the Province have been most injurious. Under the claims of the militia of 1775, upwards of 230,000 acres, and under those of the last American war, upwards of 217,000 acres have been granted, by far the largest part of which is still perfectly waste and unsettled. Whole townships, which have been granted in this manner, have not a single settler established upon them. In this manner it has happened that a system which was designed as a means of settling the Province, and of rewarding those who had enlisted in its defence, has proved one of the great impediments in the way of the former object, and has accomplished the latter in the smallest possible degree. There has been the maximum of injury to the Province with the minimum of benefit to the militiamen. And a similar result must, it would appear, necessarily follow a perseverance in the same system. There is no probability that 300,000 or 400,000 acres, to which valid claims might be established, if granted in the same manner, would be settled any more than the 450,000 acres which have already been granted, or that the benefit to the militiaman would be greater in any appreciable degree. It becomes therefore a matter of importance in every point of view, to frame some plan by which the intentions of Government in offering this bounty might be carried out, by which justice may be done to the claimants, while the interests of the public are secured.

The most effectual measure for this purpose appears to be the following. That any claim established should be considered as entitling the claimant to an amount equivalent to the value of the quantity of land awarded to him, at the average selling price of Crown lands during the last ten years, and that an order for this amount should be given to him, which should be accepted as money at any sale of Crown lands. In all cases, the order should be delivered to the claimant himself, or in the event of his death, to his legal representatives, or upon the production of an order, signed by him in the presence of witnesses after due notification of the intentions of Government in all parts of the Province.

By this precaution, the militiaman would be secured as far as possible in the enjoyment of the benefit designed by Government; and only such a sale of his claim as ought in equity to be held valid, could be enforced against him.

I have, &c.

Quebec, 8 September 1838. (signed) *Charles Buller*,
Chief Commissioner of Crown Lands and Emigration.

(No. 2.)

PROVINCE OF LOWER CANADA.—Signed, *Durham*.

By his Excellency the Right Honourable John *George*, Earl of *Durham*, Viscount *Lambton*, &c. &c. &c.

A PROCLAMATION.

Encl. 2, in No. 41.

WHEREAS, in the year 1818, his Royal Highness the Prince Regent was graciously pleased by his royal instructions, to direct that grants of land should be made to certain persons who had served in the militia of the Province, during the last war with the United States of America; and whereas the time within which applications for such grants were to be made, which was originally fixed by proclamation for the 1st day of May 1823, was by two subsequent proclamations enlarged to the 1st day of May 1824, and the 1st day of August 1830; and whereas by a proclamation, dated the 22d day of February 1837, it was declared, that such officers and men of the embodied militia, has had lodged their claims previous to the said 1st day of August 1830, should obtain land according to their rank, and that letters patent should issue for the same, without any further condition than that of performing the public and joint labour required by the laws of the Province; and whereas our Commissioner appointed to inquire into the disposal of waste lands, the property of the Crown in this Province, has reported to us that difficulties have arisen as to the persons entitled to the benefit of the said royal instructions and proclamations, and also that great public inconvenience has resulted from the grants of land which have been already made to militiamen under the authority of the same, without any equivalent benefit having been thereby produced to the persons to whom such grants have been made, and that it is expedient that some alteration should therefore be made in the system hitherto adopted: I do hereby notify and declare, that only those of the officers and privates of such corps of militia as were actually incorporated and embodied during the last American war, and served precisely in the same manner and for a like period of time as the six battalions of select and embodied militia, together with the officers and privates of such six battalions, whose claims were duly lodged before the said 1st day of August 1830, are entitled to grants under the aisd royal instructions and proclamations. And further that in the event of any claim to a grant of land under the same being allowed, the persons entitled thereto shall receive an order for such a nominal amount of money, as would be equal to the value of the land to which he would be entitled, at the rate of the average price for which waste lands, the pro-

No. 41.
Earl of Durham to Lord Glenelg, 17 Sept. 1838.

Encl. 2, in No. 41.

perty of the Crown, have been sold at public sale during the last ten years; and that such order shall at any future sale of Crown lands in the Province, be accepted and taken as money in payment for land purchased, so far as the same will extend. And further, that in no case shall any such order be given upon the allowance of any claim, unless to the party whose claim shall have been allowed, or in the event of his death, to his legal personal representatives, nor unless upon the production of an authority in writing, signed by him or them after the allowance of such claim, in the presence of two witnesses, one of them being the priest of the parish, and the other a notary public, not being the agent employed to prosecute such claim, nor having any interest therein. And I have appointed John Davidson, Tancred Bouthillier and Joseph Rene Kimber, esquires, to form a Board for the investigation and adjudication of such claims, to meet at the Union Buildings every Tuesday and Friday, at twelve o'clock, and Jean Langevin, esquire, to be the secretary of the said Board.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said Province of Lower Canada, the 11th day of September, in the year of our Lord 1838, and in the second year of her Majesty's reign.

By his Excellency's command,
(signed) *D. Daly*,
Secretary of the Province.

— No. 42. —

(No. 61.)

No. 42.
Earl of Durham to Lord Glenelg, 18 Sept. 1838.

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

Castle of St. Lewis, Quebec,
18 Sept. 1838.

My Lord,

I HAVE the honour to enclose your Lordship the copy of a despatch which I have addressed to Sir George Arthur, and of which I beg your serious consideration.

I have, &c.
(signed) *Durham*.

Enclosure in No. 42.

Encl. in No. 42.

Sir, Castle of St. Lewis, Quebec, 18 September 1838.

I HAVE the honour to acknowledge the receipt of two despatches from your Excellency, bearing date the 29th and 31st ultimo, enclosing, together with other documents, copies of a despatch from Lord Glenelg, bearing date the 12th of July, and of a minute of the proceedings of the Executive Council of Upper Canada on the 27th ultimo. They all refer to the disposal of the prisoners lately convicted of high treason and felony at Niagara, and to my despatches on that subject of the 16th ultimo.

I am much pleased to find from your Excellency's despatches that I have no reason to apprehend any cessation of that cordiality which marked our first communications. Entire co-operation on your part, and on that of the other Lieutenant-governors of British North America, I regard as one of the essentials to success in my most arduous undertaking. And your Excellency may be quite confident that I shall not endanger the maintenance of that desirable state of things, by needless interference in the administration of any of the provinces subject to me as Governor-general, or by calling on the Lieutenant-governors to abandon any public duty in deference to my instructions.

I wish that I could observe the same tone which pervades your Excellency's despatches in all the proceedings of the government of Upper Canada. But I regret to find, in the minute of the proceedings of the Executive Council, which you have transmitted to me, a tone of criticism in reference to my policy, which could not with propriety have been under any circumstances used by that body, which it was particularly unseemly for it to address your Excellency, but which shall not tempt me into the controversy which it seems to invite.

I am happy, however, to perceive that there is no apparent difference between the view which I have always taken of my powers and duties as Governor-general and those which are expressed by your Excellency and your Executive Council. My inclination does not prompt me, any more than my instructions direct me, to exercise a constant interference in the details of the administration of affairs in the Upper Province. These I have left and shall continue to leave to your Excellency and the local authorities, wherever the course which you or they may pursue would not necessarily interfere with the larger policy which I consider

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I consider applicable to all the provinces of British North America. This distinction I have endeavoured consistently to observe in all my acts with reference to the various applications addressed to me from Upper Canada. Whenever my interposition in the ordinary administration of affairs in that province has been desired, I have invariably referred the applicant to your Excellency, or informed him that I could not interfere. Nor have I failed to mark my sense of this necessary distinction between your functions and mine in the very case in which your Excellency appears to think that I have confounded them. When the urgent nature of the cases of Chandler and Waite compelled me to take some instant steps, in order to prevent the practicability of any general policy with regard to the political prisoners from being compromised by the adoption of a definitive course with respect to those men, I think that the very mode of my interference showed that it was directed, not to the particular cases, but to the general policy involved in them; for I desired your Excellency to give me the means of considering the proper course to be adopted with regard not only to those two, but to all the prisoners then under sentence for treasonable offences. I conceived, in fact, that a period had arrived in which it became imperative on me immediately to consider the cases of all the political prisoners in Upper Canada, in order to avoid the inconvenience which, as Lord Glenelg has observed in the despatch of the 12th July, must ensue, if "a different principle should be observed in Lower and in Upper Canada." If I intended, in compliance with Lord Glenelg's instructions, to consider the question of a "general amnesty," it was surely but necessary to delay the execution of prisoners who might be included in it.

It is to the great question thus referred to me by Lord Glenelg in former despatches, as well as in the one which you have transmitted to me, that I wish to invite your Excellency's serious attention. The question of a "general amnesty" involves the whole policy of punishment. The extension of pardon on any general principle implies the determination of the objects and the degrees to which punishment is to be applied. On this it is that Lord Glenelg desires that the Governments of Upper and Lower Canada should act in concert. Nor should I have waited for such specific reference of this particular question: I should have conceived the consideration of it imposed on me by my duty as Governor-general. Every hour's experience of passing events convinces me more and more that the disposal of the prisoners implicated in the late insurrections is a matter on which, above all others, the British Government should not appear to be acting on different and conflicting principles in the two Canadas; that it is one of those "more considerable questions" on which I am instructed to "maintain uniformity of principle in the administration of the different North American Governments."

My line has already been taken. The whole of the cases arising out of the late insurrection in Lower Canada have been disposed of in one way or another. The gaols are emptied; all the punishment that is to be inflicted has been allotted to the different offenders; no man remains in uncertainty as to the fate that awaits him; and almost the whole of the refugees, whom the apprehension of punishment had made dangerous exiles, have returned in security to their homes. If any uniformity is to be observed in the two Provinces, it only remains to be seen how far the same results are attainable in Upper, as have already been secured in Lower Canada. The state of feeling in the Upper Province fortunately enables your Excellency to enforce the laws by those ordinary legal means, which I have found insufficient in this. You have discharged the painful duty of making a severe example of the most prominent offenders. It now only remains for your Excellency to act in concert with me by putting an end to that excitement which must continue as long as the fate of any persons involved in the late insurrection is left undetermined. With the details of minor punishments it is not necessary or desirable that I should in anywise interfere. My purpose will be attained if definitive measures can be adopted to bring to trial all persons now in custody, and determine their fate, without the infliction of any further capital punishment, and if provision can be made for an amnesty that shall enable all but a few of the most prominent of those not in the hands of justice to return in confidence to their homes.

I am certainly very anxious that no further capital punishments should take place. I think I may assume that there can be no intention on the part of the Government of Upper Canada to inflict such punishment on any of the persons implicated in any of the disturbances prior to that of the Short Hills. Of the latter class, it now appears that it has been determined in the Council to inflict the utmost penalty only on one, namely, Jacob Beamer. Your Excellency has transmitted to me a minute of the proceedings of the Executive Council on the 9th ult., in which I find that that body had recommended, with your Excellency's approval, that Chandler, Waite, and M'Leod should all be executed, together with a fourth, whom the Council say, in the minute of the 27th, it had been their intention to select out of a batch of untried prisoners, of whose guilt nothing could then be known. I am as much at a loss to understand this principle of anticipative severity, and to conceive why the number four should have been originally fixed upon, as I am to discover what subsequent information, or new view, had induced the Council to change its opinion on the 27th so completely, as to recommend that all the three should be pardoned, and the extreme rigour of the law applied only to Beamer, who, having had the bad fortune of being convicted in the interval, had been fixed on as the fourth of those originally destined to suffer together. I entirely approve of the lenity shown towards the three; but I cannot reconcile it with my notions of justice to doom Beamer to a harder fate. There is one clear rule for the apportionment of punishment amongst rebels. Except where a subordinate happens to have aggravated his offence by some peculiar act of atrocity, the severest punishment ought

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always to fall on those who shall appear to have been the principal leaders and instigators, and whose influence shall have led others into crime and misfortune. The leader of the rebel band has already suffered in the person of Morrow. Common report, and the evidence adduced on the trial, agree in pointing out Chandler as the next in influence, activity, and guilt. No circumstance of contingent aggravation has been proved against Beamer; for the fact of his being the nominal leader in an act of robbery, concerted with the others, and committed in the company of Morrow, seems to me in nowise to distinguish him from the rest. I cannot but say that it would appear to me the utmost injustice that Beamer should suffer, while Chandler escapes, capital punishment.

But be the proportion of Beamer's guilt greater or less, it does not appear that the amount of it is such as to render it impossible to vindicate the authority of the law without his execution. My earnest desire is that no further capital punishment should be inflicted for past offences. While I give your Excellency credit for the same natural feeling of humanity, your recollection of my conversations with you when I was in Upper Canada will convince you that I, on the other hand, should not, any more than yourself, hesitate to conquer my repugnance to capital punishment, in those emergencies in which a prompt severity is necessary to the public safety. I expressed my wish, that in the case of piratical outrages, similar to those which have recently harassed our frontiers, the prompt and rigorous execution of the most summary process known to our law should strike instant terror into the offenders. I have not changed this opinion; and one of the grounds on which I formed it was, that where severity is advisable, the moment of the commission of the crime seems to be the only one in which it is possible to apply it. When an insurrection is suppressed, when the offender is helpless, the recollection of the crime weakened by the lapse of time, and the horror of the impending punishment alone vivid, the common feelings of humanity render it impossible to use the severity which would previously have been allowable. That this change of feeling has taken place in this instance, the information supplied to me by your Excellency leaves no room for doubt. In the very district which has been disturbed by their crimes, the very juries that convicted, have recommended the very leaders to mercy; petitions from a large number of persons, and one signed by the sheriff of the district, have declared the feeling of the neighbourhood against further capital punishment; and those which have been received from inhabitants of the United States, show that the utmost leniency would be most acceptable to the people of a continent, on which the punishment of death is rare and odious.

Even if I thought it just that Beamer alone should suffer death, these evidences of feeling would convince me that it would be unwise and impolitic to mar, by a single exception, the good effect of that general lenity which I think practicable. I trust that your Excellency may be induced to look on this matter in the same light, and commute the sentence of Beamer, as well as of the others, by your own act.

If your opinion should remain unaltered, I will not desire your Excellency yourself to carry into effect a course which may be repugnant to your own sense of duty. But I must request that reference be made to Lord Glenelg, and that Beamer be respited until his Lordship shall have decided the point.

With respect to the political prisoners not yet tried, the course which policy and justice alike demand, is, that they should be brought to trial or discharged without loss of time. I fully appreciate your Excellency's reasons for past delay; but as the great excitement has subsided, there appears to be no sufficient objection to the adoption of definitive measures with regard to these persons. A great cause of excitement would be removed by putting an end to the suspense of these persons and their friends.

But a point on which I am still more anxious is, that of the adoption of some measure that shall allay the alarms of such of the refugees as it is not necessary to keep in perpetual banishment. The number of persons who, from a consciousness of guilt, or from a causeless alarm, have fled their homes, and now hang about the frontiers of Upper Canada, is represented as very considerable. Of these a few are among the most dangerous and guilty of the rebels; a large portion are the more insignificant of their followers and dupes, and probably as large a portion are persons who, without having actually committed treason, were nevertheless so connected with the rebels, or had carried their political opinions so far, as naturally to render them fearful of suspicion and prosecution. It is obviously desirable to separate these two latter classes from the former, to prevent their supplying it with tools; to relieve the frontiers from the cloud of hopeless exiles, who menace the Province with their desperation, and awaken the sympathies of our neighbours by the aspect of their wretchedness. With this object, I am desirous of impressing on your Excellency the policy of adopting some measure of amnesty. Excluding from it those prominent and irreclaimable rebels, whose guilt merits no mitigation of punishment, and whose hostility no mercy could disarm, that amnesty might be so extensive as to relieve the Province from the great mass of refugees now crowding the frontiers, and appease the alarms and animosity of their families.

I have, &c.
(signed) *Durham.*

His Excellency Sir George Arthur,
&c. &c. &c.

(True copy.)

— No. 43. —

(No. 62.)

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

No. 43.
Earl of Durham
to Lord Glenelg,
19 Sept. 1838.

My Lord, Castle of St. Lewis, Quebec, 19 September 1838.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch of the 21st July (No. 76), acquainting me that the Lords Commissioners of the Admiralty have reported to you that they have no steam-vessel of a light draught of water which can be sent to the St. Lawrence. Notwithstanding this report, I have been so much confirmed, by subsequent experience, in the opinion I expressed in my Despatch of the 8th June (No. 6), on the expediency of stationing a vessel of that description at Quebec, that I consider it my imperative duty to urge that arrangement again upon your Lordship's attention.

The monopoly of the Steam Navigation Company between Quebec and Montreal continues unabated, and several attempts to oppose it having been defeated by the Company, no reasonable prospect can be at present entertained of its being overcome.

The charges of this Company are most extravagant; and although I have used my best endeavours to restrain those charges by availing myself of the able assistance of the Commissary-general and of the officers of his department, through whom all the arrangements for my journies have been made, and the expense of them defrayed, yet, as I stated in my Despatch (No. 6), the Company have declined to furnish a steam-vessel for the service of Government for less than 100 *l.* currency a day, and even at that exorbitant rate, only on condition that the vessel should be hired for at least five successive days.

For the two journies to Montreal, which I was compelled to make, the hire of steam-vessels amounts to 1,500 *l.* currency; and all other charges of the Company for Government services are made on a similar scale.

The steam-vessels of the Company, although well adapted to the navigation of the St. Lawrence, between Quebec and Montreal, are quite unfit for the performance of any service on the lower parts of that river, if the water be at all rough.

Under these circumstances it becomes my duty to repeat my opinion, that a steam ship of war, such as I have described, ought, for the interests of Her Majesty's service, to be stationed in the St. Lawrence. This vessel would render the military departments independent of the steam-boat monopoly; the service would be much more efficiently and economically performed, and, in the districts of this Province in which she would be employed, where the towns and settlements are chiefly confined to the banks of the river, a well-armed steam-vessel would produce important effects in a military point of view.

I have, &c.
(signed) *Durham*.

— No. 44. —

(No. 63.)

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

No. 44.
Earl of Durham
to Lord Glenelg,
20 Sept. 1838.

My Lord, Castle of St. Lewis, Quebec, 20 September 1838.

I HAVE the honour to transmit to your Lordship the enclosed copy of a communication from the Attorney-general of this province with respect to a proposal for giving some further facilities for jury trial in particular cases in the parish of Ste. Hyacinthe.

The subject in itself is of no permanent interest: but I transmit this communication to your Lordship in order that you may be enabled to judge of the working of the jury system in this province, in the opinion of those most conversant with the subject.

I have, &c.
(signed) *Durham*.

No. 44.
Earl of Durham to Lord Glenelg, 20 Sept. 1838.

Enclosure in No. 44.

Sir, Quebec, 19 September 1838.

Encl. in No. 44.

In accordance with the instructions conveyed to me by your letter, dated 1st September, I have prepared the draught of an ordinance amending the Acts of the Provincial Legislature, 2 Will. 4, c. 66, and 4 Will. 4, c. 8, which I have now the honour to transmit herewith.

As, however, I have been desired to state any objection which may present itself to such amendment of the Acts in question, I beg leave to submit most respectfully to the consideration of his Excellency the Governor-general, whether events of recent occurrence have not too lamentably proclaimed the utter inefficiency of juries summoned under the provisions of the Ordinance 27 Geo. 3, for the purposes of public justice, and I may be permitted to question whether the further extension of the principles of that ordinance, under existing circumstances, could in any way compensate for the political perversion and party abuse to which they would be liable.

Within the last 12 days we have seen a jury composed according to the provisions of this ordinance, in defiance of evidence which was not only unquestionable but even unquestioned, acquit the murderers of a loyal and inoffensive fellow-subject, upon the grounds (and they were the only grounds urged in the defence), that pending a rebellion in which they took a part, the victim had been a spy and enemy to his country, and as such deservedly put to death by the sentence of his fellow-countrymen.

The gratuitous assumption of criminal responsibility implied by the verdict of this jury, independent of their contempt for the most sacred obligations, convince me that similar results must be expected whenever juries thus composed are called upon to decide upon matters of a similar character or tendency.

I am happy, therefore, of an opportunity to pronounce my humble but decided opinion against the present system for the selection of juries in criminal jurisdictions in this province, which prostitutes the constitutional bulwark of British liberty into an engine for the infliction or the retaliation of political injustice. To discourage the first experiment of the inhabitants of the county of Ste. Hyacinthe in the scheme of local taxation may be a matter of regret, but I consider it a lesser evil to a perpetuation of a persistance in the present jury system without qualification, restriction, or amendment.

I have, &c.
(signed) *C. R. Ogden,*
Attorney-General.

The Hon. Charles Buller, M.P.
Chief Secretary, &c.

— No. 45. —

No. 45.
Earl of Durham to Lord Glenelg, 23 Sept. 1838.

(No. 65.)

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

My Lord, Castle of St. Lewis, Quebec, 23 September 1838.

I have the honour to transmit to your Lordship a copy of the notes taken by the chief justice of Montreal of the evidence given on the trial of the persons accused of the murder of Chartrand.

I have, &c.
(signed) *Durham.*

Enclosure in No. 45.

Montreal ss.—In the King's Bench, Criminal Side.

August and September Session 1838.

Coram Chief Justice Reid, Mr. Justice Pyke, Mr. Justice Rolland, Mr. Justice Gale.

Domina Regina v. *François Nicholas, Amable Daunais, Joseph Pinsonnault,* and *Gedeon Pinsonnault,* on indictment for the Murder of *Joseph Chartrand.*

Notes of the Evidence adduced on the Trial in this Case.

Encl. in No. 45.

Etienne Langlois, carpenter, lives at Lacadie. About the end of November last went from home on horseback; it was on a Monday; met Réné Garant and Gedeon Pinsonnault, one of the prisoners, and some others whom he did not know; was compelled to join the party; accompanied them to the house of one Surprenant, who keeps a tavern; there he met several others, making in all 15 in number; all armed with muskets except himself; they drank together there. From thence they all proceeded to the house of Eloi Roi, at the *Grande Ligne* in Lacadie; there they taked about several matters, and about Chartrand, whom witness did not then know; he there saw one Bissonet, and the other three prisoners, Nicholas, Daunais, and Jos. Pinsonnault. That Nicholas and one Isaie Roi left the house to go to David Roi's; before setting out he heard them talk of Chartrand as being there, but said they were going to

to see the work that had been none at D. Roi's house. Nicholas and Isaie Roi returned from D. Roi's in about a quarter of an hour; soon after, some one, thinks it was one Mailloux, came to the door of Eloi Roi's house, where the party then was, and called out, *Le voilà qui s'en va, si vous voulez, aller après*, without addressing himself to any one in particular; on this they all went out. Witness then saw a man on the road going towards St. John's, whom he afterwards knew to be Chartrand. That Nicholas and Garant then called out to the young men of the party, "*partez, ho!*" and they all run off in the direction of Chartrand, in order to intercept him. We had proceeded about 15 acres when four of us overtook him. Beaulieu and some of the others were conducting him back to where Nicholas was, at some little distance behind; they were then about half a league from the house of Eloi Roi; Nicholas made a sign with his cane to the party with Chartrand to quit the road, and pass by the barrier into the field. Nicholas then took the lead, and the rest of the party coming up they surrounded Chartrand, and followed Nicholas; they then conducted Chartrand to a point of wood, about 20 acres' distance from any house; there Beaulieu, who was in front, called out to stop; they all stopped. Nicholas then addressing Chartrand, asked him if it was true that he had said, that he knew where there were fat pigs and oxen in a certain place. Chartrand denied having said so. Nicholas also asked him if he had not said there were volunteers at St. John's, which Chartrand also denied. On this Nicholas replied, "You did say so; I myself heard you," and at the same time told Chartrand to make his peace with God, *faire son acte de contrition*; and then addressing the party, he asked them, if Chartrand has said so and so, has he deserved death? Some of the party answered, "Yes." Then Beaulieu or Nicholas gave the order to fire upon Chartrand, when five of the party fired, viz. Beaulieu, Jos. Pinsonnault, and three others. Chartrand fell; in a moment after he raised himself on his knee, and begged of them to finish him. That Jos. Pinsonnault fired at him a second time, being compelled by Beaulieu to do so. That Giroux and Ouimet also ordered Pinsonnault to fire, calling out to him, "Finish, finish," *racheve, racheve.* Chartrand was then lying on the ground; and when witness and the others went away he seemed still to move, but thinks he must have died almost immediately. Witness did not examine where the shot struck Chartrand; they left him lying where he fell. Daunais and Gedeon Pinsonnault did not fire on Chartrand. The place where this happened is between two concessions, called *Petit Bernier* and *Beaujarret*, distant about a league and a half from St. John's in this district. The party then separated; Nicholas went in the direction of the *Petit Bernier*; the witness and the others returned to Eloi Roi's on their way home; it was then about sunset.

(Cross-examined.)—Did not before know Chartrand, nor hear any mention made of him. It was Garant who commanded the party when witness met him, and he gave his orders to follow him. The witness followed from fear, being apprehensive, from his tone and manner, that if he had not some injury would be done him; he even took the horse of the witness by the bridle, said they were going to St. Charles, and witness understood he must go there with the others; had already heard that people were collecting to go to St. Charles; this was mentioned while on the way to Eloi Roi's; it was considered to be the object of the meeting; thinks this was the general impression. At Pardy's Bridge four or five of the party wanted to turn back, but were prevented; they were all young unmarried men. It was at Eloi Roi's witness first heard mention made of Chartrand; and on coming out of the house, and seeing a man going along the road, it was said to be Chartrand. Found Nicholas at Jac. Surprenant's; they there talked of going to St. Charles; Nicholas spoke of it also; there was then no question of Chartrand; and when they left Surprenant's the intention was to go to St. Charles. Daunais had a musket; Beaulieu, Giroux, and Ouimet were the most active persons. Cannot say who gave the order to fire at the first discharge, whether it was Nicholas or Beaulieu. It was Beaulieu, Giroux, and Ouimet who ordered the second discharge. Witness was himself too much agitated to see whether Jos. Pinsonnault was so or not. It was Beaulieu who took Jos. Pinsonnault's gun, reloaded it, and gave it to Pinsonnault, ordering him to fire again; Pinsonnault said he would not fire any more; on this Beaulieu told him he must fire again, and do like the others; on this Pinsonnault took the gun and fired. Chartrand was then lying on the ground; thinks it was as much Nicholas as Beaulieu who gave the order for the first fire; it was Beaulieu, with Giroux and Ouimet, who ordered the last. Garant stopped at Eloi Roi's, and did not go further; it was then that Beaulieu became the most active person. Witness saw Nicholas make a sign with his cane; and when they came to the barrier, Beaulieu told them to pass by it.

(Re-examined by Attorney-General.)—On the way to Eloi Roi's they spoke only of going to St. Charles; but after arriving there, some spoke of Chartrand, as well as of going to St. Charles. Finding their number too small, the idea of going to St. Charles was at length given up; and on their leaving Roi's, the object was the pursuit of Chartrand, and not to go to St. Charles. After Chartrand fell, no one spoke of going to St. Charles; they all dispersed to go to their homes.

(By the Court.)—Chartrand was distant about 45 feet from those who fired upon him.

Barthélémi Poissan, aged 17 years, knows all the prisoners. Nicholas was schoolmaster at Lacadie for more than a year; knew the others from his infancy; lived at Lacadie with his brother. That last fall Giroux and Ouimet came to his brother's and asked witness to join them and some others in taking St. John's. Witness took his gun, which he afterwards gave to Gedeon Pinsonnault, and went along with them as far as Paradi's Bridge; there they were joined by several others; Langlois was one of them. They went from thence to Jacques Surprenant's, the tavern-keeper, where he saw all the prisoners; they had some liquor there; proceeded on to Eloi Roi's, where they all remained for nearly an hour and a half, when

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either Nicholas or Beaulieu called out, " Let us go, it is time." Witness thought the intention was to go to St. John's. They all set off from there, and pursued a man called Chartrand. The witness and prisoners came up with Chartrand ; some others of the party were following them. Beaulieu, Ouimet, Langlois, Jos. Pinsonnault, and some of the others, came up and made Chartrand prisoner. The party being all assembled, they conducted Chartrand into a wood ; they passed through a fence, and being in the wood, Nicholas addressing the party, asked them what kind of death they would inflict on that man, meaning Chartrand; *Quel mort donnerez-vous à cet homme là?* Beaulieu said, they must shoot him; *Il faut le fusiller.* No one made any objection ; they then fired upon him ; Beaulieu and Nicholas gave the order to fire ; the other prisoners were then present ; Joseph Pinsonnault fired, but not Daunais, nor Gedeon Pinsonnault. Jos. Pinsonnault and Beaulieu fired a second time. Ouimet and Langlois fired once. Chartrand fell on the first fire ; did not hear what he said, nor did he see him rise again. Several shots were fired after the first discharge, but does not know by whom. They all went away leaving Chartrand lying there. Chartrand was a tall man ; had on a camlet cloak of a dark colour.

(Cross-examined.)—Never knew Chartrand ; cannot say that Joseph Chartrand was the man who was shot there. It was Garant who appeared to command the party when they were at Eloi Roi's; and it was by Garant's orders the witness went there. When they left Eloi Roi's, Beaulieu and Nicholas commanded the party. After Joseph Pinsonnault fired the first time, Beaulieu took his gun and reloaded it, and returning it to Pinsonnault commanded him to fire ; did not hear what he said, but he fired. Jos. Pinsonnault appeared agitated. Witness was so himself, so much so that he does not remember all that passed, but has stated all he remembers to have heard and seen. Is positive to say that Nicholas and Beaulieu gave the first order to fire ; cannot say who; all fired the first time, as he was in the rear of the party.

(By the Court.)—When the party left Eloi Roi's, did not hear it said where they were going, nor did he know.

Jacques Surprenant, lived at Lacadi, in November last; kept a tavern ; knows Réné Garant; he came to the house of the witness with several young men, to the number of 12 or 15, all armed ; knew the prisoner Nicholas as one of them, but not the others ; they remained in his house about half an hour; Nicholas carried a flag; they left his house to go to Eloi Roi's ; they talked of going to St. John's, but witness prevailed on them to give up that project. Followed them to Eloi Roi's for the purpose of dissuading them from going to St. John's. When at Roi's they spoke of taking Chartrand ; said they would tie him with ropes and chains, and imprison him. Witness went to David Roi's, where he saw Chartrand; was told it was Chartrand by D. Roi. Witness took D. Roi aside, and asked him if it was true that he had agreed to furnish a rope or a chain to tie Chartrand. D. Roi said he had not. Chartrand wore a blue camlet cloak, tied with a red sash; he appeared at the time in good health. Witness asked him if he had yet much work to do at D. Roi's house ; he answered, Yes. When witness returned to Eloi Roi's, some one asked him if he had seen Chartrand; he said he had. Nicholas was the only person of the party he knew at the time. Witness soon after returned home, leaving the party at Eloi Roi's.

(Cross-examined.)—When the party left the house of witness, it was Garant who commanded them ; they then talked of going to St. Charles and St. John's. Witness endeavoured to dissuade them from it. Understood from Garant that there was another party to meet them at Eloi Roi's, and they were to start from there to St. Charles. In speaking of Chartrand, they said he was a bad man, who wanted to carry fire and sword throughout the *côte* ; they appeared to be afraid of him. When they spoke of ropes and chains, they said it was in order to bind Chartrand. This was openly talked of in the house at Eloi Roi's.

Eloi Roi, resides at Lacadie ; was at dinner in his house in November last, when a band of young men, armed, came there, 10 or 12 in number ; cannot say who commanded them ; Nicholas was one of them ; he is a schoolmaster ; they all had muskets, and one or two of the party had bayonets. They said they were going to St. Charles, and that a meeting was to be held at the house of the witness for that purpose ; he dissuaded them from going ; told them there were too few of them, and they would be taken. Nicholas then said, " If we cannot go to St. Charles, we will go and take Chartrand, and confine him in the cellar ; give us a chain to secure him ;" this the witness refused. Nicholas then asked for a rope to tie him ; this the witness also refused ; then some one of the party cried out, " As we have no place to put him in, let us kill him," and this loud enough to be heard by all the party. Nicholas was the only one of the prisoners he knew. Longpres, Surprenant, and Garant were then present. No person opposed this proposition, which witness considered to have been said in jest, and he advised them that it would be better to get a warrant and arrest Chartrand ; but Nicholas said, " Who the devil could arrest him at St. John's?"

Witness is brother of David Roi, who lives about two acres' distance from him. That Surprenant went out, in order to go to David Roi's, and returned soon after, and in a short time they all left the house on Nicholas calling out, " Ho, ho! it is time, let us go." Nicholas brought a flag with him to the house of the witness, and left it there when he went away.

Knew Chartrand before that time ; he was a tall man ; cannot say he saw him that day. At the time the party left his house he saw a man at about 10 acres' distance, but could not say who he was. On leaving his house the party separated into small parties, taking the same direction towards St. John's with the man he so saw, and who he understood to be Chartrand. Garant remained at the house of the witness.

Saw

Saw Langlois and some others, who returned to the house of witness after quitting Chartrand; asked them what they had done with their prisoner; they said they had not been able to overtake him; learned afterwards that Chartrand had been murdered. Knows a place called the Petit Bernier, where it is said he was murdered; it is about half a league from his house, in the parish of St. John's, in this district. Never saw Nicholas afterwards till this day.

David Roi, is brother of the last witness; lives next neighbour to him. Nicholas is the only one of the prisoners he knows. Knew Chartrand; he was a mason; entered into a contract with him to finish a house he was building; remembers that on a Monday last fall, some time after Toussaint, Chartrand called at his house to get some money from him, but witness did not give him any; he staid about an hour at the house of the witness. While there, Jacques Surprenant came in, took hold of witness by the jacket, and led him into another room, and asked him for ropes and chains to tie Chartrand, and make him prisoner at his house; witness was surprised at this demand, and refused; on this Surprenant went away immediately. After Surprenant was gone, witness sat down to dinner, invited Chartrand to partake of it, but he refused; while at dinner he saw Surprenant returning to his own house; Chartrand had on a surtout or cloak; he left the house of witness about two o'clock in the afternoon; never saw him afterwards; witness accompanied Chartrand from the house he was building, being distant about 14 acres from that in which the witness lived; he took the road towards the Petit Bernier when witness left him.

François Surprenant, lives at Lacadie; about the 27th November last he lived at Thomas Earl's; was that morning commanded by Réné Garant and three and four others to accompany them to St. John's; witness went with them to Eloi Roi's; having stopt at Jacques Surprenant's, they there found the prisoner Nicholas; he had a flag with which he marched at the head of the party; from thence they went to Eloi Roi's, and arrived there about noon; while there Nicholas went out, and was absent about half an hour; on his return he called out to them, "Ho! let us go, it is time;" when 9 or 10 of the party went off with Nicholas; they went through the fields; did not hear them talk of Chartrand; Beaulieu was one of those who accompanied him.

(Cross-examined.)—Garant commanded witness to go to St. John's with him; witness accompanied him, being afraid to disobey. There were five or six persons with Garant, all armed, some of them having bayonets on their guns; believed that Garant had authority to compel him to march.

Pierre Hudon de Beaulieu, is a bailiff; lives at Blairfindie. About the 27th November last he was at one Lord's, at the *côte* called Beaujarret, where he remained until about five o'clock in the afternoon. Petit Bernier is the adjoining concession to Beaujarret. While at Lord's he saw several persons pass, who came from the direction of the Grande Ligne, and among them he recognized all the prisoners; they were all armed except Nicholas; some of them were before the others. Witness spoke to Langlois, one of the party, who made him no answer; he then asked Nicholas where they were going; he answered that they were running after a man who wanted to set fire to some place, in order to arrest him; they were all running; Nicholas called out to them, saying, "Wait for me, my lads." Witness saw his own son among them, and called to him to stop; he promised he would do no harm, and went on with the others. Saw the man they seemed to be in pursuit of pass on the other side of the house a little before; he wore a red sash; that it may be 30 or 40 acres from Lord's to the place called Beaujarret; saw some persons returning from that place about four o'clock in the afternoon.

(Cross-examined.)—When these persons passed Lord's house they were running; cannot say who took the lead; thinks Langlois was one of the first; Nicholas was about the middle of the party, there being five or six before him.

Isaie Roi, son of Eloi Roi, lived with his father. On the 27th November last was at work in the barn, when a number of persons came to his father's house; on going into the house he there saw the prisoner Nicholas, but cannot say he recognized the other prisoners; Nicholas had a flag when he came there. That Jacques Surprenant asked witness to go with him to David Roi's, saying he wanted to see what kind of building he was making; witness went with him; on going into the house, Surprenant went into a private room with his uncle Roi; witness saw Chartrand there, whom he knew; he is a tall man, and wore a dark-coloured capot or cloak; Suprenant staid but a short time at D. Roi's, and witness returned with him to his father's house, leaving Chartrand at D. Roi's; after witness had returned to his father's, the party went off soon after, going towards the fields in the direction of the Petit Bernier.

Jean Bapte, lives at Lacadie. On the 27th November last Garant commanded him to accompany his partyto the Grande Ligne, in order afterwards to go to St. John's; on the road they fell in with the three prisoners, Daunais and the two Pinsonnaults; a little further on they met with the prisoner Nicholas, who carried a flag; he conducted them to Eloi Roi's; there saw Jacques Surprenant; after remaining there some time he heard Nicholas call out to them, "Let us go, it is time;" they, on this, all set out towards the fields in the direction leading to St. John's; witness did not go with them, but remained at Eloi Roi's, and was there when some of the party returned, among whom he recognized Daunais and the two Pinsonnaults, but did not see Nicholas.

(Cross-examined.)—There were five or six persons armed with muskets, who accompanied Garant when he came to command the witness; understood there was to be a meeting had at

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Eloi Roi's; the witness marched, because he was told he would be compelled to do so; understood they were going to take St. John's; Garant procured a musket for the witness.

William Bourke; is a carpenter, lives at St. John's. On the 27th November last, he was working at David Roi's, at the Grande Ligne. Knew the late Joseph Chartrand, of St. John's; he was a mason. On the 27th November last, about 11 o'clock in the forenoon, Chartrand arrived at David Roi's; he wore a dark-coloured camlet cloak and a red sash; he had a grey cap on; was a stout man. Had known him for three years; he was a quiet, sober man. He came to Roi's to get some money from him. Roi was in his barn when Chartrand arrived. Witness went to acquaint him that Chartrand was at the house. Roi came to him; they talked together. At the close of the conversation Chartrand asked him for some money. Roi said he had none then, but as soon as he could get it he would give him some. While the witness was conversing with Chartrand, he saw 12 or 15 patriots, armed with fusils, pass the house, with Nicholas at their head, carrying a flag; they went to Eloi Roi's. Soon after, Jac. Surprenant and one Beaulieu came from Eloi Roi's; they took David Roi into another room, where they remained a short time, and afterwards returned to Eloi Roi's. About a quarter of an hour after they left D. Roi's, Chartrand went away, taking the road towards St. John's and the Petit Bernier. The party that had gone to Eloi Roi's came out, and four or five of them ran in the direction that Chartrand had taken. Did not hear of Chartrand's death until about a week afterwards.

Joseph Berthiaume; lives at Beaujarret, in Lacadie; knows the prisoner Nicholas. Petit Bernier is the adjoining concession to Beaujarret. There is a small point of wood at the end of Beaujarret, distant from David Roi's house about three-quarters of a league; it is on Capt. Eloi Roi's land, and contains about five acres. On the 27th November last witness was at the house of his master's farmer, about 30 acres from this wood; saw three men pass, who came from the Grande Ligne. The house in which the witness was is situated on the Beaujarret road, and Henry Lord's house is about 20 acres from it. Langlois and Beaulieu were two of three men witness saw pass; they were going in the direction of Beaujarret; they had a man with them clad in a blue cloak, red sash, and grey cap. Witness asked Langlois where they taking that man; all the answer Langlois made was, that they were carrying the man along with them. Saw also a band of five or six persons, who were following after the others; they were all armed except Nicholas; they all went into the wood. Witness spoke to his master, François Bourassa, of what he had seen, who told him he was afraid there was something wrong. These persons passed by the barrier of the fence near the place where the witness was, in order to go into the wood.

François Bourassa; knows the last witness, who lived with the witness as a servant for more than a year. Witness has a farm on the Beaujarret road, in the charge of one Ouimet, his farmer. In the month of November last, the witness was at his farmer's house, when the farmer's wife called out, "There is Mr. Chartrand passing; it is not long since he passed towards Mr. Roi's, and here he is back again very quickly." The witness did not see him. In a minute after, the woman called out again, "Oh! there are several young men running;" adding, "there is Etienne Langlois passing, with a musket on his shoulder." The witness looked out, and saw Langlois passing as stated, and several others also armed. The witness was astonished at what he saw, and returned home to his own house, in case any alarm should take place. On his way home he saw two men, about three arpents before him on the road, one of them a large man, with a surtout on, who appeared to be making signals. There was a smaller man with him. Neither of these men was Chartrand, whom he knew to wear a camlet cloak, a red sash, and grey cap. The man who made the signals was going towards the point of wood at Beaujarret. The house of the witness may be distant about 20 acres from the point of wood, in which direction he shortly after heard several shots fired, and saw the smoke. He first heard a discharge as of several musket shots, and afterwards one or two shots more. His neighbour came up, and inquired the reason of the firing. The witness told him that some young men had carried a prisoner with them into the woods, and he was afraid they were shooting him. After the shots were fired, these persons dispersed, and most of them returned towards Eloi Roi's, except one, who went in the direction of the Petit Bernier, and appeared to be the same man he had seen making signals.

That next day, Tuesday, the witness, being uneasy, went alone to the point of wood, and there saw the body of Chartrand on the ground; did not approach the body nearer than an acre and a half, but knew him by the cloak and cap and sash which he was accustomed to wear. The witness was alarmed and uncertain how to act. On the next day, Wednesday, he went to his priest to get his advice. On the Thursday, in consequence of his priest's advice, he informed Eloi Francis Roi of the circumstance, and went with him and another man to the point where Chartrand lay. He was dead, and lying upon his stomach, his head turned a little on one side, and his hands clasped together under it. Was present when the body was examined before the coroner's inquest; there was a wound in the lower part of the belly, and another on the left side of the breast, as if made by musket balls; cannot say whether the balls had traversed the body.

(Cross-examined.)—On the other side of the point of wood there are several dwellings. Witness did not immediately disclose the fact of having seen the dead body of Chartrand, from fear, as there was great political excitement prevailing at the time in that part of the country.

William M'Gennis; lives at St. Athanase. In November last it was reported to him, that a man had been killed at Petit Bernier, and that his body was lying in the wood there. The witness went there with Mr. M'Crae, and several of the volunteer corps to which Chartrand belonged, to look for the body. Knew Chartrand well; he was a stout man, but quiet and

and inoffensive. Found his body in the wood in the place described, and, on examination, perceived that the deceased had been wounded in the breast, and also in the spine. Thinks that one of the balls entered the back and came out at the abdomen. There was also a corresponding wound in the back with that in the breast; thinks that the deceased had been struck only by two balls, and that each ball had perforated the body. That a ball fired from a common Canadian gun, at the distance of 45 feet, will perforate the human body. The witness recognized the deceased, whose appearance was not at all changed, nor did it alter in any respect, until the position of the body was changed. Witness had seen the deceased on the Monday morning preceding, when he appeared to be in good health.

William M'Crae; lives at St. John's; was a justice of the peace in November last. On the 29th of that month, he was informed by Mr. M'Gennis, the last witness, of the report he had heard of the dead body of a man having been found on the land of Eloi Roi. Next day they went with some others in search of the body. Near the wood of Petit Bernier they met Mr. Roi, who conducted them to the spot where the body lay. An inquest was held on the body, and it was examined; two wounds were found on it; one near the left breast, which appeared to have a corresponding wound in the back, and to have been occasioned by the same ball. The other wound was in the abdomen, and appeared also to have perforated the body. The witness recognized the deceased to be Joseph Chartrand, whom he had long known for a quiet, honest and industrious man. The deceased had on a blue cloak and grey cap, which he was in the habit of wearing at St. John's.

(Cross-examined.)—Was satisfied that the deceased had been struck by two balls only.

Dr. *Daniel Arnoldi* and Dr. *James Crawford*, surgeons in Montreal, severally state, that from the description given by the two last witnesses of the wounds found on the body of the deceased, either of the said wounds was sufficient to have occasioned his death. At the distance at which these shots are said to have been fired, any common gun would send a ball through the human body.

Jean Baptiste Mailloux; lived with David Roi at Lacadie in November last; knew the deceased Chartrand; he had undertaken to finish David Roi's house at Lacadie; he came there one forenoon last November, and remained until about two o'clock in the afternoon. While he was there, a party of young men, headed by Nicholas, who carried a flag, passed by, going to Eloi Roi's house. Some of the party, viz. Jac. Surprenant, Beaulieu and Isaie Roi came over to David Roi's house; Surprenant took David Roi aside and conversed with him a short time; Chartrand was then in the house. These men remained at David Roi's but a few minutes, and then returned to Eloi Roi's. Chartrand left David Roi's soon after, and took the road to the Petit Bernier.

Julie Chamberlin, wife of Ouimet, farmer of François Bourassa, merely corroborates the testimony given by the witnesses Joseph Berthiaume and the said Bourassa.

David Lord: lives at Lacadie, near Beaujarret. About the end of last November, he saw the deceased Chartrand pass near his house on his way to the Grand Ligne. It was on a Monday. Saw him return between three and four o'clock of the same day; he then saw people pass, who were pursuing Chartrand; some of them were running; knew Langlois only. Chartrand was going towards the Petit Bernier, and these persons were taking the same direction; there was one who appeared to direct the others; he had no musket; the others had; there were eight or ten of them; they were going towards the point of wood. The witness went to the point of wood on the Wednesday after; saw a man lying there; did not go near enough to know him; was surprised: thought it was Chartrand; told no one of the circumstance till some time after.

Benjamin Holmes, of St. Luc. Accompanied Mr. M'Crae and Mr. M'Gennis, when the body of Chartrand was found; corroborates their testimony.

John Beattie; arrested the prisoners, the two Pinsonnaults and Daunais.

James M'Gillivray, justice of the peace; states the arrest of the prisoner Nicholas at Henryville.

Here the evidence for the Crown was closed. Mr. Charles Mondelet addressed the jury on behalf on the prisoners. He did not rest their defence on a denial of the facts stated by the witnesses for the Crown, but upon the disturbed state of the country, and the extent of alarm that prevailed among the people, who considered and believed that their lives were in danger if they refused to obey the orders they received, or to join in any enterprise in hand. He called the following witnesses:—

Jean Baptiste Poissan; lives at Lacadie. On the 27th November last he heard Garant, who was accompanied by seven or eight armed men, demand of the father of the two Pinsonnaults, to let his sons join his party. Pinsonnault refused, and asked by what authority Garant demanded his sons; Garant said, it was by orders of Mr. Papineau that they should march. Pinsonnault then consented to let his sons go. Garant said, that if they did not obey his orders, there would issue a general order that all should march, which must be obeyed; that he then asked only for the young and unmarried men, but if they refused, the next order would be for all, married and unmarried, to march; that the object was to take St. John's, and establish a guard there. The witness considered every person liable to obey these orders.

Louis Gagnier; lives at Lacadie. On Monday the 27th November last, Garant, accompanied by three or four persons, some of whom were armed, commanded the servant-man

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of the witness to join him, saying that Mr. Papineau had directed orders to be read at the church-doors, that the people were to march; Garant said there would be a general order given by which all would be obliged to march, and the belief in the parish was, that if the orders were not obeyed, those who refused would be punished by the loss of life.

Abraham Bechard; lives at Lacadie. On the 27th November last the young men were commanded by Garant, accompanied by five or six armed men, to turn out and join him; the servant of the witness was ordered accordingly. Garant said these were the orders of Mr. Papineau, and if any did not obey, people would be sent next day who would compel them by force to march; that the general belief was, that people were obliged to obey these orders; the servant of the witness joined in consequence, and the witness would have considered himself in danger had he refused. These orders were to go to St. John's. Witness was present when the son of the widow Giroux was commanded in the same way; Garant was then alone.

Knows the two Pinsonnaults. The eldest, Joseph, is a person of rather weak mind, and may be made to do things which other young men would not agree to. Daunais is a quiet and mild young man. Nicholas, the schoolmaster, was always considered a man of humane and kindly disposition.

Louis Monbleau; lives at Lacadle; speaks to the same facts and opinions as the preceding witnesses.

François Deranleau; speaks to the character of the prisoners; gives them the same character as the witness Bechard.

Narcisse Monbleau; speaks to the orders he received from Garant to join his party, and to the character of the two Pinsonnaults.

Dr. Timoleon Quesnel; has lived at Lacadie 15 years. Knows young Beaulieu; he is of a violent character; found him to be so last fall. In the part of the country where witness resided there was a great deal of discontent; the parish was in a state of anarchy. The witness was opposed to the political views of the majority. The agitators recognized no authority of the Government. One part of the parish exercised a species of tyranny over the other, and none dared to oppose the will of the majority; they compelled those in office under the Government to resign their commissions; witness was a justice of the peace, and was compelled to resign his commission, after having had his doors and windows broken; knows that young men were forced to leave their parents and join the agitators; the loyal had no protection; none were safe who refused obedience to the orders of the majority; a captain of militia told him he was under such apprehensions on this account, as to issue his orders in consequence of a command he received from a young man whom he did not even know.

(Cross-examined.)—The orders issued by the captain of militia were to go and take St. John's. The officers of militia and those who held commissions from Government were the principal objects of attack; those who resigned were not troubled.

Laurent Archambault; notary public for 17 years at Blairfindie. Last fall there was a general excitement and anarchy in his part of the country; no magistrate could act, or get his orders executed, or give assistance to any one. Witness was compelled to resign his commission of justice of the peace, and many persons left the parish from fear.

(Cross-examined.)—The greatest violence was threatened against those who held commissions under the Government.

Pierre Roi; lives at Lacadie. Last fall there was a general discontent against the Government, approaching to insurrection, and the officers of the Government were compelled to resign their commissions; no other officers were appointed in their place, and no authority was recognized but that of force, and the will of the people, who recognized no other government. There were parties who went about commanding the people to assemble and go to St. John's. It was known that there was a camp at St. Charles, but the event of the battle there was not generally known in the parish. Knows the prisoner Nicholas to be a perfectly honest man.

(Cross-examined.)—The discontent was directed principally against those who held commissions, and to compel them to resign; those who held no commissions were not disturbed; meetings were held for the purpose of going to St. John's and St. Charles.

Casimir Michel; lives at Blairfindie. Knows the prisoner Nicholas, who keeps a school; he is a humane man; never knew he held any commission among the discontented in that part of the country, or that he gave any orders. Gives the same character of Joseph Pinsonnault, as the other witnesses.

Louis Reignier; gives the same character of Nicholas as the last witness.

Louis Defayette and *Laurent Reignier* give a character to the prisoner Daunais, of being of a quiet and mild disposition.

Pierre Destroismaisons de Piccard; lives at St. John's; knew the late Joseph Chartrand; he was a violent man; has heard that he was regarded as a spy in Lacadie.

Jacques Bouchard; lives at Lacadie; did not know Chartrand, but heard that he was coming with a company of volunteers to lay every thing waste by fire and sword; he was considered as a spy.

Extracted from the notes taken by me on the trial.

(signed) *Js. Reid*, Ch. J. K. B.

— No. 46. —

(No. 66.)

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

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Earl of Durham to Lord Glenelg, 25 Sept. 1838.

Castle of St. Lewis, Quebec, 25 September 1838.

PREVIOUS communications from me will have made your Lordship aware of the very injurious effects upon the course of my Government occasioned, more or less, by all the proceedings, with respect to my mission, which have taken place in the House of Lords since my departure from England. The representations that I have made to you upon this subject were but the echo of the public voice in these colonies, where all men, of whatever class or party, were agreed in thinking that unless I should be cordially supported by the Legislature, which had created most extraordinary powers of Government for this country, and by the Ministers of the Crown, who had placed that extreme authority in my hands, there was not the slightest prospect of any satisfactory result. The proceedings in the House of Lords, from the moment of my leaving the shores of England, showed but too distinctly that the support so essential to my success was not extended to me; I allude in particular to the speech of the Duke of Wellington on the 4th of July, and to the expressive silence of the Prime Minister on that occasion. His Grace was pleased to say, "The Act gives no power further than that of making certain reports on an important subject respecting the Government of Canada, and of directing the formation of a commission of inquiry for that purpose; in any other respect, so far as my recollection serves me, I know of no other powers given to the Earl of Durham which are not ordinarily given to every Governor of a colony." When the leaders of those two great parties, the one by the most unqualified expressions, and the other by consenting silence, concurred in depreciating the authority with which I had been invested, that authority was seriously weakened. The effect upon the public mind was instantaneous and most remarkable: the disaffected,—and how numerous these are your Lordship will have learned from my despatch of the 9th August (No. 36),—were encouraged to believe that as my authority was so questioned, the manner in which it had been or might be exercised would to a certainty be vigorously assailed by the Opposition and feebly defended by the Government; and they inferred that the success of my mission, which, as all parties at home had allowed when the danger was imminent, and all here still felt, depended on the vigorous exercise of an extraordinary authority, was thus rendered next to impossible. In forty-eight hours after the speech attributed to the Duke of Wellington had been published here, the tone of that part of the press, which represents the disaffected exhibited a remarkable change, giving evidence no longer of submission, however unwilling, to extraordinary powers unhesitatingly exercised, but of discontent, irritation, and seditious hopes. From that time forth, too, down to this day, I have continually received intimations of a state of feeling amongst the Canadian peasantry of the district of Montreal, which threatens, if not actual disturbances during the winter, still so much combination of purpose and means amongst the disaffected as to require the utmost vigilance on the part of Government. Nor did the Duke of Wellington's speech and Lord Melbourne's silence on that occasion produce a less mischievous effect upon the great bulk of the British race in this colony. As respects this class, the first impression created by this evidence of my being left without adequate support at home was one of despondency. I can speak almost from my own personal knowledge of numbers, including gentlemen of the most respectable character and highest influence, who had entered into all my views for the improvement of this much-neglected country, who were aware of my determination, so far as it might depend upon me, to remove the causes, to dry up the very source of past dissensions, and to render this colony essentially British in its laws, institutions, and character; who had, merely on account of those views and intentions, afforded me their confiding support; and who were employing their valuable influence in diverting public attention from the miserable past, and endeavouring to fix it on a happy prospect of peace and prosperity. These gentlemen, when the news in question arrived from England, when they perceived that I was left alone to struggle with unparalleled difficulties, could no longer rely on the accomplishment of any of the important measures that I had projected. They were therefore led most naturally, as it appears to me, instead of looking with confidence to the future, first to despair of any fruit from my exertions, and next to recur to the past with feelings of irrita-

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tion as violent as were ever produced amongst the British race in this colony by the worst previous sacrifice of colonial interests to the objects of mere party in the mother country. Such is the unanimity of opinion and feeling amongst the British population of this colony, that the individuals whom I have described fairly represent the whole class. The despondency and irritation of that class were as conspicuous as the half-elated and threatening activity of the disaffected portion of French Canadians. Such was the effect produced upon both classes (that is, upon the great bulk of the people) by the party proceedings at home.

Although I happened to be suffering from severe illness during the period in which this change of feeling was in course of taking place, I was constantly informed of its progress; and I must not conceal from your Lordship, that this information had a most discouraging effect upon myself. It soon became plain to me, that the great difficulties necessarily attendant on my position, were fearfully increased by the assaults made upon my government by the opposition at home, and tacitly (when not even in a still more injurious mode) suffered by Her Majesty's Ministers. Upon two things alone could I chiefly rely for ultimate success. The first was, the great extent of the legal powers conferred upon me, enhanced as they had been morally by the universal expression in England of satisfaction at my having undertaken to exercise them. The second was the impression, which prevailed throughout these colonies, that I might reckon with perfect confidence on the undeviating approval and support of the members of Her Majesty's Government, with most of whom I had been so long and intimately connected, as well by personal friendship as by political relations. By the proceedings in question I was deprived of these, the only, but all-sufficient grounds of confidence in my own exertions. Your Lordship may believe that the people of these colonies are not better acquainted with the springs and influences of party politics in England than are most English politicians with the real state of parties and public affairs in this distant part of the world. You will easily understand, therefore, that no sufficient allowance was made here for the nature of those party motives which had dictated the proceedings of the Opposition and the Government in respect to my mission. It was supposed that the great party in opposition at home really believed my authority to be no more extensive than that of an ordinary governor in ordinary times; that Her Majesty's Ministers were of a similar opinion; that all my promises of unusual measures suited to the unusual circumstances of the case, had been made inadvertently or delusively; and that I had no more prospect of healing the wounds inflicted on this country by a long course of shifting and temporizing policy, than if the Act for suspending a constitution, and conferring legislative powers on an individual, had never passed. In fact, whatever may be the powers which that Act legally confers upon me, the moral authority of my government, the *prestige*, if I may so speak, of power, once imagined to be so great, and of a supposed unbounded influence with Her Majesty's Government, was gone, apparently for ever. Under these circumstances, I was greatly tempted to resign an authority which appeared to have become inadequate to the grave emergency which alone had called for its existence. I did not, however, give way to this sentiment of despair. On the contrary, making all allowance for party motives, which could not be appreciated by the people of these colonies; trusting that the approaching recess of Parliament would soon leave me undisturbed to pursue the useful course on which I had already determined; relying not a little on the early promulgation here of legislative measures calculated to encourage British enterprise and promote general prosperity; and above all, influenced by a conviction that the worst consequences might result from my resignation, I deemed it my duty to the Queen, to my country, and to the people of these colonies, who had generously confided in my good intentions, to persevere in my course so long as there was the least chance of success. Thus impelled, I banished every thought of resignation, and occupied myself more diligently than ever in bringing to maturity the whole series of measures by which I have hoped that these colonies might be established in peace and prosperity as a happy and loyal portion of the British empire. I was thus engaged when I received your Lordship's despatches, Nos. 83 and 84, conveying to me the most flattering expressions of the satisfaction which all my measures, including the proclamation and ordinance relating to the political prisoners, had given to Her Majesty's Government.

Those despatches were the more gratifying to me, inasmuch as they were accompanied by numerous unofficial letters from members of the Government, and

especially

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especially by those from yourself and Lord Melbourne, whereby the expressions of official approbation were most warmly and kindly confirmed.

While those despatches and letters were still before me, an American newspaper, which had reached Quebec by the same conveyance, was placed in my hands. Your Lordship will judge of my astonishment, when I inform you that it contained a report of the proceedings in the House of Lords on the 7th, 9th, and 10th of August.

At present no other information on the subject has reached me.

I shall abstain, until officially informed, from entering at any length on that important subject; meanwhile, however, it behoves me to assure your Lordship that public opinion here does not wait for the receipt of official intelligence on matters of vital moment to the interests of all; and that it has been most deeply affected by the sufficiently-authentic intelligence already received. I have had no choice (as I shall fully explain in a future despatch), but to declare whether or not I should resign my now useless office. As your Lordship will perceive, by the documents which I have the honour to enclose (being an address to myself from the delegates of the Colonies of Nova Scotia, New Brunswick, and Prince Edward's Island, with my answer), I have resolved on resigning an authority which has now, indeed, become thoroughly inadequate to the ends for which it was created, and on quitting a post which has been rendered altogether untenable by those from whom I expected every possible assistance in maintaining it.

I shall not lose a moment, after hearing officially of the recent proceedings in England, in fully explaining to your Lordship the reasons for my having arrived at this determination, and the grounds on which I may, after ample deliberation, decide upon the time for carrying it into effect.

Enclosures in No. 46.

(No. 1.)

Encl. 1, in No. 46.

ADDRESS of the Delegations from the Eastern Colonies to His Excellency the Governor-General.

IN approaching your Lordship on the eve of our departure from Quebec, we beg unanimously to offer to your Lordship, the expression of our highest respect, and of the deep concern with which we have heard of your Lordship's rumoured intention to resign the government of these Provinces.

The duties of the mission with which we have been intrusted by the Lieutenant-governors of Nova Scotia, New Brunswick, and Prince Edward Island, and the frankness of communication permitted by your Lordship, have brought us into acquaintance with your Lordship's feelings and views in relation to British North America, and irresistibly impressed our minds with the conviction, that your Lordship cherishes an ardent desire to elevate the colonies committed to your government, and entertains conceptions calculated to render that desire effective.

In a review of the short period of the Government under your Lordship's personal direction, we behold your Lordship with that feeling, so congenial to Englishmen, which turns with repugnance from the shedding of blood on the scaffold, blending mercy with justice; while returning tranquillity had already rewarded an administration conducted without the sacrifice of one human life; and we were aware that improved laws and institutions were in preparation, which under a Government, firm, mild and impartial, gave to the future the reasonable prospect of restored confidence and renovated prosperity.

In the provinces with which we are personally connected, we saw in the warm interest, the enlightened and comprehensive views, and extensive powers of your Lordship, the dawning of vigor and improvement hitherto unknown. With your Lordship's departure those anticipations will we fear fade away; but although it should be our lot to see these provinces continue feeble and nerveless compared with the condition at which their natural advantages entitle them to aim, yet shall we ever remember with gratitude the statesman who, exalted in the first rank, and treading on the highest eminences of political life in our common country, hesitated not, at the call of his Sovereign, with disinterested zeal to undertake an office of unparalleled difficulty, and has given to these distant territories the benefit of his enlarged experience and vigorous conceptions. Your Lordship's comprehensive mind has opened to our view the animating prospect of great public improvements, advancing our common welfare, and which will ever associate your Lordship's name with the highest prosperity of the colonies.

We are unwilling to abandon the hope, that your Lordship may yet continue in the administration of your high office.

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Encl. 1, in No. 46.

Under any circumstances we beg to assure your Lordship, that our most ardent wishes for the happiness of the Countess of Durham, your Lordship and family, will accompany you through life. (signed) *J. W. Johnston*, M. Leg. Con^{l} Nova Scotia;
J. B. Uniacke, Member for Co. of Cape Breton, and Member of Council;
Wm. Young, Member of Assembly, Co. Inverness;
M. B. Almon, Deputation from Nova Scotia.
Chas. Simmonds, Mem. Ex. Coun^{l} and Speaker of the Assembly, New Brunswick;
Henry Peters, Leg. Council;
E. Botsford, Mem. Leg. and Ex. Coun^{l};
Hugh Johnston, M. Ex. Coun^{l} and House of Assembly;
James Kirk,
John Robertson, Deputation from New Brunswick.
J. H. Haviland, M. Leg. and Ex. Councils;
Geo. Dalrymple, Speaker H. of Assembly;
Jos. Pope, Member of Assembly of Prince County;
Quebec, 22 September 1838. Deputation from Prince Edward Island.

(No. 2.)

Answer to the Address.

Encl. 2, in No. 46.

It is impossible for me to express to you in language sufficiently strong, the feelings of gratitude and pleasure with which I have received this address.

Representing as you do so worthily, the three Provinces of Nova Scotia, New Brunswick, and Prince Edward Island, this proof of your confidence in me, and approbation of the principles on which my administration has been conducted, is most gratifying to me.

I assumed the Government of the North American Provinces, with the predetermination to provide for the future welfare and prosperity of them all; never doubting that such a provision would be the best, nay the only, real security for their permanent connexion with the British Crown.

In communications which have taken place between us, and from which I have derived equal pleasure and information, you have been fully apprised of my views and intentions.

These you have appreciated and recognized in a manner for which I can never be sufficiently grateful. I have indeed had a difficult and laborious duty to perform. The result of my endeavours is one, however, of which I need not be ashamed. In the short space of little more than three months, I have seen tranquillity restored and confidence reviving. I have caused substantial justice to be administered, tempered by mercy. I have carefully examined, with a view to reformation, all the institutions of the province more immediately committed to my charge; and I was on the point of promulgating such laws as would have afforded protection to all those great British interests which have been too long neglected.

I had also, as you well know, devoted the most careful attention to all subjects which could affect the general interests of all the colonies, and had brought nearly to maturity the plan, which I intended in the first instance to submit to the consideration of the provinces, and eventually of the Cabinet and Imperial Parliament.

In this, I trust useful course, I have been suddenly arrested by the interference of a branch of the British Legislature; in which the responsible advisers of the Crown have deemed it their duty to acquiesce. Under these circumstances, I have but one step to take—to resign that authority, the exercise of which has thus been so weakened as to render it totally inadequate to the grave emergency which alone called for its existence.

Be assured, however, of this, Gentlemen, that this unexpected and abrupt termination of the official connexion which united me with the North American Provinces, will not weaken in my mind the feelings of deep interest which I shall ever take in their fate, or renderme less anxious to devote every faculty of my mind, every influence I may possess, to the advancement of their interests, and to the establishment, on the most lasting foundation, of their welfare and prosperity.

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No. 47.
Sir John Colborne to Lord Glenelg, 26 Sept. 1838.

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

My Lord, Sorel, 26 September 1838.

I have had the honour of receiving your despatch of the 18th ultimo, conveying to me the desire of Her Majesty, respecting my continuing in the command which I hold in these provinces, and I lose no time in acquainting your Lordship, that I think it my duty to comply with the wishes of Her Majesty's Government.

I beg to offer my thanks for the favourable opinion of my services, which you have expressed on this occasion. I have, &c.

(signed) *J. Colborne.*

— No. 48. —

(No. 67.)

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

No. 48.
Earl of Durham to Lord Glenelg, 28 Sept. 1838.

My Lord, Castle of St. Lewis, Quebec, 28 September 1838.

THE late debate in the House of Lords, and the observations which have been made there upon the Ordinance passed by the Special Council of this province subjecting the State prisoners to transportation to Bermuda, imperatively call on me to submit to you a statement of my views upon the legality of that Ordinance, and of the grounds upon which, with every deference to the House of Peers and the high legal authorities who are asserted to have declared its illegality, I venture to maintain that no part of that Ordinance is in itself illegal, however inoperative it might, and must of necessity, be, without the assistance and co-operation of the Home Government and the British Parliament, or the Legislature of the Bermudas under the sanction of Her Majesty's Ministers.

The Imperial Statute 5 Geo. 4, c. 84, s. 3, provides, that his Majesty in Privy Council may appoint any place beyond the seas, either within or without his dominions, to which felons and other offenders under sentence or order of transportation or banishment shall be conveyed. It provides for the imprisonment of such offenders, their conveyance either in contract vessels or in Her Majesty's ships, their punishment for misconduct on the voyage, their delivery to the governor of the colony to which they may be sent, and their safe custody after arrival.

Section 17 recites, that by law, in some of the colonies, offenders convicted of certain offences are liable to be transported beyond the seas, and that there may be no means of transporting such convicts to any of the places appointed by "his" Majesty in that behalf without first bringing them to England; and it then provides that such convicts, when brought to England, may be imprisoned in any place of confinement under that Act, and so soon as he shall be so imprisoned, all the provisions of that Act shall be applicable to every such convict as if convicted and sentenced in England. No provision is by this Act made for their treatment up to their being brought to England; that is left to the local legislatures.

The Imperial Statute 6 Geo. 4, c. 69, s. 4, provides that "His Majesty," by any Order in Council, may authorize the governors, &c. for the time being of any of the colonies, to appoint the place within "his" Majesty's dominions, to which offenders convicted in any such colony, and being under sentence or order of transportation, shall be sent or transported; and provides that such convicts at the place to which they may be transported, shall be subject to the same laws as other convicts; but it makes no provision for their transport or their treatment on the voyage to England, that is still left to the local legislatures, at least there is no other mode of providing for it.

Under these Acts an Order in Council was issued on the 11th of November 1825, directing that all governors of the colonies for the time being should from time to time appoint the places to which convicted offenders should be transported.

Lord Gosford, on the 7th of October 1835, issued his proclamation appointing such convicts to be sent to England, and from thence to New South Wales and Van Diemen's Land.

The Provincial Legislature by Act 6 W. 4, c. 1, continued by Ordinance of 1 Vict., c. 8, provided, that "whenever any offender shall have been lawfully sentenced by any of his Majesty's courts in this province, other than courts martial, to transportion, it shall be lawful for the governor for the time being from time to time to cause any such convict to be removed from any place of confinement in this province to any other safe place of custody" (it does not repeat "in this province"), "and thence to be sent to England, to be there imprisoned according to the provisions of 5 Geo. 4, c. 84, s. 17, to be thereafter transported to New South Wales or Van Diemen's Land." The Act authorizes contracts for their safe transport to England; and, by sect. 6, enacts that after the delivery of any such convict to the contractor, "his transportation to England, safe custody, treatment,

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and confinement, until delivered to the authorities in England, shall be regulated to all intents and purposes by the provisions of 5 Geo. 4, c. 84."

This Act, although authorizing imprisonment, and directing a certain mode of treatment upon the high seas, was not thought to exceed the powers of the Provincial Legislature, and was sanctioned and approved by Her Majesty's Ministers. These several provisions, however, only applying to the case of persons convicted in courts of law, of offences, were not in force as to the State prisoners who confessed their participation in the treasonable practices of which they were accused, but they afforded a sufficient guide in an emergency beyond the scope of all ordinary law.

If the British Parliament could authorize the Sovereign to name any place of transportation beyond the seas, out of the British dominions, it would seem not less within the authority of the Provincial Legislature to appoint a place of banishment not within the local limits of their authority, but within Her Majesty's dominions, which had been frequently used as a place of transportation from this colony, and at which hulks are now kept for the reception of convicts, and to which it appears by Lord Aberdeen's circular despatch of the 2d of March 1835, relative to transportation from the colonies, such offenders as may be specially selected by the Home Secretary may still be sent. I need scarcely notice that this last despatch was by no means restrictive of my power in respect to the State prisoners, as to whom your Lordship's instructions expressly suggest the substitution of transportation and banishment from the province in lieu of capital punishment.

The power of the colonial governments to punish by transportation is indisputable, and its frequent exercise is recognised by the recital in sect. 17 of the Imperial Statute 5 Geo. 4, c. 84, already cited; for, if by the law of the colonies convicts can be subject to transportation beyond seas, the Legislatures of such colonies must have power to pass such laws.

I, as Governor-general and Governor-in-chief of Canada, had a power to appoint the place to which any person should be transported who was convicted of a transportable offence, or who, being capitally convicted, should assent to such commutation of his punishment; and I had at my disposal the immediate means of transport to any place within the command of the admiral on the Halifax station, and the previous assent of the admiral to give every facility within his power.

The Legislature which had the power to suspend the Habeas Corpus Act, and to place the whole country under the operation of martial law, to substitute a drumhead court-martial of volunteers for a trial by jury in the ordinary courts of justice in the country, if they had thought it necessary to exercise it (and the Executive Government alone did, in fact, exercise it), had an equal power (it would be contending for little to say an equally constitutional right) to subject to punishment those who admitted that they had offended against the laws of their country, and who prayed to be spared a public trial, to which the public interest was alike opposed; the Legislature had an equal power, by law, to pass an Act of Attainder, with or without forfeiture of property, and with or without examining further witnesses, as they might think most likely to conduce to the benefit of the public and the tranquillity of the province, against the associates of those who pleaded guilty, and who had fled from the pursuit of justice to a foreign country.

Whatever power was vested in the assembled Legislature of this province before the recent troubles, was vested in me, and the Special Council, by the Imperial Statute 1 Vict., c. 9, so far as that Act did not expressly circumscribe the power which it originated; I have yet to learn that the Ordinance of 2 Vict., c. 1 (now disallowed), in imposing the penalty of transportation to Bermuda on the State offenders, violated any one of the restrictive clauses of the Imperial Act. With the question in a constitutional point of view, it is not my purpose in this place to deal: my arguments are directed merely to the legality of the Ordinance, to show that (whether inoperative or not in any respect) it is not illegal, to show that the Legislature of Lower Canada as constituted by the Imperial Parliament, kept within the limits of its authority.

I contend, then, with every deference for those who may have expressed a contrary opinion, that the Legislature of Lower Canada had a legal right to transport any offenders to Bermuda, and under that authority to convey them there, if they had "the means" (as much as to send them to England and to provide "the means"), and there to leave such offenders, liable to such restraints

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as it might please Her Majesty to subject them to; but Her Majesty could only act through the constituted authorities. The constituted authority here was the Governor, who, under the sanction of the Legislature of Lower Canada, conveyed them, by the means at his disposal, to the Bermudas. There the power of the Legislature of Lower Canada and of the Governor-general ceased. When the prisoners arrived at the Bermudas it was the business of Her Majesty's Government, either through the Imperial Parliament, or through the local Legislature, to retain them there. It was perfectly well understood here, in the passing of the Ordinance, that there was no power in this Legislature to pass any laws which could be binding in the Bermudas, and the Ordinance was confined to its recited object, "to provide for the present security of this province, by effectually preventing the several persons named in it from being at large therein."

It was foreseen that the Governor of the Bermudas might have refused his assistance in this emergency, and have declined to allow the prisoners to be landed, or, if landed, might have instantly released them, or, if not, that before Her Majesty could procure any laws to be passed, subjecting the parties to the necessary restraints to prevent their return, the parties might apply to the courts of the Bermudas for their writs of habeas corpus, and might be enlarged and quit the islands to return. Opposition to an Ordinance intended as, and being, in fact, an extension of Her Majesty's mercy towards the individuals who were the object of it, would probably have weakened the claim to a future permission to return to the province, a permission which, if the British Parliament had adopted and continued, the Ordinance would have become of the utmost importance to the persons transported; but the "present security" of the province was further guarded by a severe penalty (not, as is evident from the Ordinance, to be inflicted without trial) upon such as should return without due permission.

As the Ordinance stands, coupled with the 1 Victoria, cap. 9, it imposes banishment for four years from the province, under the penalty of death. The returning from transportation before the period for which it is inflicted, is subjected to capital punishment by many provincial statutes here, in cases where the original offence is not so punishable. To have imposed a lesser penalty would have been to lessen the original offence of treason, which those transported had admitted.

In conclusion, I maintain that in no respect is the Ordinance illegal, although in part it might have been inoperative without the co-operation of Her Majesty's Ministers and the British Legislature.

Instead of waiting for the express directions of the Government, I determined, for the sake of tranquillising the province, to anticipate such co-operation, and to remove the prisoners instantly.

I have, &c.
(signed) *Durham.*

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(No. 68.)

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

No. 49.
Earl of Durham to Lord Glenelg, 28 Sept. 1838.

Castle of St. Lewis, Quebec,
28 September 1838.

My Lord,

I had the honour to receive, on the evening of the day before yesterday, your Lordship's despatch of August 18th (No. 89), with its enclosures. That communication was accompanied by private letters, and by full reports of the recent proceedings in both Houses of Parliament with respect to my mission.

The information thus supplied enables me to fulfil the promise made in my despatch of the 25th instant (No. 66), of fully explaining to your Lordship the grounds on which I had determined to resign my commissions of High Commissioner and Governor-general of Her Majesty's Colonies in North America.

The Act of mere Indemnity, which has passed the British Legislature, no doubt differs very materially, as your Lordship observes, from the Bill introduced by Lord Brougham. The Bill would have placed such restrictions on my authority as to deprive me of the legal power, indispensable to the temporary government of this distracted country. The Act only purports to save me harmless from the

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consequences of a measure declared to have been illegal. Still my position has been, morally and practically, so much weakened as to be no longer tenable, with a hope of beneficial results. But I will not detain your Lordship, by drawing any further comparison between the Bill that was proposed and the Act that has passed; the latter measure is now irrevocable, and must be considered on its own merits. It is only in that point of view, which, however, does not exclude any of the Parliamentary proceedings which resulted in the passing of the Act, that I request your Lordship's attention to the following observations on the subject:

Your Lordship informs me, that "Her Majesty's Government felt it their duty to offer a decided opposition" to the second reading of the Bill introduced by Lord Brougham; but in what, I venture to ask, did that opposition result? in a concession far more calculated, as it appears to me, to weaken my hands, than would have been any vote of the House of Lords; in which, it is notorious, that Her Majesty's Government have never commanded a majority. A vote of the House of Lords, adverse to Her Majesty's Government, or merely condemnatory of any proceeding of mine, would have been considered almost as a matter of course, in the present state of parties; and would, if it had been decidedly opposed by the Ministers, have left my authority untouched, because it would have been attributed to the mere party motives of a powerful opposition. Supposing that such a vote had passed, there would have remained the House of Commons, where I am bound to presume that a measure, decidedly opposed by Her Majesty's Ministers, would not have been adopted. In that case, the Parliamentary proceedings on this subject would but have resembled many others which have occurred of late years, and which have left the Government unharmed by a hostile proceeding of the House of Lords. In that case, I should have suffered no greater inconvenience than such as any Government must be subject to, which is vigorously and almost constantly opposed by a majority in the Upper House. As respects these colonies, I do believe that the inconvenience would not have been very great; because the adverse proceeding would have been attributed altogether to the state of parties in England, and would have been considered as foreign to the state of affairs in this part of the world. But at all events, in that case, my acts and my authority would have been supported by the House of Commons and the Crown. How different is my actual position! In order to stop hostile proceedings in the House of Lords—(for after your Lordship's despatches, approving of all my measures, I can discover no other motive for the step)—Her Majesty's Ministers determine on advising the Crown to render abortive the most important act of my government. The Crown, therefore, whose representative I am, condemns me on the ground that I have acted illegally. But this is not all; the manner of the condemnation requires (at least, so it is supposed by those who advised it), that I should be saved harmless from the consequences of the measure which, whatever it may have been before, they render null and void. They imagine that I require such a shield; they think that, without it, the prisoners now in Bermuda, whom I refused to subject to the jurisdiction of such a tribunal as would assuredly have condemned them to death; whose property as well as lives I spared; whom I saved from the ignominy of transportation as convicts; whose parole of honour I took as sufficient security for their not attempting to escape: that these men are to sue me for damages for such treatment. This is the opinion of Her Majesty's Ministers; and therefore, having disallowed the Ordinance, they support, in both Houses, the Bill of Indemnity. The condemnation of the most important measure of my government has thus become the act of the whole British Legislature. In addition to all this, the Act requires that it should be proclaimed here; and I am thus compelled, unless I should instantly resign, to join in the condemnation that has been passed on me by the Crown, the Lords, and the Commons. I may surely be permitted to think, that adverse votes of the House of Lords would have been infinitely preferable to the course which has been taken in order to avert that evil.

Being determined above all things that no personal feeling or consideration shall have any influence on my conduct in the present state of public affairs in this colony, I shall proclaim the Act of Indemnity in the next official gazette. If I resigned immediately, that duty would be imposed on the administrator of this Government. The reasons which induce me to abstain from resigning at present will be stated hereafter. Meanwhile, I have to explain the grounds on which it appears to me that my permanent occupation of this government would be rather injurious than beneficial to Her Majesty's service.

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In my anxious examination of this question, I have endeavoured to disregard the past, excepting as it affects the future. By this course I have hoped to gain two advantages: first, that of simplifying the subject; and secondly, which is far more important, that of preventing the intrusion of wounded personal feeling into a deliberation which should be conducted solely with a view to public objects.

Recurring to the past, then, only as it bears on the future, I am desirous to point out, what seems to have been overlooked by everybody in England, that the particular measure which has been condemned forms but a part, though a very important one, of the whole policy which was proclaimed by the Ordinance of the Special Council, and the Proclamation of Amnesty issued on the day of Her Majesty's coronation. That policy was not indicated by either of those measures separately. The two measures were indeed one, having been divided into two parts, merely for the purpose of imposing on the Governor and Council all that required legislation and was of a penal character, and of making all that partook of mercy and kindness the act of the Queen. Nor was the whole policy proclaimed on that day to be found in the Ordinance and Proclamation alone. The official gazette, in which those documents were published, contained a most unusual announcement in the following terms: "We are authorized to state that his Excellency the Governor-general is actively engaged in the preparation of measures which will, as soon as may be possible, be embodied in ordinances of the Governor and Special Council, relative to a jury law, a bankrupt law, the judicial and municipal institutions of the whole province, general education, the establishment of registry offices, and the equitable commutation of feudal tenures." If it had been possible to prepare measures of this kind in time, they would have appeared in the form of ordinances on the same day as the Proclamation of Amnesty. But the promise was considered sufficient to indicate my sense of the necessity of very important changes in the civil and municipal law of the province. The whole policy which I intended to pursue was embodied in that promise, in the amnesty, and in that part of the preamble of the Proclamation wherein is asserted Her Majesty's "firm resolve to punish with the utmost severity any future act of insubordination, and more especially to prevent in future the occurrence of dissensions similar to those by which the province had been disturbed, by effectually removing all causes of dissension, so that the province might be established in peace as a loyal and truly British colony." I had made up my mind, it was evident, to the necessity of rendering the institutions of this province thoroughly British. But it was also plain, I hope, that admitting, as to the future, the necessity of measures which would be unpalatable to the majority of French Canadians, I was desirous to deal very leniently with such of them as had by their past conduct become amenable to severe punishment. As to the past, I proclaimed forgiveness and oblivion; as to the future, British institutions; as to the present, security against the disaffected. The only provision for the security of the colony has been rendered null. Moreover, since the different parts of the whole scheme of policy were intimately blended with and dependent on each other, the destruction of one portion of it affects all the rest, not merely by giving a triumph to the disaffected generally, and allowing the worst of them an opportunity to play over again their part as leaders in a rebellion, but also (and this is the main consideration) by showing that no reliance is to be placed upon the validity of any law, or the performance of any engagement, proceeding from the extraordinary authority which has been created for the temporary government of this country. If I have described my own policy aright, I shall not err in representing that of the Imperial Government as one for the production of insecurity at present, and of doubt, uncertainty, and want of confidence as to the future.

The particular defect of the Ordinance, which has led to the disallowance of the whole of it, was occasioned by no oversight of the Extraordinary Legislature of Lower Canada. I believed, and still believe, for the reasons assigned by me in my despatch No. 67, that, by the legislative powers entrusted to that body, we were authorized to banish persons from the province, and that, according to a constant course of precedents furnished by the legislation of the province, our power extended to the custody and disposal of provincial prisoners while on the high seas, and to landing them on the shore of Bermuda, or of any other portion of the globe in which free access to strangers is allowed by the municipal laws. Further, it was well known to us, our jurisdiction did not extend; once landed in

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Bermuda, the prisoners were subject only to the laws of that island. It was known that they would not arrive there as convicts, (especial pains had been taken to spare them that indignity,) and that the laws, therefore, which held good with regard to ordinary convicts would not apply to them. It was known that they could be forcibly detained within the precincts of Bermuda only by provisions to be made for that purpose by the legislature of the island, or by the Imperial Parliament. The words of the Ordinance, which authorized Her Majesty to impose restraints on the prisoners in a colony not subject to our jurisdiction, could give Her Majesty no power which she did not possess before. It was never supposed that they could: and that part of the Ordinance was passed with a perfect knowledge that it was wholly inoperative, and that the prisoners could not be compelled to remain in Bermuda, without the adoption of measures in aid of our legislation by the authorities of the island or of the empire. The words were inserted for the double purpose of showing that the prisoners were not to be subjected to the ordinary treatment of ordinary convicts, and of relieving the loyal inhabitants of the province from the apprehension of the immediate return of these dangerous persons to its limits or its vicinity.

As it happened, however, the object of the provision in question was attained in spite of its legal inadequacy; for the detention of the prisoners in Bermuda was secured by their voluntary parole.

Except for the purposes I have mentioned, the words objected to were, in fact, mere surplusage. If, as common sense points out, they were merely inoperative, their insertion is a matter of no importance. If the lawyers are technically right in confounding two very distinct words and ideas, and describing as illegal all legislative provisions which are obviously inoperative, it may be inferred that Her Majesty could not give her sanction to this enactment, and that the disallowance of the Ordinances was a matter of technical necessity. But in either case, it was the business of a wise government and legislature to correct the errors or supply the imperfections which had their origin in a zeal for humanity and for the integrity of the empire. I speak of a policy, of which the leading features and animating spirit have now been sanctioned by almost universal assent. It has hardly been impugned even in this province, by those whose friends I could not entirely relieve from all punishment for rebellion, or those whose sense of justice I shocked not a little by the supposed inadequacy of my penalties. It has been generally and cordially approved, even in its details, by the people of the neighbouring states, the people in the world the most competent to judge without passion of the local necessities of the case, and not the least ardent in their love of freedom and their respect for the law. It has not, even amid the acrimony of party debates at home, been denied by any person whose opinion has any weight with any body, to possess the merits (all by which I set much store) of substantial justice, mercy, and sound discretion. A government and legislature anxious for the tranquillity of this wretched country, for the interests of humanity, for the honour of the British Crown, would not have lightly foregone the benefits which such a policy promised, and had already in great measure secured. They would have taken good care that its great and beneficent purpose should not be frustrated by any error which they could rectify, or by the want of any power which they could supply. If they found the Ordinance inoperative, they would have given it effect; if illegal, they would have made it law.

Instead of this, Her Majesty's Ministers, at the instance of a branch of the Legislature, have decided on disallowing the whole Ordinance: and in place of finding the co-operation which I had a right to expect, I am favoured with an Act of Indemnity, for which I can be thankful, only because it purports to relieve others from any penalty incurred by their ready acquiescence in my views. The disallowance of the Ordinance has, I repeat, rendered null all the repressive portion of my policy; it has also, by extending a complete pardon to all, deprived me, who do not shrink from the ungracious task of framing measures obnoxious to one class of the people, of the power to make them some compensation by further acts of grace and kindness. Finally, it overthrows all confidence in my engagements; it deprives my pledged word of all weight and value. I should now legislate, if at all, with the expectation that each measure would be scanned and criticised in a hostile spirit, and not improbably rendered abortive by the supreme authority. A delegated authority, when not sustained by the power that has bestowed it, loses all moral force: and I need not remind your Lordship that a government of mere physical force is neither possible on this continent, nor would

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would be otherwise than wholly inconsistent with my feelings and opinions. Therefore, I am satisfied that the proceedings of the Government at home entirely preclude me from carrying out the policy which I had proclaimed, and on which I have acted. I could not adopt a new policy now without bringing ridicule on all concerned. I am thus disabled from rendering any important service to the public in my present situation. By retaining an authority which has become merely nominal as regards the great purposes for which it was created, I should wilfully delude the public with false hopes, and deliberately provide for a more bitter disappointment. These are the main grounds on which I persevere in the determination of resigning, announced to your Lordship in my Despatch No. 66.

But these, though the principal, are not the only reasons, which induce me to resign. The late proceedings at home have not merely, by destroying the moral power of my government, deprived me of the necessary means of carrying into effect a policy, of which the Ordinance in question was a small though essential part; but have, by the disallowance of that particular measure, imposed on the government of this province the most serious practical difficulties. I have already called your Lordship's attention to the fact, that the disallowance of the Ordinance annuls all the measures of precaution and punishment which I have adopted; and that the universal operation of Her Majesty's Proclamation of Amnesty, limited by no exceptions save those now invalidated, establishes an impunity absolutely co-extensive with crime, and places the leaders of the rebellion precisely in the same situation as that which they occupied before their recent unsuccessful attempt. I find that this result was not wholly overlooked in the debates in Parliament; and that it was suggested that some precautions should be taken by the authority, which invalidated our acts, to avert the mischief thereby occasioned. Though much was said, however, nothing has been done: the work is left to be performed by the provincial legislature: and your Lordship is kind enough to suggest the course which you think it advisable that we should adopt in the present emergency. The question of the disposal of the persons implicated in the late insurrection, was one originally foreign to my mission, an obstacle left in my path by previous neglect in one quarter or another. I succeeded in removing it: the effects of its existence had been effaced. It is now placed in my way once more; with this additional disadvantage, that, having all that is difficult and odious to do over again, I have lost the power of accompanying it by an act of grace. I have to punish without pardoning; and justice having been now baulked of its due, I am to execute whatever vengeance the interposition of the Home Authorities may have left within my reach.

The suggestions made by your Lordship appear to me liable not only to this, but to other objections. Her Majesty's Government feeling it their duty, as you say, "to leave me in no uncertainty as to their views on the course which it may be expedient now to adopt with regard to the persons who, in consequence of the disallowance of the Ordinance, can no longer be liable to its provisions," suggest the passing another Ordinance, banishing from the province the eight persons who have been sent to Bermuda, and forbidding their return under some penalty "short of death."

Your Lordship appears in a subsequent passage to desire that such an Ordinance should apply to the whole of the "persons whom, in the exercise of a sound and wise discretion, I have excepted from the amnesty." This would include Mr. Papineau, and the others, whom, being at large and absent from the province, the disallowed Ordinance had sentenced to banishment.

But from a paragraph immediately following, which refers to the course practicable under an Ordinance of Sir John Colborne's, I am led to suppose that you look to a suspension of the Habeas Corpus Act as sufficient for effecting the exclusion of those dangerous persons.

If the Ordinance, which you propose, were to exclude only the eight persons now in Bermuda, it would be useless and iniquitous. There would be no justice in punishing Mr. Bouchette for being taken, while Mr. Gagnon, the companion of his guilty enterprise, is allowed to return unmolested to his home: or in dooming Dr. Wolfred Nelson to a severer lot than that assigned to his brother, who was not only guilty of treason previous to leaving the province, but has since invaded it at the head of an armed band of foreigners and refugees. If it be politic to allow Mr. Papineau to return, and resume his former course, it were merely a needless

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and petty cruelty to banish from their homes his bolder, and therefore less dangerous tools.

If the Ordinance were to include Mr. Papineau, and the others who have been banished without a trial or confession of guilt, the ends of substantial justice would be attained in the same way as in the disallowed Ordinance; and the new Ordinance would be liable to the same objections as those urged against the former one. Your Lordship, I know, does not participate in these objections; but experience has shown me that it is necessary in the present times, for those exercising an arduous responsibility far from home, to look to the opinions, not only of the Ministers, but also of the Opposition. And in following a course similar to that, which has been already impugned by your Lordship's opponents in Parliament, I do not feel quite sure that the same power which has induced Her Majesty's Government to cancel an act, of which you had already declared their approbation, might not compel them to disallow the very course suggested by themselves.

The mere substitution of a milder punishment in place of that of death, would obviate none of the objections made on principle to the infliction of any penalty without trial. No one can imagine that capital punishment would ever have been wantonly inflicted by one who has deviated from the ordinary law, in order solely that he might exercise a more than ordinary clemency. That penalty was denounced in the Ordinance because it seemed necessary, according to the general practice of civilized nations, to enforce submission to the second in the scale of penalties, by a threat of the highest. To call an act innocent in itself, by the name, and subject it to the penalties of treason, is not more revolting to strict notions of ordinary law, than to call it felony or misdemeanor, and punish it with banishment, imprisonment, or fine.

Your Lordship suggests that this new policy should be completed by a suspention of the habeas corpus. And such a measure I am aware has been suggested, as a matter of course, by some of those speakers in Parliament who profess most regard for the British constitution. I cannot bring myself to rate the great guarantee of personal liberty as so unimportant a part of the British constitution, or of those securities which should be possessed by every civilized community. On the contrary, I am inclined to think it quite as important, and quite as sacred from needless and unnecessary violation as any, without exception, of the provisions made for fair and open trial. And I must own that I have seen, with no little regret, how much men's minds appear to have been familiarized with the idea of suspending the habeas corpus, by the frequency with which it has been done in the bad periods of our own history; and the consequent facility with which, in these debates, it seems to have been proposed as a mere matter of course by some of those who express the greatest horror at any deviation from what they call a constitutional course. To me, my Lord, it appears that men's notions of right and freedom would be much more shocked at such an universal violation of every man's dearest rights, than by any summary process adopted for the punishment of the undeniable guilt of a few. I do not say that there are no circumstances under which I would consent to a suspension of the habeas corpus; I should not hesitate to adopt it in any emergency in which the notoriety of a general outbreak, or of a general purpose of insurrection, might render it advisable that a Government should be for a while armed with the power of arresting the objects of its suspicion, without bringing them to immediate trial. But I see no necessity on account of any existing evil in this province, for taking such a step now; and the present legislative authority of this province will be capable of being brought into immediate action at the moment in which any danger may declare itself. On no other ground can I consent to propose such a measure for adoption by the Special Council. I cannot think it justifiable to take away the franchises of a whole people in order to punish a few known and dangerous individuals; or to guard against the misconduct of 23 men, by enveloping them in a general forfeiture of personal liberty.

Had your Lordship's suggestion of these measures been accompanied by positive instructions for their instant adoption, I should have felt that, in consequence of my insuperable repugnance to taking any part in them, it would be my duty to resign immediately the government of this province, and to give up my authority to a successor who would carry your orders into effect. But as you expressly state that you "do not intend to prescribe to me the precise course to which you have adverted, as that which under existing circumstances ought to be adopted," I conclude that you mean not in any way to fetter my discretion. I shall therefore

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fore pursue the course which, taking all the circumstances of the case into consideration, I regard as best calculated for the public service.

I do not instantly resign my authority, because I have made engagements and imposed upon myself obligations which it is absolutely necessary that I should fulfil. In my character of Governor-general, I have set on foot the reform of some practical grievances, which are among the many that have been long suffered by the people, and which I fear they might continue to suffer, if the governing hand which has first ventured to meddle with abuses in this country were suddenly withdrawn from the work of reformation. In some cases, both of individuals and of classes, I have held out hopes, and made virtual promises, to which every sense of honour and of truth commands me, as far as remains in my power, to give effect. In my character as High Commissioner, I have instituted inquiries, some of them relating to the whole of these colonies, and all to subjects of great importance. Considering the great expense necessarily incurred in carrying out the objects of my mission, and the lamentable want of information upon these subjects, which prevails in the Imperial Legislature, I should take shame to myself if, except under some absolute necessity, I were to leave all these inquiries incomplete. Above all, I am desirous that my mission should not prove fruitless as to its main object, namely, the preparation of a plan for the future government of this part of the British empire. Such a plan could only be framed upon ample information as to the wants, dispositions, and interests, as well conflicting as general, of every class of Her Majesty's subjects in these colonies. I have endeavoured to gain such information from all quarters, but have not yet completed that very arduous task. Still it is so near completion, that I cannot bear to think of leaving it unfinished; and if unfinished, productive of no other result than a waste of public money, of the laborious exertions of those whom I have employed, and of the patience of the people of these colonies, which, I do solemnly assure your Lordship, may be tried over much. I have no doubt that, in a few weeks more, nothing essential to this object will be left undone. I shall then return to England without loss of time, for the purpose of laying at the feet of the Queen the commissions of Governor-general and High Commissioner, with which Her Majesty has been graciously pleased to honour me; and then, in my place in Parliament, at least, I may be able to render my mission productive of good, by satisfying the British people and Legislature of the absolute necessity of steadily pursuing, towards these colonies, a very different policy from any that has yet been adopted by the parent state.

Even if I can do no other good there, I shall be able to use my experience of this colony in checking the prevailing disposition of Parliament to decide on the vital interests of this distant community according to the principles of a constitution, and the feelings of a state of society the least analogous to those which prevail here. The government of these provinces requires something more than a knowledge of the common and statute law of England. Though the object of wise and benevolent statesmen should be to establish the great principles of the British constitution and the English law in this province, it must not be supposed that this is yet done; and I trust that the acts of future Governors will be submitted to the decision of some more competent judges than those who profess to try such acts by the mere principles of English law. My acts have been despotic, because my delegated authority was despotic. Until I learn from some one better versed in the English language, that despotism means anything but such an aggregation of the supreme executive and legislative authority in a single hand, as was deliberately made by Parliament in the Act which constituted my present powers, I shall not blush to hear that I have exercised a despotism: I shall feel anxious only to know how well and how wisely I have used, or rather exhibited an intention of using, my great powers.

Nor shall I regret that I have wielded these despotic powers in a manner which, as an Englishman, I am anxious to declare utterly inconsistent with the British constitution, until I learn what are the constitutional principles that remain in force when a whole constitution is suspended; what principles of the British constitution hold good in a country where the people's money is taken without the people's consent, where representative government is annihilated, where martial law has been the law of the land, and where the trial by jury exists only to defeat the ends of justice, and to provoke the righteous scorn and indignation of the community. I should indeed regret the want of applicability in my own principles of government, or my own incapacity for applying them, had the precise

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course which I should think it imperative on me to pursue in a land of freedom and of law, proved to be the only one that I could adopt in a country which long misgovernment and sad dissension have brought to a condition that may fairly be described as one of constituted anarchy.

I have, &c.
(signed *Durham.*

— No. 50.—

(No. 70.)

No. 50.
Earl of Durham to Lord Glenelg, 29 Sept. 1838.

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

My Lord, Castle of St. Lewis, Quebec, 29 September 1838.

IN reply to the observation made by your Lordship in your communication to me of the 18th ultimo, respecting the rumour of my having "erected a Court of Appeal," I would refer you to my despatch of the 30th of July last, (No. 31.)

I have, in fact, created no new court of appeal, and made no alteration in the law under which the Executive Council sat as such court. The Court of Appeals here was originally constituted under a provincial ordinance of the Governor and Council, recognised by the imperial statute of 31 Geo. 3, c. 31, ss. 33 and 34, and was subsequently regulated by the provincial statute of 34 Geo. 3, c. 6, ss. 23, &c. This Act made "The Governor, the members of the Executive Council of this province, the chief justice thereof, and the chief justice to be appointed for the Court of King's Bench at Montreal, or any five of them," a court of appeal from the civil courts in all cases wherein an appeal by law is allowed in the province. Some doubt having arisen, during Sir Gordon Drummond's government, whether the members of the Executive Council, who were not appointed by mandamus from the Crown, could sit in the Court of Appeals, the matter was referred home by him, and (as I informed you in my despatch No. 31,) the opinion of the then attorney and solicitor-general was taken, which was in favour of their right to sit. It was communicated to the Governor of Lower Canada in a despatch from Lord Bathurst, of the 9th December 1815; and as it may be more convenient than searching for it in the Colonial-office, I forward a copy of the despatch and opinion herewith. You will perceive from this that there has been no alteration in the law under which the Court of Appeals sits. The Executive Council is still the Court of Appeals. The only alteration in practice is, in having sworn in as executive councillors an additional number of judges, and not having summoned to the council, when it sat as a court of appeals only, such members as had received no legal education. Had I possessed the means and the power, I should have been glad to have given the province a completely competent and permanent court of appeals, consisting entirely of lawyers, for it is much wanted and called for, and forms one feature of the plan which I had in view for the future government of the provinces. This alteration of the practice was merely intended as a temporary expedient, grounded on the best means at my disposal. Its legality is not doubted here, and I repeat it has given much satisfaction.

I have, &c.
(signed) *Durham.*

Enclosures in No. 50.

(No. 1.)

Encl. 1, in No. 50.

Sir, Downing-street, 9 December 1815.

HAVING referred to the consideration of his Majesty's attorney and solicitor-general your letter of the 22d July last, stating the doubts that have arisen whether the honorary members of the Executive Council are entitled to act as judges in the Court of Appeals, I herewith transmit to you the copy of their Report, dated the 16th ultimo, by which you will perceive that they are of opinion that honorary members of the Executive Council, when summoned, are duly qualified to sit as members of the Court of Appeals.

I have, &c.
(signed) *Bathurst.*

Lieut.-Gen. Sir Gordon Drummond, K.C.B.
&c. &c. &c.

(No. 2.)

No. 50.
Earl of Durham to Lord Glenelg, 29 Sept. 1838.

Encl. 2, in No. 50.

My Lord, 2, Lincoln's-Inn, 16 November 1815.

We have had the honour to receive your Lordship's letter of the 2d ultimo, transmitting to us a letter from Lieut.-general Sir Gordon Drummond, dated Quebec, the 22d July last, stating that doubts have arisen whether the honorary members of the Executive Council are entitled to act as judges in the Court of Appeals, and referring to certain acts of the British and Colonial Legislatures on the subject. Your Lordship, by the command of his Royal Highness the Prince Regent, is pleased to desire that we will take the same into our consideration, and report to you our opinion of the case as stated by General Drummond.

In obedience to your Lordship's commands we have considered the same, and have the honour to report that there is no distinction in the terms of the appointments of the regular and the honorary members of the Executive Council, except that the latter cannot attend unless specially summoned, and are not to receive any salary for their attendance. The oath administered to both, and the functions to be performed by both, when the latter are summoned, are the same, and no distinction is pointed out or alluded to in the statute of the 31 Geo. 3, or the colonial statutes; we, therefore, think that honorary members of the Executive Council, when summoned, are duly qualified to sit as members of the Court of Appeals.

We have, &c.

Earl Bathurst, &c. &c. &c. (signed) *W. Garrow.*
J. Shepherd.

— No. 51.—

(No. 72.)

No. 51.
Earl of Durham to Lord Glenelg, 29 Sept. 1838.

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

My Lord, Castle of St. Lewis, Quebec, 29 Sept. 1838.

In compliance with your Lordship's request, I have to inform you that Vice-Admiral Sir C. Paget, Sir J. Macdonell, the Hon. Charles Grey, Colonel Couper, and Charles Buller, Esq., attended the Special Council first on the 28th of June, in pursuance of their appointments, dated the 28th of June, and were all present at the Council on the 28th of June.

I have, &c.

(signed) *Durham.*

— No. 52. —

(No. 73.)

No. 52.
Earl of Durham to Lord Glenelg, 6 October 1838.

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

My Lord, Castle of St. Lewis, Quebec, 6 October 1838.

I yesterday received an application from the commander of the forces for a further reinforcement from Nova Scotia. As Sir John Colborne considers this measure essential to the security of the province, I have had no hestitation in complying with his request, the more so, as it is in complete accordance with the reports made to me of the state of feeling which has been produced in the minds of the disaffected in this province, by the late discussions and proceedings in the House of Lords.

I have, therefore, addressed a despatch to his Excellency Sir Colin Campbell, and have directed Her Majesty's ships Malabar, Andromache, and Medea to proceed without delay to Pictou, for the purpose of embarking the regiment which his Excellency may be enabled to order on this service.

I have, &c.

(signed) *Durham.*

— No. 53. —

(No. 74.)

No. 53.
Earl of Durham
to Lord Glenelg,
8 October 1838.

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

Castle of St. Lewis, Quebec,
8 October 1838.

My Lord,

I HAVE had the honour to receive your Lordship's despatch of the 5th ultimo, No. 103, whereby you desire that I will express to you my judgment on the whole subject of escheat in the island of Prince Edward.

After perusing the voluminous documents enclosed with your Lordship's despatch, I do not feel that it is in my power to add anything to the very full information on the subject, which those documents comprise. I, however, enclose copies of the evidence of Mr. Lelacheur, and of the Attorney-General and Lieut.-Governor of Prince Edward Island, recently given before the commission of inquiry respecting Crown lands and emigration; and I beg leave to add, that the delegates from the island, who lately visited me here, earnestly concur with Sir Charles Fitzroy in his view of the case.

The information before me is now so ample, that upon no matter of fact can I entertain a doubt. Nearly the whole island was alienated by the Crown in one day, in very large grants, chiefly to absentees, and upon conditions of settlement which have been wholly disregarded. The extreme improvidence, I might say the reckless profusion, which dictated those grants is obvious; the total neglect of the Government, as to enforcing the conditions of the grants, is not less so. The great bulk of the island is still possessed by absentees, who hold it as a sort of reversionary interest which requires no present attention, but may become valuable some day or other through the growing wants of the inhabitants. But in the meantime, the inhabitants of the island are subjected to the greatest inconvenience, nay, to the most serious injury, from the state of property in land. The absent proprietors neither improve the land themselves, nor will let others improve it. They retain the land, and keep it in a state of wilderness. Your Lordship can hardly conceive the degree of injury inflicted on a new settlement, by being hemmed in by wilderness land, which has been placed out of the control of Government, and is entirely neglected by its absent proprietors. This evil pervades British North America, and has been for many years past a subject of universal and bitter complaint. The same evil was felt in many of the states of the American Union, where, however, it has been remedied by taxation of a penal character; taxation, I mean, in the nature of a fine for the abatement of a nuisance. In Prince Edward Island this evil has attained its maximum. It has been long and loudly complained of, but without any effect. The people, their representative Assembly, the Legislative Council, and the Governor, have cordially concurred in devising a remedy for it. All their efforts, however, have proved in vain. Some influence—it cannot be that of equity or reason—has steadily counteracted the measures of the Colonial Legislature. I cannot imagine that it is any other influence than that of the absentee proprietors resident in England; and in saying so, I do but express the universal opinion of the colony. The only question, therefore, as it appears to me, is whether that influence shall prevail against the deliberate acts of the Colonial Legislature, and the universal complaints of the suffering colonists. I can have no doubt on the subject. My decided opinion is, that the Royal assent should no longer be withheld from the Act of the Colonial Legislature.

At the same time, I doubt very much whether this Act will prove a sufficient remedy for the evil in question. It was but natural that the Colonial Legislature who have found it impossible, as yet, to obtain any remedy whatever, should hesitate to propose a sufficient one. Undeterred by any such consideration; relying on the cordial co-operation of Her Majesty's Government and Parliament, in the work of improving the state of these colonies, I had intended, before the receipt of your Lordship's despatch, and still intend, to suggest a measure which, while it provides an effectual remedy for the evil suffered by the colonists, shall also prove advantageous to the absentee proprietors, by rendering their property

more

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more valuable. Whether the inhabitants of Prince Edward Island would prefer waiting for the now uncertain results of such a suggestion of mine, or that the Act which they have passed should be at once confirmed, I cannot tell; but I venture earnestly to recommend that Her Majesty's Government should be guided by their wishes on the subject; and in order to ascertain these, I propose to transmit a copy of the present despatch to Sir Charles Fitzroy, with a request that he will, after consulting with the leading men of the colony, address your Lordship on the subject.

With respect to the "terms" proposed by the proprietors, I am clearly of opinion that any such arrangement would be wholly inadequate to the end in view.

I have, &c.
(signed) *Durham.*

Enclosure in No. 53.

17 August 1838.

Robert Hodgson, Esq., Attorney-general for Prince Edward Island; Examined. Encl. in No. 53.

How long have you resided in Prince Edward Island?—I am a native of the island, and have resided there constantly since 1819.

Has your attention been particularly directed to the state of landed property in Prince Edward Island, and the effect of the system under which the Crown lands have been disposed of?—It has.

You have read that part of the evidence of Mr. Lelacheur, given before this commission, which relates to the history of the disposal of Crown lands; does that history appear to you to be correct?—Mainly so; any inaccuracies that it may contain are not of substantial importance.

Will you be so good as to state to the commission your views upon the subject?—I consider that the course adopted in the disposal of the Crown lands has proved exceedingly injurious to the welfare of the colony generally. It has retarded its improvement. The effects of the system are illustrated by two returns, which I beg leave to put in, and from which it appears, that in 1833, more than 60 years after the original grants of the whole of the island, which consists of 1,333,100 acres, only 432,225 acres were occupied; I mean, by occupation, in actual possession of some settler, but not the whole of the land was cultivated. The quantity occupied, therefore, was only about one-third of the whole. About 90,000 acres, or about a fourteenth of the whole, was under cultivation. No very material alteration has taken place since that time, although the system of husbandry, upon the land then cultivated, has improved. I attribute this want of advancement in the colonization of the island chiefly to the disinclination evinced by a number of the proprietors to grant long leases to tenants, which is a technical term in the island, meaning leases for 999 years. Several of the proprietors retain their tenants as tenants at will, and others refuse to grant leases of wilderness lands for a longer period than 40 years. There can be no question but that the settlement of the island has been retarded of late years by the agitation of the escheat question, whereby all titles to property are rendered to a certain degree insecure by the uncertainty which hangs over the subject, and by which the investment of capital is greatly discouraged.

But for the uncertainty of title, would there be a considerable demand for new lands?—I think there would.

Is the difficulty of obtaining land upon remunerating terms much complained of by the settlers?—It is, especially by those who are tenants at will, and by those who can only obtain leases of wild land for 40 years.

Does the existence of too much wilderness land, the property of individuals, operate injuriously upon the prosperity of the island, independently of the difficulty complained of as to obtaining a satisfactory property in new land?—It does; those roads that have been made throughout the colony have been so made at the expense of the province, without any contribution from the proprietors of the wild lands through whose property these roads pass, and which have materially tended to increase the value of their property. I should qualify this by saying, that, within the last five years, the legislature have passed an Act, compelling the proprietors to contribute to new roads made through their wilderness lands.

Are the proprietors generally resident in the island, or absentees?—Generally absentees, residing for the most part in Great Britain, who have at all times derived very little advantage from the possession of this property, and still less of late years, in consequence of the agitation of the escheat question, which has induced the tenants on some properties to withhold the payment of rent.

I presume that the absentees generally take very little interest in the state of their property?—They have very little hitherto; but I should state that, in a pamphlet recently published by Mr. Young of Halifax, the agent of several of the proprietors in conducting their opposition to the proposed Court of Escheats and Land Assessment Bill, they have promised to grant leases for 60 years, with a clause allowing the tenant to purchase at 20 years' purchase, and, if he should not avail himself of the right given by this clause, that

No. 53.
Earl of Durham to Lord Glenelg, 8 October 1838.

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then, at the expiration of the lease, the improvements he may have made should be taken at a valuation.

They have not, then, taken any steps to settle their properties according to the terms of this grant?—With two or three exceptions, they have not; the resident population at this present time consists of persons who have found their way there from the adjoining colonies, or who have been induced to emigrate by speculators who have taken up ships to the island, with a view of making a profit by their passage-money.

To what extent do you imagine that a tax upon all wild lands would operate, as a remedy for the evils to which you have adverted; a tax which should be in the nature of a fine for the abatement of a nuisance, and which, at the same time, should be employed in the general improvement of the island?—I am of opinion that a tax of that nature would be the best thing that could be devised to induce the proprietors to settle or dispose of their lands; and an Act, imposing such a tax, was passed in 1837 by the legislature of the province, and is now waiting the assent of Her Majesty. The Act imposes a tax of 2 *s.* currency per 100 acres upon leased or occupied lands, and of 4 *s.* per 100 acres upon wilderness or unoccupied land, and defines what description of land shall be considered as coming within the minimum tax, and what shall be subject to the greater. It authorizes a process of judgment against land in arrear, and their sale to pay the amount of tax and the expenses. An Act has been in force for the last five years, imposing a tax of 2 *s.* per 100 acres upon all lands in the colony. That Act, however, was a boon to the proprietors, as it released them from the payment of the quit-rent to the Crown, which was 2 *s.* sterling, or nearly 3 *s.* currency per 100 acres. I beg leave to hand in a return of the number of acres in respect of which the tax was in arrear, and the quantity of land sold to defray the arrearages, with the price at which they were sold.

Is the tax of 4 *s.* per 100 acres, to be imposed by the Act of the legislature of 1837, in your opinion sufficient for the purpose it is designed to accomplish?—It is certainly not too high, and, if anything, it is too low; it might be insufficient to induce the proprietor to do anything effectual to settle his land.

Was it designed that the produce of this tax of 4 *s.* should be applied to the improvement of the country?—It was to be paid into the general revenue, and was to be at the disposal of the legislature.

But if the produce of tax upon wilderness lands were specifically applied to the improvement of the country, by making roads, bridges, and such other works as have a tendency to increase the value of land, a much higher tax might be imposed without any injustice to the proprietors?—Undoubtedly so.

While, at the same time, it would operate to induce them to take some effectual means to settle their lands in proportion to its amount?—Yes.

Have any other methods occurred to you, by which you imagine the mischief arising from the profuse method of granting Crown lands in this island might be remedied?—A purchase by Government from the proprietors of the whole of their lands, supposing that such a purchase could be effected upon reasonable terms; supposing such an arrangement could be made, the sums advanced by Government would be speedily refunded, with interest, by the adoption of a system of sale.

John Windsor Le Lacheur, Esq., Member of the Legislative Assembly of Prince Edward Island.

How long have you resided in the island of Prince Edward?—Ever since May 1806.

Can you describe the system originally pursued in granting lands in that island?—The whole island was divided into 67 townships, containing about 20,000 acres each, the whole of which were granted in one day to different individuals, in lots, from a whole to a quarter township, subject to the payment of a quit-rent of from 2 *s.* to 6 *s.* sterling per 100 acres, and the obligation of settling the land granted, within 10 years from the date of the grant, with foreign Protestant settlers, in the proportion of one person to every 200 acres.

Are you aware if these conditions were fulfilled to any and what extent?—They were not fulfilled in a single instance; nor does any attempt appear to have been made to fulfil them, as not one Protestant was introduced by any of the grantees.

Do you know what quantity of the land thus granted now remains in the hands of the original grantees, or their descendants?—I am not aware, but I believe there are not more than three of the present proprietors who have not acquired their land by purchase. The sums for which the land was disposed of by the original grantees was in most cases exceedingly small, not more in many cases than from 10 *l.* to 40 *l.* per township of 20,000 acres. Some of the largest proprietors purchased at this rate.

Have any steps been taken at any time to enforce the performance of the conditions upon which these grants were originally made?—In the year 1799, or thereabouts, the House of Assembly represented the evils which had been felt in consequence of the neglect of the proprietors to settle their grants according to the conditions imposed upon them, and pray that a court of escheat might be established. This request appears, by a message from General Fanning, the then governor of the island, to the House of Assembly, to have been favourably received by the Government at home; and in the year 1803, a Bill for establishing a court of escheats was passed by the House of Assembly and the Legislative Council, and received the assent of the Governor. It was however disallowed by the Home Government, in consequence of representations from the proprietors, who being united and influential, residing

residing for the most part in England, were able to obtain a reversal of the consent which had previously been given by the Home Government. At the same time, the proceedings for the recovery of quit-rents, which had been commenced by the public law officers of the island, and several which had been prosecuted to judgment, were laid by. In consequence of this, the House of Assembly passed certain resolutions, expressive of their feeling on the subject; and at the end of 1806, introduced a new Bill for the same purpose. In 1818, during the administration of Governor Smith, a court of escheat was appointed, and two townships, Nos. 15 and 55, were forfeited. Immediately subsequent to this, however, the proprietors at home had sufficient influence to induce the minister to issue a proclamation in the name of the Prince Regent, relinquishing all claim to forfeiture on account of any part violation of the conditions, and giving 10 years further for the settlement of the land, at the same time allowing the introduction of British subjects in the place of foreigners. I wish to state here, before proceeding to relate the subsequent steps in reference to these grants, that the proprietors succeeded in inducing, by false representations as to the conduct and intention of Governor Smith, a majority of the population to petition for his removal, although the course he had pursued was, as appears to me, in all respects calculated to promote the true interests of the colony.

Did the proprietors comply with the new condition then imposed upon them?—I believe, in not one instance. In the year 1827, when the 10 years from 1816 granted by the proclamation expired, there was not, to my knowledge, a single township on the island which contained the requisite number of settlers.

Have any steps been taken subsequently to enforce the fulfiment of these conditions, or to forfeit the land for the non-fulfilment?—Every House of Assembly since that period has, I believe, made representations on the subject, though hitherto without effect. In 1832, "An Act for the encouraging the Settlement and Improvement of Lands in this Island, and to regulate the proceedings of the Court of Escheat there," was passed by the Legislative Council, and received the assent of the House of Assembly and the Governor. It was, however, reserved by the Governor for the approval of the Home Government; and on its arrival in England, the representations of the proprietors were again sufficiently powerful to overbear the united voice of the whole Legislature of the Province, and the Act was accordingly disallowed.

Do you know on what grounds this disallowance was justified?—It appears from a despatch from Lord Viscount Goderich, dated 1st August 1832, that the reasons assigned for refusing the consent of His Majesty to the Bill are expressed in the following words: "That some proprietors had sent out more than the number of persons which would have settled their property in the prescribed properties, but that the persons had subsequently changed their residence to other lands. Those proprietors would forfeit their grants under the mode of proceeding contemplated by the Assembly; other proprietors, on the contrary, without making any effort for the fulfilment of the conditions imposed on them, find their lands settled in the by the spontaneous of independent emigrants. These proprietors escape under the proceedings contemplated by the Assembly."

Have you any means of knowing to what extent this statement is true, so far as relates to the bringing out of settlers at the expense of any of the grantees?—I do not imagine that any proprietor has brought out, at his own expense, a sufficient number of settlers to settle his land in the proportion prescribed by the original grant, or, in fact, that there was any of the persons so alleged to have been brought out, who did not repay the cost of their passage in money, or money's worth. I ground this opinion upon the uncontradicted statement to this effect which have appeared in the public papers of the island, and upon conversations which I have had with the majority of the persons alluded to. With regard to the statement, that persons so brought out have left the land of the proprietor who conducted their emigration, I believe that, in the case which I presume to have been particularly referred to by Lord Goderich, the emigrants only left the land upon which they were originally settled, when compelled to do so by the extreme of want, and when they found that none of the representations on the faith of which they had been induced to emigrate would be fulfilled.

Were there any natural disadvantages of soil or position in the lands on which these settlers were placed, which might have had an influence in inducing them to leave it?—I have passed through the district in question, and believe that it is equal in natural advantages to other parts of the island; there is, however, a very great want of roads and bridges, and the settlers are therefore placed in disadvantageous circumstances, so far as their means of communication with the other settled districts.

Might this not have been one cause why the individuals in question should have left the land upon which they were placed?—It is possible that it might be so, because, upon the lands of another proprietor, which are not superior in natural advantage, but were favourably placed as regards markets and roads, the majority of the settlers have remained.

Of the settlers who, as you state, left the land upon which they were located, did the majority settle upon the land of other proprietors, or what became of them?—The majority remained in the island, upon the lands of other proprietors; but many are discouraged by the tenure upon which alone they can obtain land, and being possessed of sufficient means for the purpose, emigrated to some other of the North American colonies, or to the States.

But you suppose that in almost every instance the emigrants to Prince Edward Island, whether coming out under the auspices of a proprietor or not, defrayed the expense of their passage out of their own funds, or repaid it to the proprietor?—I have no doubt that such has been the fact.

No. 53.
Earl of Durham to Lord Glenelg, 8 October 1838.

Encl. in No. 53.

So that, in your opinion, the argument of Lord Goderich, founded upon the assumed expense incurred by individual proprietors for the purpose of settling their property, is not founded on fact?—I believe so.

Will you proceed with your account of the steps which have been taken with regard to those grants?—The same despatch of Lord Goderich contained the suggestions of a tax upon lands, as being useful "by compelling the proprietors of uncultivated lands either to improve or to sell them at the price which they would bring in their present condition." Mr. Secretary Stanley also recommended a tax in the nature of a penal assessment upon non-cultivation, "as being both just and politic;" and Lord Glenelg recommended the same course, and enclosed a copy of the Upper Canada Act for the same purpose, as a guide to the Legislative Assembly of our province in framing their Act. The Assembly have continued to view this as an inadequate and unsatisfactory remedy for the evils complained of, and in 1835 they passed an address praying for the establishment of a Court of Escheats, which address, however, Sir William Aretas Young, the then governor, neglected to forward to England. This neglect was only discovered after his death, when, upon the House of Assembly inquiring whether there was any and what reply, they were informed that the address still remained in the Government-house. It was, however, forwarded by Mr. President Wright, together with another address, also praying for the establishment of a Court of Escheats, which it was decided by a majority of one in the House of Assembly, should be substituted for it. Both addresses were, however, forwarded, but Lord Glenelg in his reply positively refused to sanction the establishment of any court of escheats. The Assembly, upon receipt of this, seeing the hopelessness for the present of attempting to obtain the only measure which, as they conceived, was adequate to remedy the evils complained of, passed an Act imposing a tax of 4*s.* per 100 acres, or less that ½ *d.* an acre upon all wild lands. This Act was reserved by the Governor for the decision of the Home Government, and though it had been recommended by three secretaries for the colonies, and by Lord Glenelg himself, the Royal Assent has as yet been withheld upon the representations of the absentee proprietors.

You have stated that the grants were made subject to quit-rent of from 2*s.* to 6*s.* per 100 acres; have these quit-rents been regularly paid?—Not in any instance at that rate.

What do you mean by this answer?—In the year 1816 the quit-rents were very generally greatly in arrear, and the proprietors succeeded in inducing the Home Government to abandon all claim for arrears, and to make the quit-rents at 2*s.* per 100 acres.

Have they been paid regularly since that time?—I believe that they have been.

What is the extent of Prince Edward Island?—It comprises rather more than 1,300,000 acres of land.

Of this amount how much is under cultivation?—I find by the census of 1833 that there are 89,757 acres of improved land, and it is probable that at the present time there may be 100,000 acres under cultivation.

That is less than a thirteenth of the granted land?—Yes.

And this though 70 years have elapsed since the date of the grants?—Yes.

What is the present population of the island?—About 40,000 souls.

Is this population equally distributed in the townships?—No; the number of families varies from about 10 to upwards of 200 in the different townships. There are only two townships; with the larger number the majority are from 20 to 100.

To what do you attribute the slow progress of settlement and cultivation in the island?—To the exorbitant terms demanded by the proprietors of land, which have deterred individuals from taking land, and have driven away many who had come to the island for the purpose of settlement.

His Excellency Sir *Charles Fitzroy*, Governor of Prince Edward Island.

Your Excellency has read the evidence by Mr. Lelacheur, as to the mode pursued in granting wild lands in the island of Prince Edward; is it substantially correct?—I believe so.

Your Excellency addressed a letter, soon after your assumption of the government of Prince Edward Island, to the absentee proprietors of land; would you have any objection to favour us with a copy?—Not in the least.

Have the opinions which you expressed in that letter been confirmed by your longer residence in the island?—They have.

As a remedy for the evils arising from the condition of property in the island, a general tax upon wild land, in the nature of a fine for the abatement of a nuisance, has been suggested. What is your Excellency's opinion upon the probable operation of such a tax?—If it were in the nature of a penal tax, it would have the effect of inducing the proprietors to settle their lands, or to dispose of them on moderate terms.

You mean, by a penal tax, a tax which would only press upon the absentee proprietors, which is not the case with the present tax?—It has not hitherto been the case.

Do you conceive, therefore, that such a tax should be higher than any hitherto imposed?—I think that the tax of 4*s.* per 100 acres, which was imposed before I came to the colony, is not sufficient. The object of the wilderness tax, imposed by an Act yet waiting the Royal

Royal assent, is to raise funds for the erection of certain public buildings which are much wanted. If the tax was employed in such works as have a tendency to give an additional value to land, the proprietors would naturally be enabled to bear a higher tax.

Has any other method occurred to you of remedying the particular evils in the island now in question?—The only other remedy that has occurred to me, is an endeavour to persuade the proprietors to concede their lands upon the terms now demanded by the more liberal proprietors, the same that I recommended in the circular of which you have a copy.

No. 53.
Lord Glenelg to Earl of Durham, 6 October 1838

— No. 54. —

(No. 77.)

No. 54.
Earl of Durham to Lord Glenelg, 9 October 1838.

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

My Lord, Castle of St. Lewis, Quebec, 9 Oct. 1838.

I HAVE the honour to inclose your Lordship copies of an address from 4,287 of the inhabitants of Quebec, and of my answer.

I have, &c.
(signed) *Durham.*

Enclosures in No. 54.

(No. 1.)

To his Excellency the Right Honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c. &c.

Enclosures in No. 54

May it please your Excellency,

WE, Her Majesty's most dutiful and loyal subjects, inhabitants of the city of Quebec and its vicinity, considered it as a strong proof of Her Majesty's gracious attention to the happiness and prosperity of Her North American provinces, that it hath pleased Her Majesty to commit the government thereof to your Excellency, in whose firmness, justice, and integrity we placed the highest confidence, assured that in your hands the powers of government would be directed to the true interests of the people.

With these sentiments we greeted the arrival of your Excellency, in the gratifying expectation, that whilst measures were adopted for the removal of the more immediate and pressing inconveniences arising from the suspension of the powers of the ordinary Legislature of this province, and for restoring tranquillity to the country, still suffering from the effects of a wicked and unprovoked rebellion, there would, under the auspices of your Excellency, be matured such a system of government for the Canadas as would re-establish therein, upon a firm foundation, social order, advance their welfare and prosperity, strengthen the ties which connect them with the parent state, and unite them inseparably in sentiment as they are in interest with the powerful empire of which they form a part.

In the prosecution of the inquiries connected with this large and complicated subject, we cannot refrain from acknowledging with gratitude the unremitting exertions of your Excellency since your arrival.

It is, then, with the greatest concern we find that, whilst these important labours are in progress, circumstances have arisen which may lead to an unexpected and abrupt termination of your official connexion with this and the adjoining provinces. We deeply lament the premature discussion in the British Parliament of the measures of your Excellency, and the course there taken, tending, as they have done, to weaken the moral influence of your government, to encourage the disaffected, and to create apprehensions in the minds of the loyal.

We looked forward with anxiety to the period when we should be put into possession of the result of your Excellency's labours, which it was hoped would lead to the establishment of an efficient system of government within the colony, protecting the rights of all classes of Her Majesty's subjects therein.

No. 54.
Earl of Durham to Lord Glenelg, 9 October 1838.

Enclosures in No. 54.

We are convinced that nothing could more have contributed to the advantageous settlement of this grave matter than the determination which your Excellency has been pleased to express, that you would communicate to the provinces, for their consideration, whatever plan your Excellency may form for this purpose before submitting it to the Cabinet and to the Imperial Parliament; thus affording to the inhabitants of these provinces an opportunity of conveying to your Excellency and to the supreme authority of the empire a frank and loyal expression of their sentiments thereupon.

Convinced of your Excellency's eminent endowments, and of your disposition to promote the great objects confided to you, and apprehensive of the consequences likely to arise from your not withdrawing from the government of these provinces, we beg leave to express an earnest hope that, notwithstanding these unlooked-for obstructions, your Excellency may be induced to continue to exercise the functions of your high office unti you shall have accomplished the important end of your mission, for the attainment of which your Excellency may rely on our zealous co-operation.

If, however, your Excellency should entertain the conviction that you can no longer govern the colony with satisfaction to yourself, we feel assured that, upon your return to England, you will, in another sphere, render the information which you have acquired by your labours here conducive to the establishment of the permanent peace and welfare of these provinces.

(No. 2.)

I REQUEST you to accept my warmest thanks for this marked expression of your feelings towards me, and of your general confidence in my government.

I most solemnly assure you that no consideration should induce me to leave you, if I thought that my presence here could produce the least benefit, or avert the most trifling evil.

I do not return to England from any feelings of disgust at the treatment I have personally experienced in the House of Lords. If I could have been influenced by any such motives, I must have re-embarked in the very ship which brought me out, for that system of Parliamentary persecution to which I allude commenced from the moment I left the shores of England.

I return for these reasons, and these alone: The proceedings in the House of Lords, acquiesced in by the Ministry, have deprived the government in this province of all moral power and consideration. They have reduced it to a state of executive nullity, and rendered it dependent on one branch of the Imperial Legislature for the immediate sanction of each separate measure; in truth and in effect, the government here is now administered by two or three peers from their places in Parliament. I cannot, therefore, consistently with what is due to the interests of this province and my own character, consent to make myself responsible for measures emanating from others, and which in my conscience I consider most injurious to your present tranquillity and future welfare.

In this novel and anomalous state of things, it would neither be for your advantage or mine that I should remain here. My post is where your interests are really decided upon. In Parliament I can defend your rights, declare your wants and wishes, and expose the impolicy and cruelty of proceedings which, whilst they are too liable to the imputation of having originated in personal animosity and party feeling, are also fraught with imminent danger to the welfare of these important colonies, and the permanence of their connexion with the British empire.

The restricted limits of this answer will not admit of my entering into the consideration of the various measures which had occupied my attention during my administration of your affairs; nor, indeed, is it necessary, for you will find in the Proclamation which I have this day issued, addressed to the North American provinces under my government, the fullest information on all matters affecting your interests. I need, therefore, only assure you, that to the last hour of my existence you will find me your faithful and devoted friend, bound to you by the strongest ties, both public and private, of respect and gratitude.

— No. 55. —

(No. 78.)

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

No. 55.
Earl of Durham
to Lord Glenelg
9 October 1838.

My Lord,

Castle of St. Lewis, Quebec,
9 October 1838.

I HAVE the honour to enclose your Lordship copies of an address from the inhabitants of the city of Toronto, and of my answer.

I have, &c.
(signed) *Durham.*

Enclosures in No. 55.

(No. 1.)

To his Excellency the Right Honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c. &c.

Enclosures in
No. 55.

May it please your Excellency,

WE, Her Majesty's dutiful and loyal subjects, inhabitants of the city of Toronto, respectfully approach your Excellency with renewed assurances of devotion and attachment to Her Majesty's Royal Person and Government.

We retain a lively and gratifying remembrance of your Excellency's visit to Toronto, on the 18th day of July last; of the reception given to your Excellency by the inhabitants of this city and vicinity, and of your Excellency's courteous and satisfactory reply to the congratulatory address then presented to you; and we now beg to reiterate our expressions of confidence in your Excellency's administration contained in that address, and of satisfaction at your appointment as Governor of British North America. At this important crisis, any public circumstance tending to destroy confidence in the stability and power of the Government, cannot fail to be productive of the most disastrous results; encouraging faction, and paralysing the industry and enterprize of the country. And impressed with this feeling, we would regard any occurrence, which might have the effect of inducing your Excellency to retire from the government of British North America, as a great public calamity.

The peculiar and unprecedented difficulties in which the affairs of British North America were involved when your Excellency assumed the government, ought to have secured for the acts of your administration the most liberal construction, and should have obtained for them the cordial and unwavering support of all those who are interested in the peace and prosperity of these colonies, and the integrity of the British Empire; and we, therefore, have learned with great concern, as well as with just grounds of apprehension, the position which certain Noble Lords in the British House of Peers have thought it necessary to assume in reference to your Excellency's administration.

Deeply and immediately interested in those measures which it is the object of your Excellency to mature, we find ourselves imperatively called upon at this juncture to express publicly our confidence in your Excellency, and again to tender to you the assurances of an active and cordial support in whatever measures you may devise or adopt, having for their object the benefit of all classes of the community; and we trust your Excellency, undeterred by opposition or misrepresentation on the part of those who are unacquainted with the true interests of the country, will proceed to the accomplishment of those great objects of your mission,—the tranquillization of British North America, and the advancement of her general prosperity.

(No. 2.)

I BEG you will assure the inhabitants of Toronto how sensible I am of their kindness, and of their promptitude in coming forward with declarations of approbation and confidence in me at a moment like the present.

I well remember the enthusiastic reception which they gave me when I visited Toronto, in which, happily for me, all classes unanimously concurred.

It is an honest sense of pride to me, to reflect that their feelings have also been shared and exhibited by every one of the North American provinces; and I shall leave this continent with the consolatory reflection, that amidst the conflict of parties, and the collision of interests, a common sentiment has done justice to the rectitude of my intentions and the purity of my motives. I shall preserve the numerous testimonies of regard and confidence which have been presented to me from all quarters as documents of which I and

No. 55.
Earl of Durham to Lord Glenelg, 9 October 1838.

Enclosures in No. 55.

my family must be justly proud, evincing, as they do, the unsolicited, unbought, but invaluable proofs of the attachment of so large a portion of my fellow countrymen.

For the reasons which have induced me to return to England, I must refer you to my Proclamation of this day's date, in which they are fully set forth, and the state and condition of the Canadas amply adverted to. You will, I hope, after giving it due consideration, agree with me in the opinion, that I can now be of more service to the North American colonies in Westminster than in Quebec.

It is, at the same time, a great consolation to me to reflect, that, notwithstanding my having been so abruptly arrested by the proceedings in the House of Lords in the arduous task of restoring peace, and providing for your future prosperity, I have yet done much to justify your confidence and gain your approbation. What was the state of the Canadas when I assumed the Government? Rebellion had been but recently quelled; martial law had been proclaimed, and the habeas corpus suspended; the gaols were filled with prisoners, and distrust and apprehension pervaded the minds of all classes; along the whole line of frontier from Lake Champlain to Lake St. Clair, the most active hostility against the British government prevailed, in which Canadian refugees and American borderers equally participated; the communication between the two countries was in a great measure interrupted, and at various points armed incursions took place; life and property were recklessly destroyed, and the chances of preserving peace between Great Britain and the United States daily diminishing.

In three months, what was the change? Martial law superseded; the habeas corpus restored; not a political prisoner remained in confinement in the Lower Province; nor was there any symptom of the existence of any seditious or treasonable movements, until the arrival of the intelligence of the interference of the House of Lords. The state of feeling in the United States, with reference to the Canadian question, had righted itself; the soundest tone pervaded the expression of public opinion, and I had received from all parts of the States assurances of confidence in my administration, and in my desire, as well as my ability, to preserve those amicable relations between the two countries which they, as well as myself, considered necessary for the welfare of both.

Whilst I was thus employed, I had also to correspond with the Lieutenant-governors of the different provinces on matters of the highest moment, and am happy to have this public opportunity of acknowledging the cordial and enlightened co-operation which I received from them all. I received and consulted with delegates from each province, and was busily engaged in applying the valuable information I had derived from them to the formation of a plan, founded on large and comprehensive principles, for their general government. I had issued commissions, and received reports on the subject of the Crown lands and of emigration, of municipal institutions, and of general education. I was also preparing measures, to which I have adverted in my Proclamation, for the amelioration of the defective institutions of Lower Canada.

These, then, have been my acts, this my course of policy, during the limited period of my stay on this continent. The enumeration of them will, at all events, prove my diligence and my anxiety to devote my time to the promotion of the great objects of my mission.

I now bid you farewell, and pray you to believe that, from my heart, I wish you the constant enjoyment of that happiness, peace, and prosperity to which you are so justly entitled by your industry, intelligence, and loyalty.

— No. 56. —

(No. 79.)

No. 56.
Earl of Durham to Lord Glenelg, 9 October 1838.

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

My Lord, Castle of St. Lewis, Quebec, 9 October 1838.

I HAVE the honour to enclose your Lordship copies of an address from the clergy, magistrates, and other inhabitants of the town of Kingston, Upper Canada, and of my answer.

I have, &c.
(signed) *Durham*.

Enclosures in No. 56.

(No. 1.)

Enclosures in No. 56.

To His Excellency the Right Honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c. &c.

May it please your Excellency,

WE, Her Majesty's dutiful and loyal subjects, the clergy, magistrates, and other inhabitants of the town of Kingston, in Upper Canada, most respectfully approach your Excellency with the expression of our most unfeigned regret at your Lordship's intention of

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of resigning the government of British North America, to which you had been called by the express command of Her most Gracious Majesty.

We cannot but regard your Excellency's departure, at this eventful crisis, as productive of disastrous consequences to our prosperity, and the more so as it destroys the hopes which we, in common with our loyal fellow colonists in this hemisphere, had cherished of your Excellency's administration; as we confidently anticipated that the policy which your Excellency intended to pursue, would be eminently calculated to heal all animosities, restore peace and confidence in our land, strengthen and perpetuate our connexion with the parent State, consolidate and promote our commercial and agricultural interests, call into action our vast natural resources and advantages, and, by the introduction of the superabundant capital and redundant population of the mother country, render British America, British, in fact as well as in name.

Without expressing any opinion as to the motives which may have actuated your Excellency's opponents, and Her Majesty's Ministers, we take pleasure in assuring your Excellency that the Ordinance which appears to have been the indirect cause of your Excellency's resignation, can never be regarded as the edict of oppression or tyranny, but must ever be viewed by the loyal inhabitants of these provinces as far too favourable to traitors in times of civil discord, and much more lenient than the criminals could have expected.

We beg to reiterate the confidence we entertain in your Excellency's intentions and talents, and we earnestly solicit your Excellency not to withdraw from the government of these provinces, until those measures (in the prospect and promise of which the people of these colonies have placed so much reliance) have been matured and perfected.

(No. 2.)

I THANK you most cordially for this gratifying proof of your confidence in me.

You have justly appreciated the principles of that policy which has governed every act of my administration, and which you will find fully, and I hope clearly, explained in my Proclamation of this day's date.

You have also correctly described the nature and object of the Ordinance which has been annulled. It was one of mercy and forgiveness, not of tyranny and oppression. I cannot admit its illegality. It is strictly in accordance with the powers and provisions of the Act of Parliament under which I administer the affairs of this province. I may also remark that transportation to Bermuda has been the constant practice in both the Canadas. As for its policy, recent events have, I think, demonstrated its soundness. The late verdict on the trial of the murderers of Chartrand, shows how fearful is the danger of exposing the sacred institution of trial by jury to the chances of its being abused under circumstances in which the ordinary considerations of justice, truth, and conscience are superseded by all the absorbing power of party feeling.

Knowing well that such would be the result, if the ordinary forms of judicial procedure were resorted to, I determined on acting on the powers conferred by the Act of Parliament, which I believed to have been passed by the Imperial Legislature, not from the abstract love of despotism, but from a conviction of the necessity which existed for supplying the Government here with means proportioned to the exigency of the case, and arming it with weapons sufficient to put down revolt and eradicate treason.

It has pleased the House of Lords to decree otherwise, and to declare by its enactments, on one day, that the free and representative constitution of a colony shall be suspended and a provincial despotism created; and on the next, that the consequences of that Act are not to be followed out, or its powers enforced, even whilst they admit that it would be for the advantage of the public service!

I bow with submission to their decree, but I never will acknowledge its policy or equity.

When I had the happiness to meet you, in the course of my visit to the Upper Province, I fully explained to you my views as to the necessity of improving the water communications between the lakes and the Gulf of St. Lawrence. These I also communicated to Her Majesty's Government, and have the satisfaction of informing you that I have been authorized by them to institute a survey of the whole line from Lake Erie to Quebec. I have applied to the Ordnance Department for the aid of skilful engineers for this service, and have no doubt that their reports will demonstrate the practicability and the necessity of rendering completely available those great natural means, through which the commerce of the Canadas may be incalculably extended, and their general interests advanced to the highest pitch of prosperity.

— No. 57. —

(No. 80.)

No. 57.
Earl of Durham to Lord Glenelg, 9 October 1838.

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

My Lord, Castle of St. Lewis, Quebec, 9 October 1838.

I HAVE the honour to transmit your Lordship copies of the official gazette of this day, in which I have, according to your Lordship's instructions, proclaimed the Act of 1 & 2 Victoria, c. 112, and notified Her Majesty's disallowance of the Ordinance 2 Victoria, c. 1.

I have, &c.
(signed) *Durham.*

Enclosure in No. 57.

DURHAM.

Enclosure in No. 57.

By His Excellency The Right honourable John George, Earl of *Durham*, Viscount *Lambton*, &c. &c., Knight Grand Cross of the Most honourable Military Order of the Bath, one of Her Majesty's Most honourable Privy Council, and Governor-General, Vice-Admiral, and Captain General of all Her Majesty's Provinces within, and adjacent to, the Continent of *North America*, &c. &c. &c. &c.

A PROCLAMATION.

IN conformity with one of its provisions, I have this day proclaimed the Act 1 & 2 Victoria, chap. 112, entitled "An Act for indemnifying those who have issued or acted under certain Parts of a certain Ordinance, made under colour of an Act passed in the present Session of Parliament, intituled 'An Act to make temporary Provision for the Government of Lower Canada.'"

I have also to notify the disallowance by Her Majesty of the Ordinance 2d Victoria, chap. 1, entitled, "An Ordinance to provide for the Security of the Province of Lower Canada."

I cannot perform these official duties without at the same time informing you, the people of British America, of the course which the measures of the Imperial Government and Legislature make it incumbent on me to pursue. The mystery which has heretofore too often, during the progress of the most important affairs, concealed from the people of these colonies, the intentions, the motives, and the very actions of their rulers, appears to me to have been one of the main causes of the numerous errors of the Government, and the general dissatisfaction of the people. Undesirable at any time, such concealment on the part of one entrusted with the supreme authority in the present crisis of your affairs, would be most culpable and pernicious. With a people from whom I have had so many and such gratifying proofs of warm and confiding attachment, I can have no reserve. And my implicit reliance on your loyalty and good sense will justify me in making you acquainted with what it most imports you to know.

It is the more necessary for me thus to act, because, when I first entered upon this Government, I explained to you, in a Proclamation issued immediately on my arrival on these shores, the nature of the powers vested in me, and the principles on which it was my intention to exercise them. Now, therefore, that I am about to return to England, I feel it to be my bounden duty to state to you, as fully and as frankly, the reasons which have induced me to lay down powers rendered inadequate to the carrying into effect those or any other principles of government.

I did not accept the Government of British North America, without duly considering the nature of the task which I imposed on myself, or the sufficiency of my means for performing it. When Parliament concentrated all legislative and executive power in Lower Canada in the same hands, it established an authority, which, in the strictest sense of the word, was despotic. This authority Her Majesty was graciously pleased to delegate to me. I did not shrink from assuming the awful responsibility of power thus freed from constitutional restraints, in the hope, that by exercising it with justice, with mildness, and with vigour, I might secure the happiness of all classes of the people, and facilitate the speedy and permanent restoration of their liberties. But I never was weak enough to imagine that the forms by which men's rights are wisely guarded in that country where freedom has been longest enjoyed, best understood, and most prudently exercised, could be scrupulously observed in a society almost entirely disorganized by misrule and dissension. I conceived it to be one of the chief advantages of my position, that I was enabled to pursue the great ends of substantial justice and sound policy, free and unfettered.

Nor

Nor did I ever dream of applying the theory or the practice of the British Constitution to a country whose constitution was suspended; where all representative government was annihilated, and the people deprived of all control over their own affairs; where the ordinary guarantees of personal rights had been in abeyance during a long subjection to Martial Law, and a continued suspension of the Habeas Corpus; where there neither did exist, nor had for a long time existed, any confidence in the impartial administration of justice in any political case.

To encourage and stimulate me in my arduous task, I had great and worthy objects in view. My aim was to elevate the Province of Lower Canada to a thoroughly British character, to link its people to the sovereignty of Britain, by making them all participators in those high privileges, conducive at once to freedom and order, which have long been the glory of Englishmen. I hoped to confer on an united people, a more extensive enjoyment of free and responsible government, and to merge the petty jealousies of a small community, and the odious animosities of origin, in the higher feelings of a nobler and more comprehensive nationality.

To give effect to these purposes it was necessary that my powers of government should be as strong as they were extensive, that I should be known to have the means of acting as well as judging for myself, witnout a perpetual control by distant authorities. It were well indeed if such were the ordinary tenure of government in colonies, and that your local administration should always enjoy so much of the confidence of those with whom rests the ultimate decision of your affairs, that it might ever rely on being allowed to carry out its policy to completion, and on being supported in giving effect to its promises and its commands. But in the present posture of your affairs, it was necessary that the most unusual confidence should accompany the delegation of a most unusual authority; and that in addition to such great legal powers, the government here should possess all the moral force that could be derived from the assurance that its acts would be final, and its engagements religiously observed. It is not by stinted powers, or a dubious authority, that the present danger can be averted, or the foundation laid of a better order of things.

I had reason to believe that I was armed with all the power which I thought requisite by the commissions and instructions under the royal sign manual, with which I was charged as Governor General and High Commissioner, by the authority vested in me and my council by the Act of the Imperial Legislature, and by the general approbation of my appointment, which all parties were pleased to express. I also trusted that I should enjoy, throughout the course of my administration, all the strength which the cordial and steadfast support of the authorities at home can alone give to their distant officers; and that even party feeling would refrain from molesting me whilst occupied in maintaining the integrity of the British Empire.

In these just expectations I have been painfully disappointed. From the very commencement of my task, the minutest details of my administration have been exposed to incessant criticism, in a spirit which has evinced an entire ignorance of the state of this country, and of the only mode in which the supremacy of the British Crown can here be upheld and exercised. Those who have in the British Legislature systematically depreciated my powers, and the ministers of the Crown, by their tacit acquiescence therein, have produced the effect of making it too clear that my authority is inadequate for the emergency which called it into existence. At length an act of my Government, the first and most important which was brought under the notice of the authorities at home, has been annulled; and the entire policy, of which that act was a small though essential part, has thus been defeated.

The disposal of the political prisoners was from the first a matter foreign to my mission. With a view to the more easy attainment of the great objects contemplated, that question ought to have been settled before my arrival. But as it was essential to my plans for the future tranquillity and improvement of the colony, that I should commence by allaying actual irritation, I had in the first place to determine the fate of those who were under prosecution, and to provide for the present security of the province by removing the most dangerous disturbers of its peace. For these ends the ordinary tribunals, as a recent trial has clearly shown, afforded me no means. Judicial proceedings would only have agitated the public mind afresh; would have put in evidence the sympathy of a large portion of the people with rebellion; and would have given to the disaffected generally a fresh assurance of impunity for political guilt. An acquittal in the face of the clearest evidence, which I am justified in having anticipated as inevitable, would have set the immediate leaders of the insurrection at liberty, absolved from crime, and exalted in the eyes of their deluded countrymen, as the innocent victims of an unjust imprisonment, and a vindictive charge I looked on these as mischiefs which I was bound to avert by the utmost exercise of the powers entrusted to me. I could not, without trial and conviction, take any measures of a purely penal character; but I thought myself justified in availing myself of an acknowledgement of guilt, and adopting measures of precaution against a small number of the most culpable or most dangerous of the accused. To all the rest I extended a complete amnesty.

Whether a better mode of acting could have been devised for the emergency, is now immaterial. This is the one that has been adopted; the discussion which it at first excited had passed away; and those who were once most inclined to condemn its leniency,

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had acquiesced in, or submitted to it. The good effects which must necessarily have resulted from any settlement of this difficult question, had already begun to show themselves. Of these the principal were, the general approval of my policy by the people of the United States, and the consequent cessation of American sympathy with any attempt to disturb the Canadas. This result has been most gratifying to me, inasmuch as it has gone far towards a complete restoration of that good-will between you and a great and kindred nation which I have taken every means in my power to cultivate, and which I earnestly intreat you to cherish, as essential to your peace and prosperity.

It is also very satisfactory to me to find that the rectitude of my policy has hardly been disputed at home, and that the disallowance of the Ordinance proceeds from no doubt of its substantial merits, but from the importance which has been attached to a supposed technical error in the assumption of a power, which, if I had it not, I ought to have had.

The particular defect in the Ordinance which has been made the ground of its disallowance was occasioned, not by my mistaking the extent of my powers, but by my reliance on the readiness of Parliament to supply their insufficiency in case of need. For the purpose of relieving the prisoners from all apprehensions of being treated as ordinary convicts, and the loyal inhabitants of the province from the dread of their immediate return, words were inserted in the Ordinance respecting the disposal of them in Bermuda, which were known to be inoperative. I was perfectly aware that my powers extended to landing the prisoners on the shores of Bermuda, but no further. I knew that they could not be forcibly detained in that island without the co-operation of the Imperial Legislature. That co-operation I had a right to expect, because the course I was pursuing was pointed out in numerous Acts of the Imperial and Provincial Legislatures, as I shall have occasion hereafter most fully to prove. I also did believe that, even if I had not the precedents of these Acts of Parliament, a Government and a Legislature anxious for the peace of this unhappy country, and for the integrity of the British empire, would not sacrifice to a petty technicality the vast benefits which my entire policy promised, and had already in a great measure secured. I trusted they would take care that a great and beneficent purpose should not be frustrated by any error, if error there was, which they could rectify, or the want of any power which they could supply; finally, that if they found the Ordinance inoperative, they would give it effect; if illegal, that they would make it law.

This small aid has not been extended to me, even for this great object; and the usefulness of my delegated power expires with the loss of that support from the supreme authority which could alone sustain it. The measure now annulled was but part of a large system of measures which I promised when I proclaimed the amnesty. When I sought to obliterate the traces of recent discord, I pledged myself to remove its causes—to prevent the revival of a contest between hostile races—to raise the defective institutions of Lower Canada to the level of British civilization and freedom; to remove all impediments to the course of British enterprise in this province, and promote colonization and improvement in the others, and to consolidate these general benefits on the strong and permanent basis of a free, responsible, and comprehensive Government.

Such large promises could not have been ventured, without a perfect reliance on the unhesitating aid of the supreme authorities. Of what avail are the purposes and promises of a delegated power, whose acts are not respected by the authority from which it proceeds? With what confidence can I invite co-operation, or impose forbearance, whilst I touch ancient laws and habits, as well as deep-rooted abuses, with the weakened hands that have ineffectually essayed but a little more than the ordinary vigour of the police of troubled times?

How am I to provide against the immediate effects of the disallowance of the Ordinance? That Ordinance was intimately connected with other measures which remain in unrestricted operation. It was coupled with Her Majesty's proclamation of amnesty; and as I judged it becoming, that the extraordinary Legislature of Lower Canada should take upon itself all measures of rigorous precaution, and leave to Her Majesty the congenial office of using Her Royal prerogative for the sole purpose of pardon and mercy, the proclamation contained an entire amnesty, qualified only by the exceptions specified in the Ordinance. The Ordinance has been disallowed, and the proclamation is confirmed. Her Majesty having been advised to refuse her assent to the exceptions, the amnesty exists without qualification. No impediment therefore exists to the return of the persons who had made the most distinct admission of guilt, or who had been excluded by me from the Province on account of the danger to which its tranquillity would be exposed by their presence; and none can now be enacted, without the adoption of measures alike repugnant to my sense of justice and of policy. I cannot recall the irrevocable pledge of Her Majesty's mercy. I cannot attempt to evade the disallowance of the Ordinance, by re-enacting it under the disguise of an alteration of the scene of banishment, or of the penalties of unauthorized return. I cannot, by a needless suspension of the Habeas Corpus, put the personal liberty of every man at the mercy of the Government, and declare a whole province in immediate danger of rebellion, merely in order to exercise the influence of a vague terror over a few individuals.

In these conflicting and painful circumstances, it is far better that I should at once and distinctly announce my intention of desisting from the vain attempt to carry my policy and

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and system of administration into effect with such inadequate and restricted means. If the peace of Lower Canada is to be again menaced, it is necessary that its government should be able to reckon on a more cordial and vigorous support at home than has been accorded to me. No good that may not be expected from any other government in Lower Canada, can be obtained by my continuing to wield extraordinary legal powers of which the moral force and consideration is gone.

You will easily believe that, after all the exertions which I have made, it is with feelings of deep disappointment that I find myself thus suddenly deprived of the power of conferring great benefit on that province to which I have referred; of reforming the administrative system there, and eradicating the manifold abuses which had been engendered by the negligence and corruption of former times, and so lamentably fostered by civil dissensions. I cannot but regret being obliged to renounce the still more glorious hope of employing unusual legislative powers in the endowment of that province with those free municipal institutions, which are the only sure basis of local improvement and representative liberty, of establishing a system of general education, of revising the defective laws which regulate real property and commerce, and of introducing a pure and competent administration of justice. Above all, I grieve to be thus forced to abandon the realization of such large and solid schemes of colonization and internal improvement, as would connect the distant portions of these extensive colonies, and lay open the unwrought treasures of the wilderness to the wants of British industry and the energy of British enterprise.

For these objects I have laboured much, and have received the most active, zealous, and efficient co-operation from the able and enlightened persons who are associated with me in this great undertaking. Our exertions, however, will not, cannot be thrown away. The information which we have acquired, although not as yet fit for the purposes of immediate legislation, will contribute to the creation of juster views as to the resources, the wants, and the interests of these colonies, than ever yet prevailed in the mother country. To complete and render available those materials for future legislation, is an important part of the duties which, as High Commissioner, I have yet to discharge, and to which I shall devote the most anxious attention.

I shall also be prepared, at the proper period, to suggest the constitution of a form of government for Her Majesty's dominions on this continent, which may restore to the people of Lower Canada all the advantages of a representative system, unaccompanied by the evils that have hitherto proceeded from the unnatural conflicts of parties; which may safely supply any deficiencies existing in the governments of the other colonies; and which may produce throughout British America a state of contented allegiance, founded, as colonial allegiance ever must be, on a sense of obligation to the parent state.

I fervently hope that my usefulness to you will not cease with my official connexion. When I shall have laid at Her Majesty's feet the various high and important commissions with which Her Royal favour invested me, I shall still be enabled as a Peer of Parliament to render you efficient and constant service in that place where the decisions that affect your welfare are in reality made. It must be, I humbly trust, for the advantage of these provinces, if I can carry into the Imperial Parliament a knowledge, derived from personal inspection and experience, of those interests upon which some persons there are too apt to legislate in ignorance or indifference, and can aid in laying the foundation of a system of general government, which, while it strengthens your permanent connexion with Great Britain, shall save you from the evils to which you are now subjected by every change in the fluctuating policy of distant and successive administrations.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the City of Quebec, in the said Province of Lower Canada, the 9th day of October, in the Year of our Lord 1838, and in the second year of Her Majesty's reign.

(By Command,)

Charles Buller,
Chief Secretary.

DURHAM.

Province of Lower Canada.

By His Excellency the Right Honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c. Knight Grand Cross of the Most Honourable Military Order of the Bath, one of Her Majesty's Most Honourable Privy Council, and Governor General of all Her Majesty's Provinces within, and adjacent to, the Continent of *North America*, &c. &c. &c. &c.

To all to whom these Presents shall come, Greeting:—

Whereas by the 112th chapter of the statute of the Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act for indemnifying those who have issued or acted under certain parts of a certain Ordinance made under colour of an Act passed in the present Session of Parliament, intituled, 'An Act to make temporary Provision for the Government of Lower Canada,'" passed in the first and second year of the reign of our Sovereign Lady the Queen Victoria, it is amongst other things enacted, that

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the said Act shall be proclaimed in the said Province of Lower Canada by the Governor, or by the person authorised to execute the commission of Governor of the said Province, forthwith after he shall have received a copy of the same from one of Her Majesty's Principal Secretaries of State; And whereas I the said John George Earl of Durham, being the Governor of the said Province of Lower Canada, have received a copy of the said Act from one of Her Majesty's Principal Secretaries of State; Now, therefore, know ye, that I, the said John George Earl of Durham, being such Governor as aforesaid, by virtue of the power and authority reposed in me by Her Majesty, and of the said Act of the said Parliament, do, by this Proclamation, proclaim the said Act of the said Parliament of the United Kingdom of Great Britain and Ireland, intituled, "An Act for indemnifying those who have issued or acted under certain parts of a certain Ordinance made under colour of an Act passed in the present Session of Parliament, intituled, 'An Act to make temporary Provision for the Government of Lower Canada,'" so that the said Act of the said Parliament shall and may commence and take effect within the said province from the day of the date of these presents.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said Province of Lower Canada, the 8th day of October, in the Year of our Lord 1838, and in the second year of Her Majesty's reign.

D. Daly, Secretary of the Province.

ANNO Primo & Secundo VICTORIÆ REGINÆ.

CAP. CXII.

AN ACT for indemnifying those who have issued or acted under certain Parts of a certain Ordinance made under colour of an Act passed in the present Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada." [16 August 1838.]

1 Vict. c. 9.

WHEREAS an Act was made this present Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada." And whereas a certain law or ordinance hath been made and published by the Governor of the said province, by and with the advice and consent of the Special Council, bearing date the 28th day of June last, intituled "An Ordinance to provide for the Security of the Province of Lower Canada," which Ordinance cannot be justified by law, but was so much intended for the security of the said province, that it is expedient that all persons advising or acting under or in obedience to so much of the same as relates to the sending of certain persons to Bermuda, who are stated in the same to have made certain confessions, and to the subjecting such persons to restraint, should be indemnified by Parliament in the manner and to the extent hereinafter provided for: Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal and Commons, in this present Parliament assembled, and by the authority of the same, That all personal actions and suits, indictments, informations, and all prosecutions and proceedings whatsoever, which have been or shall be prosecuted or commenced in any court or before any tribunal in any part of Her Majesty's dominions, against any person or persons for or by reason of any act, matter or thing advised, commanded, appointed or done, in relation to the premises before the proclamation of this Act in the said province of Lower Canada and in the Islands of Bermuda respectively or elsewhere, in manner hereinafter provided, be, are, and shall be discharged and made void by virtue of this Act; and that if any action or suit shall be prosecuted or commenced against any person or persons for any such act, matter or thing so advised, commanded, appointed or done, he, she or they may plead the general issue, and give this Act and the special matter in evidence; and if the plaintiff or plaintiffs in any action or suit so to be prosecuted or commenced, except in that part of Great Britain called Scotland, after the 1st day of October next, shall become nonsuit, or forbear further prosecution, or suffer discontinuance, or if a verdict pass against such plaintiff or plaintiffs, the defendant or defendants shall recover his, her or their double costs, for which he, she or they shall have the like remedy as in cases where costs by law are given to defendants; and if any such action or suit as aforesaid shall be commenced or prosecuted after the 1st day of October next, in that part of Great Britain called Scotland, the court before whom such action or suit shall be commenced or prosecuted, shall allow to the defender the benefit of the discharge and indemnity hereby provided, and shall further allow to him his double costs of suit in all such cases as aforesaid.

Indemnity for persons advising or acting under an Ordinance of the Governor and Council of Lower Canada of the 28th of June last.

This Act to be proclaimed in Lower Canada and Bermuda respectively.

II. And be it enacted, That this Act shall be proclaimed in the said province of Lower Canada and in the said Islands of Bermuda, by the Governor, or by the person authorized to execute the commission of Governor of the said province and of the said islands respectively, forthwith, after he shall have received a copy of the same from one of Her Majesty's Principal Secretaries of State.

—No. 58.—

(No. 81.)

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

No. 58.
The Earl of Durham to Lord Glenelg, 12 Oct. 1838.

My Lord, Castle of St. Lewis, Quebec, 12 October 1838.

I HAVE the honour to enclose your Lordship the continuation of my correspondence with Sir George Arthur, to which I referred in my despatch, No. 47.

I have, &c.
(signed) *Durham*.

Enclosure 1, in No. 58.

(No. 17.)

My Lord, Government House, Toronto, 29 August 1838.

IN my communication of the 20th instant, marked "Separate," I had the honour to acknowledge your Lordship's despatch, No. 7, of the 16th instant. Encl. 1, in No. 58

On considering that despatch, my impression was, that the power of extending the royal clemency to a convict, of whatever offence proved to have been guilty, was distinctly vested in the officer actually administering the government; and it seemed to me that your Lordship assuming that power, whilst your Lordship was absent from the province, was virtually depriving Upper Canada of her government, and that it would have the tendency of weakening materially the executive authority in the province, which, in times like the present, and particularly with reference to the crime of treason, would be full of danger. Moreover, I contemplated the possibility of a difference of opinion in any particular case, either in favour of mercy or otherwise, which could not fail to produce great embarrassment, and even painful consequences.

These considerations, together with a reference to what must be the feeling of the legislative bodies with whom I have to act, and who would not fail to inquire with great strictness into any innovation upon the constitution of the province, and most particularly in respect to the administration of justice, induced me, whilst I informed your Lordship that the sentence of death upon the convicts Chandler and Wait (the representation of whose cases had apparently been the occasion on which your Lordship thought it necessary to communicate with me) had been ordered to be respited before I left Toronto, to request your Lordship would excuse my delaying to reply to your Lordship's despatch until my return.

I took the liberty of remarking what would be the effect of your Lordship's interposition in this matter; that it would appear to deprive the officer administering the government of Upper Canada of a most important power expressly given under the royal commission, and I submitted to your Lordship that, from the whole tenor of the correspondence of Her Majesty's Secretary of State with me, I was under the impression that your Lordship had misapprehended those parts of Lord Glenelg's instructions to which my attention was called by your Lordship; in which I was the more confirmed by remarking in the very passage of Lord Glenelg's despatch which your Lordship quoted, that whilst your Lordship was enjoined to pursue a certain line of policy, the Secretary of State observed, that the same course had been pointed out to the authorities in Upper Canada.

In addressing my "separate" despatch to your Lordship, I confess I felt also, that, to a certain extent, your Lordship was practically (though I was sure unintentionally) encouraging complaints and endless appeals from this province; and it occurred to me that it was possible, upon a full reconsideration of the subject, your Lordship might not continue to be under the impression that you were obliged to interpose your decision "in particular cases;" and I entertained the hope that your Lordship might be induced to withdraw the instruction which I thought it possible had been induced by feelings of kindness and humanity towards the petitioners, without fully estimating the want of confidence it implied, the power it suspended, and the prejudice it worked, in taking from the officer administering this government the uncontrolled exercise of the prerogative of mercy, which is of particular importance at this moment.

The receipt, on my return to Toronto, on Saturday the 25th instant, of your Lordship's despatch, No. 8, of the 21st instant, dissipated this expectation, and therefore, early on Monday the 27th instant, I convened the executive council, to take into consideration the report of Mr. Justice Jones on the prisoners who had been tried at Niagara, and at the same time I laid on the council table your Lordship's despatches Nos. 7 and 8, of the 16th and 21st of August.

After considering the cases of all the convicts reported, and discussing the whole subjects at great length, the members agreed upon the advice which they thought it their duty to give, and the council adjourned until this day, and then gave the opinion and advice embodied in the accompanying minute.

Your Lordship will perceive, that after considering the advice given, I directed that the sentences passed upon all the prisoners should be respited until the 1st of October, which will afford your Lordship time to consider their cases. The report of Mr. Justice Jones and the petitions in favour of the prisoners, with such other information as is before the council in these cases, which are the most pressing for decision, has been directed to be prepared, to accompany this despatch, and, as some of the papers are original and important documents,

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The Earl of Durham to Lord Glenelg, 12 Oct. 1838.

your Lordship will, I hope, excuse my having detained your messenger to be the bearer of them.

Upon the cases of the prisoners implicated in the original revolt, who have not been unconditionally pardoned, I would beg to remark, that, on reporting them to Her Majesty's Government, I suggested that it should be left in the power of this government to exercise their discretion, so that, up to the last moment of the convicts remaining in this province, a mitigation of sentence might be extended.

Encl. 1, in No. 58.

This suggestion was necessary, because at that time I was not acting under your Lordship's commission, which enables the officer administering the government in your Lordship's absence to pardon, even in cases of treason; and, secondly, because the Act of the Provincial Legislature, which has received the Royal approval, authorized the Lieutenant-governor to extend mercy to petitioning prisoners, *only* with the advice of the executive council, and the members (whose anxiety and desire to do what they considered was their duty, in justice towards the country and in mercy towards the prisoners, I cannot too highly commend) could not at that time bring themselves to advise, with reference to the safety and tranquillity of the province, any further extension of clemency.

Notwithstanding the terms of the provincial Act to which I have alluded, I have no doubt the officer administering the government might extend pardon independently of the council; but when it is considered that they are all gentlemen of great experience in the Canadas, and are extensively informed as to its political relations, I have considered it prudent that my proceedings should, if possible, be, in every important particular, supported by their unanimous advice.

In my despatches of the 18th and 27th of June, Nos. 3 and 5, I stated to your Lordship what my views and intentions were respecting an extension of mercy to a great number of prisoners. Continuing to entertain the same sentiments, I have endeavoured gradually to reconcile the public mind to that view of the subject, and, where applications for pardons have been made to me, I have generally suggested that, in order to warrant the Government in extending its clemency, it would be desirable to procure the interposition of respectable and loyal persons in their behalf.

On the receipt, therefore, of Lord Glenelg's despatch, No. 111, of the 12th of July last, I intimated to the executive council my desire again to go through all the cases of the prisoners under sentence, and requested their attention to the subject during my absence on a tour of inspection, and whilst I was, recently, at Kingston, I visited all the prisoners in the fort, and in the gaol of that town, and indeed in the gaols generally in the eastern districts, and afforded each one of them an opportunity of bringing forward any additional favourable features in his case, with the view of fully preparing myself to carry into effect to the utmost the wishes of Her Majesty's Government, so far as it can be done with safety, and without giving occasion for strong remonstrances or dissatisfaction in the province.

I have not yet gone through the list of names which have, in consequence, been under consideration in the executive council, and although I think it proper to allude to the circumstance, I take it for granted that your Lordship does not desire to restrain my powers of action in this proceeding, upon which Her Majesty's Secretary of State has conveyed to me distinct authority.

No. 111, 12 July 1838.

Your Lordship is already in possession of my despatches of the 30th of May and 7th of June to the Secretary of State. A copy of his Lordship's answer to them I have the honour to enclose, and I would simply observe upon it, that, even if it be possible that I am mistaken in the opinion I have formed, that it never was intended to take out of the hands of this government the decision of such cases as those of Wait and Chandler; yet, your Lordship will, I am sure, be disposed to admit, that the view I entertain and have expressed in my despatch marked "Separate," might well be drawn from the Secretary of State's reasoning and instructions.

I have, &c.
(signed) *Geo. Arthur.*

His Excellency the Right hon.
The Earl of Durham, G. C. B., &c. &c. &c.

Enclosure 2, in No. 58.

(No. 18.)

My Lord, Government House, Toronto, 31 August 1838.

Encl. 2, in No. 58.

I HAD the honour to receive on the afternoon of the 30th instant, your Lordship's despatch (No. 9) of the 24th instant.

It gives me much concern—I can truly say, the deepest concern—to find that your Lordship should have formed the opinion, that my despatch of the 20th instant indicated an absence of that spirit of perfect and cordial co-operation which your Lordship had hitherto found, and (most justly) expected to find, in our communications.

A spirit of an entirely opposite nature, I can assure your Lordship, influenced me in addressing that communication to you.

I have felt strongly the importance of a judicious and consistent disposal of the cases of all the prisoners concerned in acts of treason against Her Majesty's authority in this province, or in attacks made upon it in connexion with American citizens; with a due regard to the extreme sufferings and consequent excited feelings of the Queen's loyal subjects in the province, who, naturally enough, have felt highly exasperated against the authors of their calamities; this, therefore, has been a duty to which I have devoted

No. 58.
The Earl of Durham to Lord Glenelg, 12 Oct. 1838.
Encl. 2, in No. 58.

devoted days and nights of the most anxious solicitude and labour during the last five months.

The difficult task has been, to oppose a stern countenance to the crime of treason, which brings such calamitous consequences upon large numbers of the community; to put down marauding parties who were committing murders and robberies on the plea of a patriotic enterprise; to distinguish between the comparative degrees of guilt in the criminals, and to extend mercy, without doing absolute violence to a just administration of the laws, and thereby rousing the indignant feelings of the loyal inhabitants on whom the security of this province, and its connexion with Great Britain, must ever mainly depend.

On the successful issue of my measures in this arduous undertaking, I have considered that the peace, welfare and good government of this province greatly depended; for I have no hesitation in saying that, if the crime of treason had been lightly passed over; if the executive authorities had suddenly and extensively granted pardons; if an act of general amnesty had been untimely resorted to; feelings of alarm and dissatisfaction would have been so strong and so general throughout the province, that the great object of restoring tranquillity to the public mind would have been entirely defeated; and clemency, instead of a healing, would have produced an exasperating effect.

My course has, therefore, been an undeviating endeavour gradually to bring over the public mind to regard with some complacency the lenient dealings which Her Majesty's Government have anxiously desired should be pursued towards persons convicted of treason; and, although great difficulties of a legal nature have laid in my way, which the Provincial Government never expected to encounter, I have reason to believe that my efforts have not been altogether unsuccessful.

In almost the very last stage of these anxious proceedings, I must confess I was surprised and disappointed that, on the application of the families of two of the most active and hardened of the traitors who had encouraged and led a band of ruffians to enter this province, and secrete themselves in their own neighbourhood with the view of again raising the standard of rebellion in Upper Canada, your Lordship should have felt it to be necessary to interpose your authority in their behalf, and to stay the ordinary course of the executive government,—under circumstances that must necessarily create a very great sensation,—while they were proceeding according to law, and under the royal commission.

I felt it to be a duty to call your Lordship's attention to some of the consequences of this unexpected instruction, which I thought, possibly, might not have been fully weighed; but I can assure your Lordship that nothing could be farther from my mind than to evince the least want of cordial feeling, or of that respectful deference which is due to your Lordship.

I have not, my Lord, doubted for a moment that, whether a general amnesty should be proclaimed; whether any considerable number of traitors should be transported; or, whether capital punishment should be carried into effect against many criminals, and in what manner the American citizens in custody should be disposed of; were all important considerations, which fell, unquestionably, within the range of the high and important duties which devolve upon your Lordship; and, entertaining this view very strongly, I took an early opportunity of transmitting to your Lordship copies of my despatches to Her Majesty's Secretary of State, detailing all the information within my power to convey to you respecting the proceedings arising out of the revolt in December last; and, especially on the occasion of the aggravated wickedness of the parties concerned in the treason, murder and robberies on the Niagara and western frontiers, I conveyed to your Lordship the fullest particulars, and solicited your Lordship's counsel and advice; at the same time, I submitted to your Lordship the course of proceedings which appeared to me to be proper, and the extent of punishment which, I thought, was necessary to put a stop to these acts of atrocity.

At the time I addressed your Lordship, it was supposed that there were about forty persons captured, subjects of Her Majesty and citizens of America, who had taken a prominent part in the renewed attempt at invasion and rebellion on the Niagara and western frontiers. Of these it was my opinion that two should suffer capitally at Niagara, and two in the western district, and that the rest should be *directly* transported to a penal colony, except, in individual cases, some favourable circumstances were discovered.

Your Lordship, in acknowledging this communication, deferred any expression of your sentiments until the personal interview which shortly afterwards took place; and I can call to recollection no point on which your Lordship expressed the slightest difference of opinion with me, except that your Lordship thought the offenders should have been more promptly and summarily brought to justice: an observation which your Lordship repeated to the Solicitor-general, at the very time that officer was engaged in the prosecution of Morrow and others at Niagara.

If, then, it really were, as your Lordship supposes, from the following observation in your despatch,—" nor do I think it possible for me to err in concluding, from Lord Glenelg's despatch of July 14, of which I had the honour of transmitting your Excellency a copy on the 21st instant, that his Lordship's intentions, and even directions, must have been that you should take no step with regard to the persons implicated in the late rebellion in Upper Canada, without communicating and making sure that you were acting in concert with me,"—my answer is, I have made the most ample communications to your Lordship; and that, although they were not replied to in writing, I felt as assured as I could

No. 58.
The Earl of Durham to Lord Glenelg, 12 Oct. 1838.

Encl. 2, in No. 58.

could possibly be of any thing, that I was acting in concert with you, so far as I could discover your Lordship's sentiments from your answers to addresses, from your public declarations, and from the personal communications with which you honoured me.

The Secretary of State's despatch, No. 111, however, of which a copy is enclosed in my communication to your Lordship of the 29th instant, conveys no such an instruction to me as your Lordship imagines; but, on the contrary, it was what I had done, and what I had decided upon doing, that Lord Glenelg thought it necessary your Lordship should be apprized of; and, not knowing that I had already furnished your Lordship with copies of my despatches, he desired me to do so.

The question of a general amnesty is one in which my acting in concert with your Lordship is mentioned as being desirable; but particular cases are stated to be subjects on which I need not trouble your Lordship.

This is of serious importance as regards the case of Morrow; for, fully impressed as I was, and still am, that I was acting lawfully and rightly, and in unison with your Lordship's views, I never should have forgiven myself if I had suffered that execution to take place without particular reference to your Lordship, had such a course been enjoined upon me by Her Majesty's Government.

I did myself the honour to address your Lordship very fully the day before yesterday, in answer to your despatch, No. 7. Your Lordship, after having in that despatch adverted to the application which had been made by the family of "Chandler" and "Wait," for an extension of mercy and for the grant of a pardon, observes, "I have no means of forming an accurate judgment whether any person convicted of treason is or is not a fit object of the royal clemency, or the extent to which it might be proper to grant it." And, "on a careful and attentive perusal of my commission and instructions, it appears evident that I am to exercise my judgment, as Governor-general and Her Majesty's High Commissioner, in all cases arising out of the recent insurrection in the two provinces." Your Lordship proceeds to desire that the Judges' reports, with every other particular, together with the Lieutenant-governor's views, may be forwarded to your Lordship.

From this I certainly understood that it was your Lordship's intention to decide upon the cases yourself, and in the same light the council understood it, after a very deliberate consideration of your Lordship's despatch.

I confess your Lordship's despatch (No. 9) does not now, to my mind, place the matter in a different light, for, whether your Lordship issues your own warrant for the execution or pardon of a particular criminal, or be pleased to instruct me in each particular case to let the law take its course, or to pardon, the result is just the same in either case; it is your Lordship's decision, and not the decision of the officer administering this government.

The power of pardon, your Lordship observes, you are aware is possessed by the officer administering the government in your Lordship's absence, in virtue of your Lordship's commission, but that this delegated authority is not exempted from the general subordination to instructions from the Governor-general.

If this be the case, undoubtedly I have laboured under a great misapprehension, for I considered that the power of pardoning for treason, as well as for every other crime, was given by the Queen to the Governor-in-chief, or, in his absence, to the officer administering the government of Upper Canada, to be exercised as an act of mercy towards Her subjects, and was in no sense whatever an authority delegated by, or in subordination to, the authority of the Governor-general. In this sense, also, the Secretary of State appears to me to regard it, where he uses this language:—"In the first place you will perceive, on referring to the Earl of Durham's commission, which, during his Lordship's absence from Upper Canada, you are authorized to execute, that the royal prerogative of mercy is delegated to you without the exceptions formerly made of the cases of murder and high treason. It is, therefore, in your power either to grant pardons in particular cases, or even to declare a general amnesty; but, in any measure of the latter description, it would be obviously very inconvenient that a different principle should be observed in Upper and Lower Canada. This is, consequently, one of the subjects in which it is fit that you should act in concert with the Earl of Durham."

Most earnestly do I entreat your Lordship not to suppose that I am struggling for this power from any vain pretensions of placing myself on a footing with the exalted station which your Lordship fills, but in my humble sphere I have a duty to perform, not only to the Sovereign, but to the people of this province, so long as Her Majesty is pleased to continue me in my office, which I am conscientiously *bound* to fulfil; and the preservation of those powers, which are graciously given, as part of the constitution of the country, to the officer administering the government for the benefit of the subjects of the Crown, I feel myself required to maintain unimpaired so far as it lies in my power.

I do not doubt that, upon considerations of general policy, your Lordship may lay down instructions for my guidance under the direction contained in the Secretary of State's circular despatch of the 3d April, to which your Lordship has alluded:—"As, however, the success of your Lordship's mission may in no light degree depend on your power of maintaining uniformity of principle in the administration of the different North American governments, in regard to all the more considerable questions which are depending on them, it seems necessary to depart from the existing system, so far as may be necessary for obtaining that object, but no further."

I shall not only feel it a duty, but a pleasure, to follow your Lordship's instructions to the fullest extent of the spirit as well as of the letter of this instruction; but the consideration

No. 58.
The Earl of Durham to Lord Glenelg, 12 Oct. 1838.

Encl. 2, in No. 58.

sideration of and decision upon particular cases of crime, and the exercise of the royal prerogative of pardoning any offender upon whom judgment has been pronounced, I humbly conceive is solely vested in the officer administering the government, and is, perhaps, the most important attribute belonging to the office, and with which, I cannot think, under any such general terms, the Secretary of State intended to interfere.

Under the Secretary of State's instructions, I am enjoined to co-operate with your Lordship, and, with a due regard to the great distinction in the circumstances, the condition and sentiments of the people of the two provinces, I feel it to be my duty to follow up your Lordship's policy, wherever I can discover it, to the utmost of my power; and this I have done zealously and earnestly. As an instance of this feeling, from the moment your Lordship issued the proclamation of amnesty, I have intimated on frequent occasions to the executive council, that a measure, somewhat corresponding, should, as soon as public feeling would admit of it, be resorted to in this province; and, I trust, a partial approach to it is not far distant.

A misapprehension, to which I confess I had not thought the language used in my despatch of the 16th instant, on the subject of the course I had intended to adopt with regard to the criminals convicted of participating in the late treasonable and hostile proceedings in the Niagara district, was open, has given rise to a reflection of so very painful a nature from your Lordship, that I must beg to offer a few observations upon it.

The banditti who committed the lawless outrages on the Niagara frontier were partly citizens of the United States, and partly subjects of Her Majesty. As treason is the highest offence known to our laws, Her Majesty's subjects were, in this sense, the greatest offenders. Supposing, however, all to be equally guilty of the capital offence for which they were respectively tried, and that in the deliberate judgment of the executive government it was thought that, at least, two culprits should suffer the extreme penalty of the law, it might be, in my opinion, a very proper question of policy for the consideration of the Governor in council, whether one offender of each description should not be selected to suffer as an example to deter others from the perpetration of the like offence? The citizens of America were tried for the felony under the Act "to protect the inhabitants of this province against lawless aggressions from subjects of foreign countries." Her Majesty's subjects were arraigned for high treason.

Never did it enter my mind for one moment, nor was ever any notion of the kind hinted at by any member of the executive council, that the fate of any subjects of Her Majesty should be determined upon grounds apart from their own conduct, and without due regard to all the circumstances of their respective cases; and your Lordship has been misinformed as to the juries having accompanied their verdict of "Guilty," in every instance, with a recommendation of mercy.

When I left Toronto, on the 13th August, the cases of all the culprits stood as follows:—

Morrow was tried as a foreigner, under the Provincial Act. He was found guilty—there was no recommendation of mercy—his case was reported on the 26th July, and by the advice of the council he was left for execution.

On the 9th August the cases of the convicts named in the margin were reported. Of those the first five were American citizens. Their crimes were fully proved; but, although each might be deserving of capital punishment, one example was deemed sufficient, and the rest of the foreigners were conditionally pardoned.

American Citizens:
James Morrow,
L. Wilson Miller,
George Corley,
Norman Mallory,
William Reynolds.

Subjects:
Samuel Chandler,
Benjamin Wait,
James Grammill,
John Grant,
Murdock M'Phaden,
John James M'Nulty,
Alexander M'Leod,
David Taylor,
James Waggoner,
Garret Van Camp,
John Vernon,
George Buck,
Jacob Beamer,
John W. Brown,
Erastus Warner.

The cases of the other convicts were also fully considered. It was the opinion of the council that one, at least, of those convicted of high treason under such aggravated circumstances should suffer capitally. The cases of Wait and Chandler and M'Leod were deemed, under all circumstances, the worst. The jury had recommended the two former to mercy; in the instance of Wait no grounds for the recommendation were assigned. On being asked by the judge, they said they had none; whereas, the active part which he had taken in enrolling the banditti, of which he was an officer, was an act of notoriety; and the Government was in possession of letters and other papers which showed the prominent part he had taken. The grounds in favour of Chandler were, as the jury *said*, "his previous good character, and his good feeling and humanity towards his neighbours."

It was within the knowledge of the council, however, that Chandler had, in fact, been mainly instrumental, with Wait, in bringing the banditti into his own neighbourhood of Pelham, and of supporting and secreting them there.

The case of M'Leod was, no doubt, very aggravated, as having been concerned as a leader or officer in both this incursion and the outbreak last winter, under W. L. Mackenzie. He pleaded guilty, however, when he was arraigned, throwing himself on the mercy of the Government; and it did not appear just to the council to treat him with greater severity, on account of an acknowledgment which might be considered indicative of penitence, than was shown to those who were convicted upon clear proof after denying their guilt, although the jury convicting showed a desire that mercy should be extended to them.

Whilst these cases were being deliberated upon, it was represented to me in council, that there remained other prisoners to be tried at Niagara, one of whom, who had not been arrested till after the opening of the court, and the time for whose trial had not yet arrived, was supposed to be, if possible, still more deeply implicated than M'Leod.

On Monday, the 13th instant, therefore, before I left Toronto, I issued an order for respiting Chandler, Wait and M'Leod until Friday, the 31st August, and required that the remaining cases should be reported on Monday, the 27th.

No. 58.
The Earl of Durham to Lord Glenelg,
12 Oct. 1838.

Encl. 2, in No. 58.

I observed that endeavours were made in the United States to excite a strong feeling of sympathy in favour of the culprits, although none had even been evinced for the Canadian sufferers. Meetings were held, and petitions were in the course of preparation, and as some had been forwarded to me, I thought your Lordship might also have been addressed upon the subject; and it was on this account particularly, that I alluded in my despatch, marked "Separate," to the circumstance that one or other culprit, being a subject of Her Majesty, was intended to be left for execution.

Constrained to take a different view from your Lordship, I have endeavoured to express myself with what I sincerely feel, the utmost respect towards your Lordship; and, whilst I utterly disclaim the slightest notion of controversy, I hope and believe you will not think me wrong in endeavouring, in the discharge of a great public trust, to preserve to Her Majesty's subjects all the advantages which they derive under your Lordship's commission as Governor-in-chief of Upper Canada, which commission, in your Lordship's absence, the Lieutenant-governor is bound to execute.

I have, &c.
(signed) *Geo. Arthur.*

Excellency the Right honourable
the Earl of Durham, G.C.B.,
&c. &c. &c.

— No. 59. —

(No. 82.)

No. 59.
Earl of Durham to Lord Glenelg,
13 October 1838.

COPY of a DESPATCH from the Earl of *Durham* to Lord *Glenelg*.

My Lord, Castle of St. Lewis, Quebec, 13 October 1838.

IN compliance with the request contained in your Lordship's despatch of the 2d of August last, No. 80, I have the honour to transmit herewith certified copies of the ordinances, 26 in number, made and passed by the Special Council holden at Montreal in April and May last, under the administration of his Excellency Lieutenant-General Sir John Colborne.

No. 1 to 26. *Vide* Papers relative to the Affairs of Lower Canada, ordered to be printed 4 May 1838, No. 357, pp. 25, 34, and 43.

I have, &c.
(signed) *Durham.*

— No. 60.—

(No. 84.)

No. 60.
The Earl of Durham to Lord Glenelg,
16 Oct. 1838.

EXTRACT of a DESPATCH from the Earl of *Durham*, G.C.B., to Lord *Glenelg*, dated Castle of St. Lewis, Quebec, 16 October 1838.

IN my despatch (No. 68) which announced my intention of returning to England at an early period, for the purpose of resigning my commissions, I explained the grounds on which I had formed that decision after mature deliberation. I felt that the moral power of my government was so completely destroyed, and the difficulties of my position so greatly augmented by the proceedings of Her Majesty's Ministers and the Imperial Parliament, that the attempt to conduct the government of these provinces on better principles than those which have hitherto been adopted was one which must be made by other hands than mine. I grieve to find that I did not by any means exaggerate the probable effect which would be produced on the public mind on this continent by the occurrences in England. In the course of one week I have found the tone of the British inhabitants change from the loudest professions of loyalty and attachment to the connexion with the mother country to a calm anticipation and discussion of the chances and consequences of separation. From the same mouths that a short while ago expressed the most passionate resentment of wrongs supposed to have been received from the people of the United States, I hear significant approval of the course which I have all along taken to conciliate the good-will of a kindred people, whose sympathies with the English race it is judged politic to cultivate. I have been startled at the rapid growth of this dangerous state of mind; and when the mass of the British population of this city were assembled to present me with an address, expressive of the kindest feeling towards myself, and the strongest condemnation of the policy which severs the official connexion between us, I shrunk from any other than a formal and deliberate expression of my feelings, from fear lest an indiscreet word or gesture on my part, or any one of those unforeseen accidents which

No. 166.
The Earl of Durham to Lord Glenelg, 16 Oct. 1838.

which carry large popular assemblies beyond the influence of human control, might lead to a general expression of the angry feeling that pervaded the excited numbers whom I beheld before me.

A perfectly different feeling exhibited itself at first among the French Canadians. They naturally exulted in the victory which appeared to have been gained by those who put themselves forward as their especial advocates in the mother country, and the disaffected rejoiced at perceiving that the arm of authority was weakened. Since the receipt of the first news from home which might lead them to believe, on high authority, that I did not really possess the powers with which they once imagined me to be invested, I can have no doubt that the disposition to secret machinations and preparations for insurrection, which had been for some time checked, has sprung into renewed activity; and though I do not feel much dread at the prospect of any unsupported attempts which the French population may make against the military force now in this country, I cannot doubt that there is now in existence an organization of the disaffected in this province, which may lend a most pernicious aid to any attack which may be made from without.

I have already forwarded to your Lordship an address expressive of the feelings of the delegates from the lower provinces of British North America; and the accounts which I have recently had show that the same feelings have been generally expressed in those provinces in the calm manner in which their happy immunity from actual civil war enables their inhabitants still to express their political sentiments; but throughout Upper Canada, where the memory of recent suffering is fresh and vivid, and where the terror of near and visible peril constantly alarms the public mind, a more passionate and general feeling of regret and alarm has pervaded all classes. Unaccustomed to the state of feeling generated by actual insurrection, I have been struck by the extent of that terror with which all parties and all classes see, in the disturbance of my policy, the harbinger of a winter similar in its political character to the last. The sudden unanimity of all parties in that most divided province has been as alarming as extraordinary; for when those in power, and those who in attempting to snatch it from them advanced to the brink of rebellion, signed the same address,—when the leaders of the reformers seconded the resolutions moved by the heads of the family compact,—I could not but infer that an unanimity so strange must have been produced by the indication of sure and awful peril.

Of what nature that danger is, the enclosed communications from Her Majesty's Minister at Washington will inform your Lordship. I grieve to say, that all the information which I have received within these few days, from all quarters, confirms the alarming intelligence conveyed therein. I have no doubt that the numbers, means and projects of the conspirators are greatly exaggerated, but I have little doubt, also, that there is great reason to apprehend that there has been suddenly formed throughout the bordering states, among a population capable of such enterprises, a widely ramified conspiracy, bent on repeating in Canada the scenes of Texas, invading the British dominions with a horde of those lawless and daring adventurers, who are to be tempted by the promise of sharing in the plunder of private and public property in these ample and fertile provinces.

It is of great importance that your Lordship and your colleagues should know the present state of feeling, both in these provinces and in the neighbouring states, and that you should know it betimes. I take, therefore, the opportunity which is afforded me by the postponement of the Royal William's departure, to supply you, though in a hurried manner, with the information which has reached me.

The mind of the British population throughout all the provinces has been deeply agitated by the prospect of a new change in the system of government. I am happy to be able to adduce the great number and the kind language of the addresses which I have received from all parts of the two Canadas, as proofs of the favourable feelings with which my policy has been regarded. Your Lordship must not imagine that I attach undue importance to documents so flattering to myself; for I feel that these are expressions of a deeper and more serious feeling than any that regards my individual conduct or treatment. The expressions of regret at my resignation, and of condemnation of the disallowance of my ordinance, proceed from those who disapproved of that part of my policy, just as much as from those who had most warmly supported it. The measures which I had adopted with a view to the disposal of the political prisoners had been a long

No. 160.
The Earl of Durham to Lord Glenelg, 16 Oct. 1838.

time in operation; and however freely they had been canvassed,—however much a certain portion of the population had thought it right to censure them,—that discussion had run its course, and all had acquiesced in a policy which they judged to be definitively adopted. The disturbance of this settled policy by the acts of the home Government has been regretted and condemned, not more by those who most cordially approved of the particular course adopted by me, than by those who originally wished that I had acted with greater severity. Both equally condemn the precipitate interference, which has obviously been undertaken in utter ignorance of the state of these provinces. They see with dismay that the difficulties which my policy had succeeded in removing are again placed in the way of the Government; that the authority from which they expected at least vigour and steadiness is powerless to enforce its determinations and to maintain the course on which it has entered; and that these unhappy provinces are, during the trying emergencies which are generally anticipated, to be still subjected to the mischievous influence of that wavering and temporizing policy which has hitherto paralysed the efforts of their energetic and loyal inhabitants.

Your Lordship will not be surprised to learn that regret is not the only feeling that has in consequence pervaded the British portion of the population, and that they have not beheld without anger their dearest interests thus made, as they express it, the sport of parties at home, who do not participate in either the danger or the desire to avert it. I have warned your Lordship, that the patience and the loyalty of our countrymen in these provinces may be tried overmuch; I have not been surprised, therefore, that their despair at the failure of that support which they had justly expected from home, has led them to think on what they can do for themselves; but I do assure your Lordship that I was not prepared for the extent of the change which I cannot doubt that these events have produced in the public mind here.

I am compelled abruptly to close this despatch, of the means of forwarding which, I received a very short notice.

— No. 61.—

No. 61.
Earl of Durham to Lord Glenelg, 19 October 1838.

(No. 85.)

Copy of a DESPATCH from the Earl of *Durham* to Lord *Glenelg*.

Cap. 1, 2, and 3.

My Lord, Castle of St. Lewis, Quebec, 19 Oct. 1838.

Cap. 1 & 2. *Vide* Lord Durham's Despatch, 29 June 1838, No. 18, p.

In compliance with the request contained in your Lordship's despatch of August 2d, No. 80, I have the honour to transmit authenticated copies of the ordinances which have been passed by me since I assumed the government of Her Majesty's possessions in North America.

Cap. 3, Enclosure (A.)

I have, &c.
(signed) *Durham*.

Enclosure (A.) in No. 61

(No. 29, cap. 3.)

Encl. in No. 61.

An Ordinance to prevent the Discharge of certain Persons until they shall have given Security.

Whereas by a certain proclamation of our Sovereign Lady Victoria, given at the Castle of St. Lewis, in the city of Quebec, in the province of Lower Canada, and bearing date the 28th day of June in the year of our Lord 1838, it was amongst other things ordered and directed that all persons then in custody, and charged with high treason and other offences of a treasonable nature, should immediately upon giving such security for their future good and loyal behaviour as the Governor-general and High Commissioner, or if there be no such Governor-general or High Commissioner, then the Governor-in-Chief, Governor, or the person administering the government of this province, should direct, be at liberty to return to their homes, and there remain wholly unmolested by reason of any high treason or other offences of a treasonable nature in which he or they may have been concerned. And whereas by the said proclamation it was ordered and directed that no further proceedings should be had or taken against any persons whatsoever on account of any high treason or offences of a treasonable nature wherewith they then stood charged, or wherewith they might be chargeable at that time; but that all such proceedings, without exception or distinction except as therein mentioned, should thenceforth cease and determine. And whereas the great

No. 61.
The Earl of Durham to Lord Glenelg, 19 Oct. 1838.
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great body of the said persons so in custody have availed themselves of the benefits held out to them by the said proclamation, and given the security required. And whereas the said proclamation was intended to apply to all without distinction who were so in custody, so that the conditions annexed to its benefits might alike be enforced against all. And whereas certain persons who were at the time of the issuing of the said proclamation and at present continue to be in custody, and charged with high treason and other offences of a treasonable nature, have not given such security for their future good and loyal behaviour as directed and required by the said Governor-general, but have totally neglected and refused so to do. And whereas it is necessary to provide for the detention in custody and safe keeping of the said last mentioned persons; Be it therefore ordained and enacted by His Excellency the Governor of the Province, by and with the advice and consent of the Special Council for the affairs of the said Province of Lower Canada, and it is hereby ordained and enacted by the authority aforesaid, that all or any person or persons who are or shall be in prison or otherwise in custody in this province, at or upon the day of the making or passing of this ordinance, by any warrant for high treason, suspicion of high treason, misprision of high treason, or treasonable practices, who may have neglected or refused to give such security as aforesaid, shall and may be detained in safe custody, without any bail or mainprize, until any or all such person or persons shall have duly given such security for his or their future good and loyal behaviour as the Governor-general and High Commissioner, Governor-in-chief, Governor, or person administering the government of this province, shall direct and require; and that until all or any such person or persons shall have given such security as aforesaid, no judge or justice of the peace shall bail or discharge any person or persons so committed, without an order from the Governor-general and High Commissioner, Governor-in-chief, or other person administering the government of this province, any law, ordinance, or statute to the contrary notwithstanding.

(signed) *Durham.*

Ordained and enacted by the authority aforesaid, and passed in Special Council, at the city of Quebec, the 23d day of August, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God of the united kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord 1838.

By His Excellency's command,
(signed) *W. B. Lindsay,*
Clerk Special Council.

—No. 62.—

(No. 88.)

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

My Lord, Castle of St. Lewis, Quebec, 20 October 1838.

No. 62.
The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

I HAVE repeatedly called your attention to the injurious effects produced on the authority of Government in this province, not only by the acts of the Legislature and of Her Majesty's Ministers, but also by the discussions in Parliament. Your Lordship, and those who, from their intimate acquaintance with the motives and conduct of public men at home, are accustomed to attach little weight to expressions of individual opinions, may think that I overstate the effect produced here by what is said in the two Houses of Parliament. It may also be difficult for those who draw their ideas of this colony from a superficial view of what they see in England to conceive the extent in which the authority of Government is weakened, in every respect, by the want of support which I have hitherto experienced. I am therefore anxious to bring under your Lordship's consideration the proceedings in a recent case in the Court of Queen's Bench at Quebec.

In the case "*Ex parte* Firmin Moreau," application was made for a writ of habeas corpus, for the purpose of discharging from gaol a person committed by the superintendent of police, under the police ordinance passed by the Special Council at the same time as the disallowed ordinance for the better security of the province. Mr. Justice Bédard dissented from his brother judges, and held the committal invalid, on the ground that, in his opinion, the Imperial Act, 17 Geo. II. c. 5, relating to vagrants, formed part of the laws of this province, and that the police ordinance, being in contravention of its provisions, is null under those of the Imperial Act, 1 Vict., restricting the legislative power of the Governor-general and Special Council to enactments not at variance with any Imperial Act.

Mr. Bédard was fortunately overruled by the other judges, and no mischief resulted in the particular case before the court; but that mischief has been done, which must result from the public declaration of the illegality of the acts of the

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The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

only legislative authority in the country, on the part of one of the judges of the highest court; whilst still greater mischief must result from this opinion being grounded on a view which restricts the legislative authority of the province within limits so absurdly narrow; and the greatest evil of all is, that however preposterous may be the opinion, or however small the weight, attaching in the public mind to the authority of the particular judge, who on this occasion dissented from his brethren, his opinion is unfortunately backed by those of many of the speakers in both Houses of Parliament, in the late debates on the ordinance.

Mr. Bédard only takes, after all, the ground on which a great many objections to the disallowed ordinance were made by speakers whose position gave their expressions no small authority. It was stated, that as the provisions of the criminal law of England were extended to this province by the Quebec Act, the Governor-general and special council could have no power of altering any part of that law. It was urged, that as the procedure in cases of treason is regulated by British Acts, I could not punish persons accused of treason by any mode except that prescribed by English statutes. This is the interpretation placed by some English lawyers on the operation of the provision whereby the Governor and council are restricted from repealing Imperial Acts. Mr. Bédard follows out this view to its legitimate and absurd consequences when he gravely asserts that the authority of the only legislature of this province is restricted by the most insignificant provisions of the criminal law or imperial statutes. According to this view, a constitution is suspended, and the semblance of despotism established, for the purpose of arming the government of Lower Canada with an authority which is fettered by the Vagrant Act.

I have, &c.

(signed) *Durham.*

— No. 63. —

(No. 89.)

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

No. 63.
The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

My Lord, Castle of St. Lewis, Quebec, 20 October 1838.

SINCE my despatch (No. 84) which I forwarded to your Lordship on the 16th inst., I have seen Sir John Colborne, and had the advantage of a good deal of communication with him on the present state of affairs. His information respecting the probability of serious disturbances during the ensuing winter, I am sorry to say, tallies very exactly with that which I have received from all quarters; and his opinion of the gloomy aspect of affairs is just as strong as that which I have lately endeavoured to impress on your Lordship. I am happy to say that the most perfect understanding continues to prevail between us. Looking on him as the person with whom the whole conduct and responsibility of the Government during the next six months will in all probability rest, I have thought it best for the public service that he should enter as speedily as possible on that course, by which he purposes to maintain the tranquillity and the possession of these provinces. I have requested him at once to take whatever military precautions he may deem necessary for enabling him to carry out his own views for the security of the provinces, against foreign invasion, or internal disaffection. He has readily availed himself of this offer, and is busily engaged in taking steps for calling out the volunteers and guarding the frontiers. The indications of mischief are so numerous and so urgent, that it is no longer possible to conceal, or advisable to attempt concealing, the consciousness of danger entertained by the Government: its only course is openly and resolutely to proclaim and avert that danger. The early adoption of these measures of military precaution must of necessity entail great expense on the Government. It will too clearly demonstrate to the province and to neighbouring states the melancholy condition of its internal and external relations; and it will in all probability produce a state of things in which the present exasperation of parties will be aggravated by fresh causes of irritation; but these are evils which must be borne, if we mean to provide, as far as is in our power, for the retention of the two Canadas. While, therefore, I cannot but lament the necessity of them, I must approve the adoption, under existing circumstances, of these measures by the Commander of the Forces.

The

No. 63.
The Earl of Durham to Lord Glenelg, 20 Oct. 1838

The result of my communication with Sir John Colborne, as well as of fresh intelligence which I have received, has been a confirmation of the propriety of my relinquishing the government of these provinces. It is quite clear that at the present season it is useless for the Government to occupy itself with any schemes of extensive and permanent amelioration. The sole object of its care must for the present be the retention of the province during the winter. As this must be attained by military means, the business of my pacific mission is, if not at an end, in abeyance; and it is best that for a while the civil and military authority of this province should be in the same hands. A civil governor here would, during the next six months, have no legitimate business, save that of rendering that subordinate aid to the military authorities which will be better secured if the entire direction and responsibility be allowed to rest with the Commander of the Forces; and this is also Sir John Colborne's view of the case. My only sphere of utility to these colonies must, I am more than ever convinced, be henceforth in the Imperial Parliament, where, if I can force on the knowledge of my countrymen the true state of these provinces, and the true policy to be adopted for their future good government, I may contribute towards rendering available the last opportunity which I believe will ever be afforded to Great Britain of maintaining an useful and honourable connexion with her possessions on the North American Continent.

With this object in view, I think it my duty to return without any delay. I have therefore, with great regret, on public as well as private grounds, abandoned my intention of visiting the United States, where I hoped that my communications with the President might be of service. I now intend to sail from this port in Her Majesty's ship Inconstant, direct to England, on the 3d of November.

The nature and extent of the danger with which Sir John Colborne will probably have to contend, I endeavoured to point out to your Lordship in my despatch (No. 84), which I prepared at a few hours' notice, availing myself of the postponed departure of the Royal William. Time and deliberation have not enabled me to supply your Lordship with more precise information on the points on which I then touched, for the fresh intelligence which every day brings is of the same vague nature, and confirms our belief in the existence of unknown perils, without informing us as to the time, the mode, and the extent to which we are to be exposed to them.

There is great danger to be apprehended from the rapidly increasing familiarity with which the idea of separation from the British empire is expressed and canvassed by the British in these provinces. I do not mean to disparage their severely tried and well proved loyalty to the Crown and attachment to the British empire. Their preference of monarchical institutions, their affection for the mother country, are as strong as ever; but their hope of maintaining either has been suddenly and materially weakened; and in this state of feeling they naturally look with great anxiety to the form of government under which it is possible they may soon have to live, and to the connexions which they may be under the necessity of forming when the ties of their present dependence are severed. The chances and the desirableness of the different possible results are daily canvassed among them; their minds become familiarized with the thoughts, which a short time ago they held it a crime to entertain; and however favourable the decision of their judgment may be, the strong feeling which bound them to the British empire is weakened by the mere fact of its soundness becoming a matter of question.

To what extent this feeling prevails, or how soon and in what form it may exhibit itself, it is impossible to say. It is one of no recent growth. Do not imagine, my Lord, that it owes its origin to my recall, or that it could be obviated by my retention of the government. Long lurking in the minds of even those inhabitants of these provinces in whom it had not been openly manifested in the course of the late discontents and disturbances, it was in great measure removed by the apparent indications of a better policy, which were hailed in the appointment of a Governor armed with the extensive and sufficient powers which I was supposed to wield when I landed on these shores. This feeling has sprung into sudden and rapid growth from the hour in which the public mind was disabused

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as to the extent of my previously exaggerated powers by the weightiest authority in the British legislature, which deprived me of moral influence by asserting without contradiction, that I "possessed only the ordinary legal powers of a common Governor." From the same moment and from the same cause sprang the other feelings of which the wide diffusion among perfectly different classes menaces even greater danger.

The same cause called into renewed and vigorous action the hopes of the disaffected in both provinces. Of the designs of the disaffected within the Upper Province we know nothing. In this, the indications of conspiracy and dangerous designs are numerous and undeniable. A formidable organization, bound together by secret oaths and secret signs, undoubtedly exists, and extends over the French population, at least of the district of Montreal. The object of the oath does not appear to be specific; it merely binds the conspirators to be ready to obey whatever orders they may at any time receive from their chiefs. When this machinery is to be called into action does not appear. I am, on the whole, inclined to be of opinion, that there is no intention of immediate outbreak in this province, unless in case of invasion from without; to that it is at all times ready to serve as a formidable auxiliary; but in the meantime it produces all the alarm which actual insurrection would occasion. Terrified by signs of this formidable and mysterious organization, and sometimes by secret menaces or warnings of murder and massacre, the loyal inhabitants of the country quit their exposed and isolated habitations, and either at first seek refuge in the towns, or at once secure their safety by quitting the British dominions. In both provinces alike, this emigration, from utter insecurity of person and property, has taken place to an alarming extent; and both provinces have thus been, to a great extent, deprived of the most valuable class of their inhabitants, of those whose peaceful energies contribute most to their improvement, and who most demand and deserve the steady protection of a parental government.

The same cause has given life to the worst spirit among the bordering population of the United States, and extended, if not created, that formidable secret combination, of which the existence has been announced to me, not only by a host of concurrent and consistent private communications, but by the most solemn warning which the government of the United States could give.

I do not believe that this conspiracy is the result of that somewhat generous, but utterly misdirected, sympathy which last winter prompted our republican neighbours to interfere in behalf of a people whom they erroneously imagined to be making a hearty struggle for liberty. It seems rather to result from the aspect of the weakness of the Government in these provinces, which has latterly been presented to the bordering population, and which offers to the ambition or avarice of the bold and lawless settlers of the American wilderness the ample and fertile lands which appear to invite occupation by the strongest. They think to repeat the conquest of Texas from a nobler foe, with proportionably greater means of aggression; and if they know that they will have to contend with something more than a Mexican army, they count on an internal aid, which was not found in the solitary wilds of Texas.

That this is the nature of their views and plans I infer, not merely from the direct information which I have received, but from the fact that the first indications of these machinations were observed just at the period in which the first debates in the House of Lords convinced the ill-intentioned here, that they need not apprehend a vigorous and well-supported government in Canada.

Such are the internal and external prospects of a country, respecting which, in my despatch of the 9th of August, I thus expressed myself:—"The exercise of the very extensive powers placed in my hands seems to have operated as a sort of charm, like oil poured on troubled waters. At this moment all is still; a stranger would hardly believe that the country had been recently distracted by civil war. Expectation for the future is, I trust, taking the place of angry passions occasioned by the past."

This was, at that time, a true description; I stated nothing but what correctly described the state of things in these provinces. I could not know that at that very

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20 October 1838.

very hour events were passing at the other side of the Atlantic which would call into renewed and fearful activity the smothered embers of universal strife, and reverse the fair order of things which I had so diligently laboured to establish.

I have, &c.

(signed) *Durham.*

— No. 64. —

(No. 90.)

No. 64.
Earl of Durham to Lord Glenelg.
20 October 1838.

COPY of a DESPATCH from the Earl of *Durham* to Lord *Glenelg.*

My Lord, Castle of St. Lewis, Quebec, 20 October 1838.

IN compliance with the request contained in your Lordship's despatch, No. 73, dated July the 19th, I have the honour to transmit the Return therein required.

I have, &c.

(signed) *Durham.*

Enclosure in No. 64.

Enclosure in No. 64.

A RETURN of the APPOINTMENTS made by His Excellency the Earl of *Durham*, since his Arrival in Canada; prepared for the House of Lords, in compliance with a Despatch from the Secretary of State for the Colonies, dated the 19 July 1838 (No. 73.)

ATTACHED TO THE HIGH COMMISSION.

NAME.	OFFICE.	Date of Appointment.	Annual Salary.
			£. s. d.
Charles Buller, M.P.	Chief Secretary	29 May 1838	1,500 – –
Colonel George Couper, K.H.	Military Secretary and Principal Aide-de-Camp.	— —	700 – –
Gervase P. Bushe	Attaché to the High Commn	— —	300 – –
Arthur Buller	ditto	29 May to 4 July 1838	300 – –
S. Derbyshire, vice A. Buller	ditto	2 August —	300 – –
Hon. E. P. Bouverie	ditto	29 May —	—
Lieut. Hon. F. Villiers, Coldstream Guards	Aide-de-Camp	— —	191 12 –
Capt. S. Conroy, ditto	ditto	— —	191 12 –
Ensign W. H. F. Cavendish, 52d regt. Light Infantry	ditto	— —	191 12 –
Cornet Hon. C. A. Dillon, 7th Dragoon Guards	ditto	— —	191 12 –
Capt. Ponsonby, Royal Fusileer Regt	Extra ditto	— —	—
Edward Ellice, jun., M.P.	Private Secretary	— —	—
Lieut.-Col. Hon. C. Grey, 71st Regt. Light Infantry	Attached to High Commission	2 June —	—
	PROVINCIAL APPOINTMENTS.		
T. E. M. Turton, Barrister-at-law	Secretary of Government	29 May 1838	—
Charles Buller, M.P., Chief Secretary	Member of the Ex. Council	2 June —	—
T. E. M. Turton, Secretary	ditto	— —	—
Colonel George Couper, K.H., Military Secretary	ditto	— —	—
D. Daly, Provincial Secretary	ditto	— —	100 – –
R. J. Routh, Commissary-Gen.	ditto	— —	100 – –
Sir Charles Paget, G.C.H., Vice-Admiral	Member of the Spl. Council	28 June —	—
Major-Gen. Sir Jas. Macdonell, K.C.B. and K.C.H.	ditto	— —	—
Lieut.-Col. Hon. C. Grey	ditto	— —	—

(continued)

No. 64.
Earl of Durham to Lord Glenelg, 20 October 1838.

Name.	Office.	Date of Appointment.	Annual Salary.
			£. s. d.
Colonel Hon. G. Couper	Member of the Spl. Council	28 June 1838.	—
Hon. Charles Buller	- - ditto	— —	—
Chief Justice Sewell	Member of the Ex. Council	— —	—
Chief Justice Reid	- - ditto	— —	—
Mr. Justice Panet	- - ditto	— —	—
Mr. Justice Rolland	- - ditto	— —	—
Mr. Justice Vallieres de St. Real	- - ditto	— —	—
A. Buller, Barrister-at-law	- - ditto	— —	—
Major-Gen. J. Clitherow	Member of the Spl. Council	6 Aug. —	—
The Lord Bishop of Montreal	- Presid. of Roy. Inst. for the advancement of Learning	12 June —	—
Hon. John Neilson	One of the Trustees of ditto	— —	—
E. B. Lindsay and G. M. Muir	- Registrar and Clk. to Corp. of Trinity House, Quebec	22 June —	—
Thomas A. Young	- - Inspector and Superint of Police for Quebec	28 June —	365 —
C. S. Rodier	- - - Commissioner for the summary trial of small causes for the district of Montreal	13 June —	—
S. Bellingham	- - ditto	— —	—
H. E. Baron	- - ditto	— —	—
E. A. Clarke	- - ditto	— —	—
P. E. Leclerc	- - ditto	— —	—
Francis Cotterell	- - - Ditto for the parish of St. Antoine de la Baie du Febvre	12 July —	—
A. Lozeau	- - ditto	— —	—
L. T. McPherson	- - ditto for the parish of Quebec	9 Aug. —	—
Robert Symes	- - ditto	— —	—
William Patton	- - ditto	— —	—
J. Gibb	- - ditto	— —	—
P. Langlois	- - ditto	— —	—
C. Cazeau	- - ditto	— —	—
J. Douglas	- - ditto	— —	—
J. Fraser	- - ditto	— —	—
P. Lepper	- - ditto	— —	—
D. M'Callum	- - ditto	— —	—
H. Pemberton	- - ditto	— —	—
J. Chouinard	- - ditto	— —	—
H. Sharples	- - ditto	— —	—
O. Robitaille, M.D.	- - Physician, surgeon, and man-midwife	3 July —	—
A. Berthelot	- - ditto	— —	—
P. E. Picault	- - ditto	10 Aug. —	—
F. X. Blanchet	- - Barrister, advocate, attorney, solicitor, and proctor	9 July —	—
C. Delagrave	- - ditto	8 Aug. —	—
H. Hughes	- - ditto	8 June —	—
L. T. Fortier	Public notary	7 June —	—
J. A. St. Pierre	- - ditto	5 July —	—
L. J. A. D. Bondy	- - ditto	27 July —	—
P. Pelletier	- - Branch pilot for and below the Harbour of Quebec	4 June —	—
E. Demers	- - ditto	8 — —	—
J. B. Bernier	- - ditto	21 — —	—
J. B. Golin	- - ditto	25 — —	—
P. Charest	- - ditto	— —	—
J. Campbell	- - ditto	26 — —	—
G. Leplante	- - ditto	2 July —	—
A. Roy	- - ditto	27 — —	—
P. St. Hilaire	- - ditto	28 — —	—
M. Caron	- - ditto	— —	—
W. Le Bel	- - ditto	30 — —	—
A. Sirois	- - ditto	— —	—
F. Boissinat	- - ditto	1 Aug. —	—
H. Lavoie	- - ditto	— —	—
H. Jovin	- - ditto	8 — —	—
J. Pouliot	- - ditto	— —	—
F. Simpson	- - ditto	— —	—
J. Pouliat	- - ditto	9 — —	—
Z. Chassé	- - ditto	— —	—

(continued.)

No. 64.
Earl of Durham to Lord Glenelg, 20 October 1838.

PROVINCIAL COMMISSIONS OF INQUIRY.

Those under this head have no Annual Salaries, but the Amounts given are what they receive for the entire business of the Commission.

NAME.	OFFICE.	Date of Appointment.	Amount.
			£. s. d.
Sir John Doratt, Knight, M.D.	- - Inspector-general of hospitals, medical, charitable, and literary institutions - -	2 June 1838	—
	General Commission of Inquiry for Crown Lands and Emigration for all Provinces of British North America.		
Charles Buller - - -	Chief Commissioner - -	18 June 1838	—
R. D. Hanson - - - -	Assistant Commissioner -	— —	660 - -
Honourable H. Petre - -	Secretary - - - - -	— —	200 - -
	General Commission of Inquiry for Education.		
Arthur Buller - - - -	Chief Commissioner - -	4 July —	300 - -
C. Dunkin - - - - -	Secretary - - - - -	— —	300 - -
C. F. Head, Major in the Army	- - Assistant-Commissioner of Crown Lands and Emigration Inquiry - - - -	16 Aug. —	200 - -
	Commission of Inquiry into Municipal Institutions.		
Charles Buller - - -	Chief Commissioner - -	20 Aug. —	—
William Kennedy - - -	Assistant Commissioer -	— —	200 - -
Adam Thom - - - -	- - ditto - - - -	— —	400 - -

(signed) *Charles Buller*,
Chief Secretary.

(No. 91.)

—No. 65.—

EXTRACT of a DESPATCH from the Earl of *Durham*, G. C. B., to Lord *Glenelg*, dated Castle of St. Lewis, Quebec, 20 October 1838.

No. 65.
The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

I HAVE the honour to inform you, that I have received a request from Mr. Reid that I would grant him a pension, and accept his resignation of the office of Chief Justice of the district of Montreal. In compliance with your Lordship's instructions in your despatch, No. 7, of the 25th of March last, I have informed Mr. Reid that I accept his resignation, and am prepared to grant him a pension of 732*l.* per annum. I have not been able to make arrangements for the appointment of a successor, and Mr. Reid has not, therefore, actually relinquished his duties; but as the term ends to-day, he cannot be called on for any active service until February next.

At the same time that I received the application from Mr. Reid, I received one of precisely the same nature from Mr. Sewell, the chief justice of the province. I enclose a copy of his memorial. As the great age, together with the long and distinguished services of Mr. Sewell, rendered it impossible to make any objection to his demand for a pension, I have, in conformity with the principle laid down in your Lordship's despatch, proposed to grant him a pension of 1,000*l.* per annum, being two-thirds of his present salary. With this arrangement Mr. Sewell has expressed himself entirely satisfied; and I shall therefore propose to the Special Council an ordinance settling these two pensions on these two gentlemen. In the place of Mr. Sewell, I have not hesitated a moment to appoint Mr. James Stuart. Public opinion, with so universal a consent, points out this gentleman as the ablest lawyer in the province, that there cannot be a doubt that it would be injustice and folly to place any other person in the highest judicial office of the province. It is especially necessary that in times like these the capacious understanding, sound knowledge and vigorous decision of Mr. Stuart should be employed in the public service.

Enclosure in No. 65.

May it please your Excellency, Quebec, 9 October 1838.

HAVING served the Crown in the several offices of Solicitor-general and Attorney-general during 18 years, and in the office of Chief Justice of the province during 30 years, and finding that by age and the laborious duties of my present station my health has of late been much impaired, I beg leave, most respectfully, to submit to your Excellency's consideration my wish to retire from office, upon such a retiring allowance as Her Majesty, in Her royal bounty, may be pleased to grant. I have, &c.

His Excellency the Governor-general. (signed) *J. Sewell.*

Encl. in No. 65.

— No. 66. —

(No. 92.)

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

No. 66.
The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

My Lord, Castle of St. Lewis, Quebec, 20 Oct. 1838.

I HAVE hitherto been prevented from noticing your Lordship's despatch of the 13th March last, enclosing a despatch from Lord Gosford, dated the 12th July 1837, and a memorial from Messrs. Bruce, Shillitoe, M'Intyre & Martin, praying the confirmation of a sale to them of 66,242 acres of Crown land in the district of Gaspé, and referring the decision of the question to me, partly, because there was no representative of Mr. Bruce at Quebec, from whom I might learn in detail the circumstances upon which his claim to a reversal of the decision of Lord Gosford was founded; and, partly, because of the delay of Mr. M'Donald, the government agent, by whom the sale was made, to reply to a communication addressed to him by the secretary to the Commission of Inquiry of Crown Lands and Emigration, a copy of which, and of Mr. M'Donald's reply, I have the honour to enclose. I now, however, proceed to detail to your Lordship the decision which I have formed, and the grounds upon which that decision was made.

It is difficult to imagine a case in which there has been a more reckless profusion in the alienation of the property of the Crown, or one in which all the regulations that have been successively framed for the direction of the Commissioner of Crown lands have been more deliberately and systematically violated. From the first step in the business to the last, the proceedings of the officers of the Crown were characterized by duplicity and irregularity. The letter of Mr. M'Donald of the 5th June 1836, a copy of which accompanies the memorial of Mr. Bruce, appears to have been, if not absolutely false in terms, entirely false in the impression it is designed to convey; since, from the inquiries I have made, it seems quite clear that there was only one person who had applied for the large amount referred to in that letter, and, certainly, only one person who had offered to deposit the money requisite to defray the expenses of survey. And it further appears that this letter, instead of having been written in the town of New Carlisle, where it is dated, was, in fact, written in the office, and probably at the dictation of Mr. Felton, the then Commissioner of Crown lands at Quebec. The Commissioner of Crown lands, upon this letter, recommended to Lord Gosford the sale of only 35,000 acres in the two townships of Cox and Hamilton, within which the lands applied for were situate; and yet, so soon as the sanction of his Excellency had been obtained to this recommendation, he wrote to Mr. M'Donald, directing the survey and sale of a tract of land that would contain upwards of 100,000 acres, at a price which, although it was well known that the land was sought only for the sake of the timber growing upon it, was not equal to one-third of the amount which might have been obtained for licenses to cut that timber.

Acting upon this authority, Mr. M'Donald proceeded to a sale, without giving any of the notices in the newspapers of the province required by the instructions of the Colonial-office, although this was a case which particularly called for the insertion of such notices; since the sale, on account of the quantity of land put up to auction, and the purpose for which it was required, was one in which all land agents and lumber merchants in the colony were interested. In the whole transaction it is not easy to assign any other motive for the conduct of these gentlemen than a desire, at whatever injury to the public, to swell their own emoluments by the per centage upon the large sum which this one sale might produce; nor is it easy to imagine a transaction more deficient in every particular requisite to its validity.

Had, therefore, this transaction stood alone, I should have had no hesitation in deciding that the sale ought to be annulled, whatever loss this decision might have inflicted upon Mr. Bruce and the other memorialists, because I entirely concur in your Lordship's view of the difference which exists between a transaction to which private individuals alone are parties, and one in which the Government is concerned as a trustee for the pnblic.

But this is very far from being an isolated or even an uncommon case; on the contrary, the instances have been numerous in which irregularities as great have been suffered, and an assumption of power on the part of the commissioner of Crown lands even more unwarrantable, if that be possible, has been

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been sanctioned by the Governor of the colony at the time. As an illustration of the extent to which this was carried, I may instance two particulars: the first is the sales of the clergy reserves by the commissioner of Crown lands, as agent for that purpose, under the authority of the Act of the Imperial Parliament sanctioning the sale of a portion of this property. By the terms of that Act, Mr. Felton was at liberty to sell no more than 100,000 acres in any one year, nor more than one quarter of the reserves in the whole. While, however, such was the extent of his authority, he sold in the year preceding that in which the application to purchase this land was made, upwards of 111,000 acres of these reserves, and, in the whole, sold more than three-sevenths of the whole reserves; and these lands were sold almost exclusively to individuals who purchased with a view, not to settlement, but to speculation upon the probable rise in the selling price of the land, and the prices at which they were offered are very much more below their real value than has been the case in the present instance. The second is the continued practice of taking payment for Crown land by four annual instalments, without interest, in spite of the instructions from the Colonial-office; directing that payment should be made by half-yearly instalments, with interest. When such practices were thus allowed to prevail, I cannot but conceive that the faith of Government must be considered as pledged to ratify all the acts of their agent, however gross the departure from established regulations, or however excessive and unjustifiable the authority he assumed, unless the other contracting parties could be regarded as accomplices in the misrepresentation, or as consciously taking advantage of the irregularity. The former does not appear to have been the case in the present instance; and, considering that the practice which had been adopted in these land sales might be known by all, while, probably, scarcely any one was acquainted with the regulations which they violated, and that those who did know of the existence of such regulations might fairly assume that the habitual disregard of them was founded upon an express sanction of the Governor, or of the Home Government, I cannot discover any ground for assuming the existence of the latter.

Under these circumstances, I have felt myself compelled most reluctantly to reverse the decision pronounced by the late Governor-general, and to confirm the sales. I have therefore notified this decision to all the parties interested in the sales, and have instructed the Commissioner of Crown lands to accept payment of the first instalment, and to put the purchasers in possession of the land. However great the evil to be produced by the alienation of so large a portion of valuable public property in a country, where, owing to a long course of unchecked mal-administration, so little of that property yet remains at the disposal of the Crown, for the important public purposes to which it might most advantageously be applied, I cannot but regard it as of inferior magnitude to the want of confidence in the Government, necessarily produced by any refusal, upon purely legal grounds, to ratify a transaction which the parties concerned had regarded as directly sanctioned by the supreme authority of the colony, and which, from all previous proceedings on the part of the Crown and its officers, they had a perfect right to regard in this point of view.

Under the circumstances to which I have adverted, it might appear natural that I should entirely reverse the decision of my predecessor, and that, while he annulled the sale and confirmed the agent, Mr. M'Donald, in his office, I should, while confirming the sale for the reasons I have stated, dismiss Mr. M'Donald from the situation which he still holds. Upon a full consideration of the case, however, in reference not only to this particular sale, but to the system of Crown land management in general, I feel that the evils demanding a remedy are of a magnitude and complexity far beyond the reach of any such single check as might be applied by such a proceeding, and that it is not the punishment of individual offenders, but an entire re-modelling of the system under which such abuses have been allowed to grow up, which can alone be looked to as adequate to the object in view. It should also be stated that, in the single instance in which Mr. M'Donald appears to be directly culpable, it may be doubted whether he did not act, even to the extent of gross misrepresentation, to the department of which he was a subordinate, under the immediate control and direction of the head of that department.

I have, &c.

(signed) *Durham.*

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The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

Enclosure 1, in No. 66.

Encl. 1, in No. 66.

Sir, Crown Lands and Emigration Commission, 25 August 1838.

I AM directed by the Commissioners of Crown Lands and Emigration, with reference to your letter of the 5th of June 1836, addressed to the late Mr. Felton, Commissioner of Crown lands, to desire that you will immediately furnish to this commission a full and particular account of the "very numerous applications for the purchase of unsurveyed lands on the Bonaventure river, for the purpose of forming actual settlements," and of which the number, as you stated in your letter to Mr. Felton, was so great as to prevent you from giving a detailed report of them. In the required account, with reference to the following passage in your letter to Mr. Felton, "from the number, respectability and urgency of the applications of persons resident here for the purchase of this land," you will be pleased to point out which of the applicants were residents in Gaspé and which strangers, which of them proposed to be actual settlers on the lands, to give the date and precise terms of each application, and to furnish copies of all such applications as were made in writing.

As this information is required for the purpose of being submitted to his Excellency the Governor-general, who desires that it may be furnished immediately, I have further to request that you will make up the account, and transmit it to me with the least possible delay, and that it may be so complete as not to require any after explanation.

I transmit the Quebec Gazette, containing a copy of the Commission of Crown Lands and Emigration, and have the honour to be

Your obedient, &c.

(signed) *Henry William Petre*, Secretary.

William M'Donald, Esq., Agent for Crown Lands,
New Carlisle, Gaspé.

Enclosure 2, in No. 66.

Encl. 2, in No. 66.

Sir, New Carlisle, 14 September 1838.

I HAVE the honour to acknowledge the receipt of your letter, of date the 25th ult., stating that, with reference to my letter of the 5th June 1836, you was directed to call on me for a detailed account of the numerous applications referred to in that letter, pointing out at the same time which of the applicants were resident in Gaspé, and which "strangers," which of them proposed to be actually settlers on the land, to give the date and precise terms of each application, and to furnish copies of all such applications as were made in writing, for the purpose of being submitted to his Excellency the Governor-general.

I regret that from accident or distance of time, since these applications were made, it is not in my power to furnish copies of the applications referred to. My dwelling-house was ransacked at the time my outhouses were consumed by fire, the same fate threatening it for three successive days. Not only papers, but effects were lost or mislaid on this occasion, and this during my absence in New Brunswick, across the Bay. I, however, can assure you that the number and respectability of those applicants who reside in "Gaspé" alone warrants the terms used, and no doubt exists upon my mind that these lesser applications, amounting to some 14 or 15,000 acres (if I recollect right) were intended for immediate occupation, several of the applicants to my knowledge since (Kerr, Bourdages, M'Dougald, Scotts, and others,) having taken possession of land on the Bonaventure in Cox and Hamilton, is an evidence of their intentions, and the capabilities for which those lands were desired; as the more extensive applications were intended, as represented by the applicants, for extensive establishments, and formation of surrounding settlements.

As to the distinction of persons resident in Gaspé, and "strangers," I confess I am at a loss, considering no person in the character of a native or inhabitant of either New Brunswick or Upper Canada in the light of a "stranger."

The terms of the larger applications, as I can remember (with the exception of M'Dougald for 5,000 acres, who made no terms), was an offer on their part to pay the expense of survey if required, on condition of being allowed to purchase at public sale to the extent they desired.

It may seem surprising that land in the townships of Cox and Hamilton was not also recommended by me when furnishing a list to the Crown land department on the 20th June last; but I trust it is only necessary, in explanation of this circumstance, to state that the Government, on the 21st April 1837, having, as I was informed, invited certain persons to address a representation to Her Majesty's Government in England; and the parties having availed themselves of the offer made, to transmit their representations, the matter appeared fully to be understood to be so referred for adjudication, and I may therefore be pardoned if, in the absence of any information on the subject, I have not considered myself at liberty to entertain applications for those lands, and to furnish specifications of them, until either required to do so, or until informed of a result to the case above alluded to.

I have, &c.

The Honourable H. W. Petre, Secretary.
Commission of Land and Emigration.

(signed) *Wm. M'Donald.*

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(No. 93.)

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

No. 67.
The Earl of Durham to Lord Glenelg, 20 Oct. 1838.

My Lord, Castle of St. Lewis, Quebec, 20 October 1838.

Although the subject to which I am about to call your Lordship's attention will be much more fully noticed in my general report as Her Majesty's High Commissioner, yet I am induced to bring it now before Her Majesty's Government, because whatever measures may ultimately be adopted with respect to it, some immediate reform is absolutely necessary to prevent the recurrence of great evils, and it appears to me that such a reform may take place by a mere improvement in the administration of existing laws.

I allude to the superintendence of the emigration from Great Britain and Ireland to the two Canadas by way of the river St. Lawrence.

Upon this subject many respectable and intelligent gentlemen have been examined by the Commission of Crown Lands and Emigration. Their evidence proves, I think, that if it be an object of importance to promote emigration to these colonies, a new law and a very different kind of administration from any that has yet taken place are absolutely necessary. I shall hereafter dwell at length on these points; at present I only wish to point out to your Lordship how thoroughly the existing law has been neglected down to the present time.

With this view I have the honour to enclose a copy of the minutes of the evidence of Dr. Poole, inspecting physician at the quarantine station at Grosse Isle. From the testimony of this gentleman, supported by the concurrent opinion of several gentlemen of high character and great experience, it appears that the emigrant agents appointed at the ports of embarkation in England, exercise no effectual supervision over the arrangements for the passage of emigrants, and that all the old evils of filth, inadequate accommodation, inferior and insufficient food, a scanty supply of unwholesome water, and the employment of vessels which are not sea-worthy, adding the risk of shipwreck to the certainty of disease, which the appointment of these agents and the alteration of the Passengers' Act were intended to remedy, and, as would seem, are imagined by the general agent of emigrants to have remedied, exist in full force even up to the present moment, except in so far as they may have been checked by a recent alteration of the law in this colony, by which, as ships free from disease are permitted to proceed at once to Quebec, it is made the interest of masters and owners of vessels to pay some attention to the cleanliness and health of their passengers.

To provide an effectual remedy for those evils, some alteration in the present Passengers' Act appears to be requisite; but without waiting until this can be done, it is in the power of Her Majesty's Government, to remove the worst of them, by placing the establishment of emigrant agents upon a really efficient footing, and subjecting them to an effectual control. The sufferings to which, under the existing regulations, the ignorant and unprotected emigrants are still exposed, are of a nature to call loudly for this remedy, which it is in the power of Her Majesty's Government immediately to supply.

I have, &c.

(signed) *Durham*.

Enclosure in No. 67.

Charles Poole, Esq., M. D.

Quebec, 4 August 1838.

You are inspecting physician at the quarantine station of Grosse Isle?—Yes; and have been attached to that station for the last six years. Encl. in No. 67.

What are your duties as respect emigration?—First, the inspection of all vessels arriving in the river St. Lawrence, and the examination of all passengers for the detection of disease. Secondly, Taking measures for disinfecting vessels, and sending to the hospital all persons labouring under, or threatened with any disease considered contagious.

Do you attend upon the patients in hospitals?—Not at present; but I did so in the years 1833 and 1834, when I was medical superintendent of the hospital.

Can you give any statement of the number of emigrants who arrived during those years, and how they were disposed of?—I have prepared such a statement, and beg leave to put it in.

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GROSSE ISLE.—TABLE of the NUMBER of EMIGRANTS arrived, admitted to Hospital, discharged and died during the last six years, up to this date, 7th September 1838; also, Number of Deaths during the passage, 1836, 1837, 1838.

	Admissions.	Discharges.	Deaths.	No. of Emigrants Arrived.	Deaths on the Passage.	REMARKS.
1833	239	212	27	22,062	—	Typhus fever generated on ship-board has been so highly contagious among the emigrants landed here, that four medical officers have been attacked, of whom one died, and 23 hospital servants, of whom five died in the last five years at this station.
1834*	844	580	264	30,960	—	
1835	126	116	10	11,580	—	
1836	454	396	58	28,956	205	
1837	597	540	57	22,225	237	
1838 To 7 Sept.	48	39	5	4,992	13	
TOTAL -	2,308	1,883	421	120,775	455	

* Cholera year.

7 Sept. 1838.

(signed) *Charles Poole*, M. D.
Inspecting Physician.

You have read the evidence given before this commission by Mr. Buchanan, Dr. Morrin, Dr. Skey and Mr. Jessopp?—I have; and I concur generally in the view of the subject taken by Mr. Jessopp, Dr. Morrin and Dr. Skey; but as all emigrants, without exception, necessarily come under my inspection after the voyage, I may perhaps be able to add some information to that which has been furnished by them.

Your personal experience relates to the period during which the Emigrant Tax has been levied, and the Amended Passengers' Act of the Imperial Parliament has been in operation?—It does; speaking of the operation of present arrangements, we had last year upwards of 22,000 emigrants. The poorer class of Irish and the English paupers sent by parishes, were, on the arrival of the vessels, in many instances entirely without provisions; so much so, that it was necessary to supply them immediately with food from shore, and some of these ships had already received food and water from other vessels with which they had fallen in; other vessels with the same class of emigrants were not entirely destitute, but had suffered much privation from having been placed on short allowance. This destitution or shortness of provisions, combined with dirt and bad ventilation, had invariably induced fevers of a contagious character, and occasioned some deaths on the passage; and from such vessels numbers, varying from 20 to 90 each vessel, have been admitted to hospital with contagious fever immediately on their arrival. I attribute the whole evil to defective arrangements. For example, parish emigrants from England receive rations of biscuit and beef or pork, often of bad quality (of this I am aware from personal inspection). They are incapable, from sea sickness, of using this solid food at the beginning of the passage; when for want of small stores, such as tea, sugar, coffee, oatmeal, flour, they fall into a state of debility and low spirits; by which they are incapacitated from the exertions required for cleanliness and exercise, and also indisposed to solid food; more particularly the women and children; and, on their arrival here, I find many cases of typhus fever among them. Very few of these vessels have on board a sufficient quantity of water; the casks being insufficient in number, and very many of them old oak casks made up with pine heads, which therefore leak, if they do not fall to pieces, which often happens.

Does this take place from ports where there is an agent for emigrants?—I have had many similar cases from Liverpool, and would mention two, of the "Ceres" and "Kingston," which arrived at Grosse Isle, on the same day from Liverpool, in July 1836, of which the circumstances were so bad as to induce me to report them to the civil secretary, by whom I was informed that the report was forwarded to Her Majesty's Principal Secretary of State for the Colonial Department. These two ships left Liverpool about the same time; the one having 436 passengers, the other upwards of 340. The captains respectively, by name , and , called the attention of the agent for emigrants at Liverpool to the water-casks prepared for the use of the emigrants, pointing out that they were what is called "leaguers;" that is, very large casks made up of smaller old casks, and with pine heads, requesting that they might be filled before embarkation to prove their quality. This was refused by the agent, and the casks were taken on board without proof. The loss of water by leakage in the "Ceres" was computed during the first three days at 800 gallons, and the "Kingston" nearly as much. On the arrival of these ships at Grosse Isle, although the emigrants had been on short allowance of water, the "Ceres" had enough for no more than half a day, and the "Kingston" was quite without water. The passengers in both ships had suffered very much from want of water. The temporary berths also on board both of these ships were so badly constructed, that they came to pieces with the first heavy sea, causing

causing the deaths of two children, and severely injuring many others. The medicine chests on board these vessels, as is too frequently the case, were not more than 18 inches square, or sufficient for more than 25 passengers. Of castor oil, one had only three pints, and of Epsom salts, not above 3 lbs. Had these vessels been properly inspected, nothing of the kind could have occurred.

But these were peculiar cases and perhaps unique?--On the contrary, I but too frequently meet with similar cases, more or less aggravated. I also wish to mention, as loudly calling for remedy, a system of extortion carried on by masters of vessels, chiefly from Ireland, whence come the bulk of our emigrants. The captain tells emigrants the passage will be made in three weeks or a month, and that they need not lay in provisions for any longer period, well knowing that the average passage is six weeks, and often extends to eight or nine. When emigrants' stores are exhausted, the captain, who has laid in a stock for the purpose, obliges them to pay often as much as 400 per cent. on the cost price for the means of subsistence, and thus robs the poor emigrant of his last shilling; such cases are of frequent occurrence, even down to last year.

When complaints as to the state of Canada emigrant ships have been made in England, the answer has been commonly an admission of great defects formerly, with a statement that at present the arrangements are very different and no longer objectionable; does your description apply to the past or the present?--Down to last year. This year there have been so few emigrants that there has been little to observe upon, though even this year, in some cases, provisions and water have been deficient in quantity, and some vessels have arrived with small-pox, the origin of which was traced to individuals who embarked with the disease upon them. A proper medical inspection would have prevented this evil. The medical superintendence on board vessels obliged by the Passengers' Act to carry a surgeon, is also very defective. The majority of such persons called surgeons are unlicensed students and apprentices or apothecaries' shopmen, without sufficient medical knowledge to be of any service to the emigrants, either for the prevention or cure of disease. On board ship a knowledge of the means of preventing disease in such a situation is the first requisite in a medical man, and in this the medical superintendents are lamentably deficient. It is not much better as to the cure of diseases. I boarded a ship last year, of which the captain and three passengers who had met with accidents, had their limbs bandaged for supposed fractures, which upon examination I found were only simple strains or bruises. On examining the captain's arm, I said that there had been no fracture; the surgeon so called replied, "I assure you the *tibia* and *fibula* were both broken." It happens that the *tibia* and *fibula* are bones of the leg. This is an extreme case apparently, but is not an unfair illustration of the ignorance and presumption of the class of persons appointed to comply with that part of the Act which is intended to provide for the medical care of emigrants during the passage.

Have you any other remark on existing arrangements?—I wish to say that the reports made to me by the class of captains and surgeon-superintendents now are seldom to be relied upon; in illustration, I beg leave to mention a case that occurred last year; it was a vessel with about 150 passengers on board from an Irish port. The captain and surgeon assured me that they had no case of sickness on board, and the surgeon produced a list which he had signed of certain slight ailments, such as bowel complaints and catarrhs which had occurred during the passage, and which appeared on the list with the remark "cured" to all of them. On making my usual personal inspection of each emigrant, I found and sent to hospital upwards of 40 cases of typhus fever, of which nine were below in bed; these nine had not been able to get out of bed; many of the others were placed against the bulwarks, to make a show of being in health, with pieces of bread and hot potatoes in their hands.

What is the captain's interest in such deception?—To prevent detention of the ship in quarantine.

And the surgeon's?—One can hardly say, but they are probably influenced by the captain. Nevertheless, as there are many most respectable captains in the lumber trade, a proper selection of vessels by the emigrant agents at home would prevent this abuse.

Is that all?—No; that part of the law which regulates the height between decks of emigrant ships is frequently evaded in the smaller class of vessels, by means of a false deck some distance below the beams, bringing the passengers nearly in contact with the clamp ballast, and pressing them into the narrow part of the ship, and the beams taking an important part of the room allotted to them by law.

Is it possible that such fittings should escape observation in the port of departure?—Quite impossible, if that part of the vessel intended for emigrants be visited.

Are such cases common?—In many of the smaller class of vessels from Ireland, Yarmouth, Lynn, Ipswich, &c., bringing parish emigrants.

Is there any peculiar superintendence on board for parish emigrants?—Not that I am aware of; and I should say that there is none, because they are generally at the mercy of the captain and mate, who serve out the provisions, and who frequently put the emigrants on short allowance soon after their departure. Complaints of short weight and quantity in the provisions are frequently made.

Have you brought these facts to the knowledge of Government?—These or similar circumstances have been mentioned by me in my annual reports for the years 1833, 1834, 1835, and 1836.

Was there any perceptible improvement in 1837?—But little in the arrangements at home; but the alterations of the quarantine regulations here, giving me a discretionary power to permit emigrants arriving clean and healthy to proceed to Quebec without detention on landing on the island, has induced the masters of vessels to pay more attention to the health and cleanliness of their passengers, in the hope of avoiding the detention which used to be

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required in all cases. It operates as a premium to care and attention on the part of the captain, and has had a salutary effect on the comfort of the emigrants. It has also obviated the great former inconvenience to the merchants of Quebec of having their vessels detained when clean and healthy. This, therefore, is a considerable improvement; but the state of the vessels generally for the year 1837 was, nevertheless, very far from what it might be with a good system of inspection and arrangement at home: for instance, 597 cases of typhus and small-pox were sent to hospital, the greater part of which, as I have said before, were owing to bad management. I also wish to remark, in corroboration of Mr. Jessopp's statement, that, down to the present time, lists and descriptions of emigrants required by the Imperial Act to be certified by the customs' officer at the port of departure are seldom correct, either as to name, description or number of passengers, so much so, that it is often difficult for me to find out whether any deficiency of numbers has been occasioned by death or otherwise. These falsifications are, first, for the purpose of evading the emigrant tax, which is levied in proportion to age, and the common fraud is to understate the age; and, secondly, for the purpose of carrying more passengers than the law allows, by counting grown persons as children, of which last, the law allows a larger proportion to tonnage than of grown persons.

Is this fraud general?—Yes, very common; of frequent occurrence; and it arises manifestly from want of inspection at home.

Have you had any means of learning the degree of inspection that takes place at home?—If there is not one passenger to every five tons, no inspection takes place, and captains have in many instances told me that the agents only mustered the passengers on deck, inquired into the quantity of provisions, and in some cases required them to be produced, when occasionally the same bag of meal or other provisions was shown as belonging to several persons in succession. This the captain discovered after sailing. The mere mustering the passengers on deck, without going below where the provisions are kept, is really no inspection at all; and it frequently happens that passengers are smuggled on board without any provisions. There is another evil which might be readily obviated by a proper selection of vessels at home; that of employing as emigrant ships vessels which are scarcely sea-worthy, and which consequently, being unable to carry sail, make very long passages. As the tonnage of the best class of vessels coming to Canada is far more than sufficient to bring all the emigrants in any year, the employment of these bad ships ought not to be permitted.

Have any remedies for existing evils occurred to you?—I can only agree with Mr. Jessopp and others with respect to a special board of emigration at home, having no other occupation than that of superintending the selection and passage of emigrants with responsible agents at the various ports of departure, who should be obliged to inspect all vessels bringing passengers, whether they have few or many on board, for, according to the Emigrant Act, a large vessel may bring out 100 passengers and no inspection is required or made. Were the clause No. 20 of the Passengers' Act left out, and the Act otherwise enforced at home, the state of the emigrants on ship-board would be much ameliorated. The present system at Grosse Isle works well, and really accomplishes its objects, of preventing the introduction of contagious diseases into the province without unnecessary detention of the vessels. With respect to the care of emigrants after their arrival at Quebec, I offer no opinion.

Charles Poole, M. D.
Inspecting Physician, Quarantine Station, Grosse Isle.

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(No 94.)

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

No. 68.
The Earl of Durham to Lord Glenelg, 22 Oct. 1838.

My Lord, Castle of St. Lewis, Quebec, 22 Oct. 1838.

IN consequence of information which I have received, of the present state of the Magdalen Islands in the Gulf of St. Lawrence, which nominally form a portion of this province, but are in reality under no government whatever, I requested Sir Charles Fitzroy to inspect and report to me their condition.

I have the honour to enclose your Lordship his Excellency's communication on the subject, and to express my entire concurrence in the suggestion with which it concludes.

I have, &c.
(signed) *Durham*.

Enclosure 1, in No. 68.

Government House, Prince Edward Island,
My Lord, 20 September 1838.

No. 68.
The Earl of Durham to Lord Glenelg,
22 Oct. 1838.

Encl. 1, in No. 68.

In compliance with your Lordship's desire that I should visit the Magdalen Islands, and report to your Lordship the state in which I found them; I have the honour to inform your Lordship, that as soon as possible after my return to this government I availed myself of the opportunity afforded by Her Majesty's ship "Pearl" arriving on this station, to fulfil your Lordship's wishes; and having just returned, I beg to communicate the result of my observations.

From the information I obtained from several of the most respectable inhabitants, it would appear that these islands contain a resident population of about 1,600 souls, whose principal occupation is fishing. They also pursue a very imperfect system of agriculture, although the soil appears capable of advantageous cultivation. As it is, a sufficient quantity of barley, oats and potatoes is raised for their consumption; and they also breed a considerable number of horses, horned cattle and sheep. The population has increased rapidly within the last few years.

These islands are the principal resort of the American fishermen, and the French from the islands of St. Pierre and Miquelon, and although nominally under the government of Lower Canada, they have been left for some years entirely to themselves, without magistrate or public officer of any description; in consequence of which, no law is required by the inhabitants, or the thousands of Americans and others who swarm in the Gulf of St. Lawrence and in the harbours of the islands during the fishing season, except as was observed to me, the law of "*le plus fort.*" The depredations committed by these strangers were loudly complained of, as was also the utter absence of any means to enable creditors to recover their just debts, and the advantage taken of their unprotected state by the Americans and French.

I ascertained the imports by the regular traders to amount to 10,000*l.* annually, independent of flour, tea, tobacco, sugar and rum, to an equal or larger amount, all of which are exclusively supplied illicitly by the Americans, on terms with which the fair trader cannot compete, and which is naturally complained of as a grievance, but which there is at present no means of preventing.

The resources of the islands are considerable, and, if placed under proper control and management, might be greatly increased. They at present consist of fish, skins and oil, the exports of which articles are equal in value to the imports.

The inhabitants, who are chiefly French, from Guernsey and Jersey, appear to be a peaceable, well-disposed people; and they expressed themselves to be extremely desirous of being placed under the government of the nearest colony, in order to have the protection of the laws; of which, from their distance from Quebec, they are now deprived. Under these circumstances, I would suggest to your Lordship the propriety of annexing these islands to this government, to which, from their geographical position, they so closely approximate; and in the event of your Lordship approving of this suggestion, I beg to transmit a report which I have received from the collector of customs here, of his opinion of the most effectual method of collecting a revenue from them.

I have, &c.

His Excellency
The Earl of Durham, G. C. B.
&c. &c. &c.

(signed) *Ch^s A. Fitzroy.*

Enclosure 2, in No. 68.

Custom-house, Prince Edward Island,
Sir, 19 September 1838.

Encl. 2, in No. 68.

In accordance with your Excellency's desire that I should submit for your information my opinion as to the most effectual method of collecting a revenue at the Magdalen Islands, in the event of their annexation to your Excellency's government, I would respectfully state that it will be necessary, in the first instance, to procure the appointment of a sub-collector, at a port where the principal business of the islands is transacted; but as I apprehend that the advantage of the imperial revenue from such an appointment would be very trifling, I think that the honourable board of customs would object to such an office, unless placed on a footing similar to the sub-collectors now doing duty at the out-bays in this island; viz., that

No. 68.
The Earl of Durham to Lord Glenelg, 22 Oct. 1838.

Encl. 2, in No. 68.

on a provision being made from colonial funds for the remuneration of the office, the honourable board would appoint any competent person who may be recommended by your Excellency; at the same time it cannot but be evident to your Excellency, that unless the revenue officer be supported by sufficient assistance to enable him effectually to enforce his orders, in contact with the lawless foreign fishermen and contrabandists who frequent those shores, the appointment would be altogether futile; I should therefore suggest that a boat, with a crew of not less than eight well-armed men, be placed at the sub-collector's command; the boat and men might be supplied by any of Her Majesty's cruisers on the station at the opening of the navigation, and reclaimed at as late a period as possible previous to her leaving the island in the autumn.

On the annexation of those islands to your Excellency's government, I should suppose that the inhabitants would be amenable to the colonial laws now in force in Prince Edward Island; if so, and taking the imports of the Magdalens at 10,000 *l.* annually, the sum of 500 *l.* would at once accrue from an *ad valorem* tax of 5 *l.* per cent., which is now levied on dry goods imported into this colony; but I apprehend that this sum would be increased in the ratio of from 50 to 100 per cent. by the strict enforcement of the revenue laws, as from the best information at my command I believe that tea, tobacco and spirituous liquors (which aer all liable to heavy colonial duty) are supplied to the inhabitants almost entirely by American and French contraband traders.

Should there be any doubt in the opinion of the law officers whether the annexation of the Magdalen Islands to your Excellency's government would confer on the inhabitants the benefit of our laws, the next session will enable the colonial legislature to place the matter beyond dispute; at the same time, if considered expedient, a short code of revenue laws may be enacted, applicable to the present peculiar state of those islands.

I would further suggest the propriety of levying anchorage dues on all foreign vessels resorting to the ports of the Magdalens, suppose at the rate of four dollars on vessels under 100 tons burthen, six dollars on vessels exceeding 100 tons and under 200 tons burthen, and eight dollars on vessels of the burthen of 200 tons and upwards; the proceeds of such a tax would, in a great degree, if not altogether, cover the expense of the preventive service, and have the further good effect of preventing the intrusion of foreigners, unless in cases of absolute necessity.

I have, &c.

(signed) *Geo. Rich^d Goodman*, Collector.

His Excellency Sir Chas A. Fitzroy,
&c. &c. &c.

— No. 69. —

(No. 98.)

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

My Lord, Castle of St. Lewis, Quebec, 25 October 1838.

No. 69.
The Earl of Durham to Lord Glenelg, 25 Oct. 1838.

I HAVE appointed the Solicitor-general to the office of Chief Justice of Montreal, and named Mr. Andrew Stuart Solicitor-general.

I had previously offered the chief-justiceship of Montreal to the Attorney-general, but that gentleman declined accepting it, on account of the inadequacy of the salary as compared with his present official emoluments.

Mr. Andrew Stuart, whom your Lordship must have repeatedly seen in England during the present year, is at the head of the bar here, and pre-eminently qualified for the office to which he has been appointed.

I have consulted Sir John Colborne as to all these legal arrangements, and have received his approbation of them. It had been my wish that his Excellency would take upon himself to fill up these vacancies after my departure. He, however, declined, and pressed me to complete all the appointments in question before he entered on the administration of affairs.

I have, &c.

(signed) *Durham*.

— No. 70. —

(No. 99.)

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

My Lord, Castle of St. Lewis, Quebec, 26 October 1838.

No. 70. The Earl of Durham to Lord Glenelg, 26 Oct. 1838.

I have the honour to acknowledge the receipt of your Lordship's despatch, No. 43, dated May the 24th, relating to the division of duties between Upper and Lower Canada, and the proportion to be allowed to the Upper province.

I have also to acknowledge the receipt of your Lordship's despatch, No. 62, dated the 3d of June, referring to two addresses from the Legislative Council and House of Assembly of Upper Canada, with reference to the surplus revenue of the post-office, and the 2½ per cent. provincial duties.

I reply to these two despatches together, because they both relate to matters which come within the scope of the plan to be recommended by me for the future government of these provinces. But until some plan for that purpose shall be definitively adopted, I think it would not be wise to make any such minor changes in the present system of inter-provincial relations as appear to be contemplated by the legislature of Upper Canada.

I have, &c.

(signed) *Durham.*

— No. 71. —

(No. 103.)

Copy of a DESPATCH from the Earl of *Durham* to Lord *Glenelg*.

My Lord, Castle of St. Lewis, Quebec, 26 October 1838.

No. 71. Earl of Durham to Lord Glenelg, 26 October 1838.

I have the honour to acknowledge the receipt of your Lordship's Despatch (No. 91), dated August the 21st, in which you desire me to furnish you with a Return of the names of persons who have been convicted in Lower Canada of treason, misprision of treason, or felony, since the 1st of October 1837; the value of the personal property; the number of acres of real estate; the value of the houses, buildings, and lands, if any, belonging to such persons, forfeited to the Crown; the grants and sales, if any, of such forfeited property and estates; the names of the purchasers and grantees of such property and estates; and the value of the personal and real estates so forfeited retained by the Crown; and the amount or value of real or personal estate, if any, that has been granted by the Crown to the widows, children, and relatives of such persons; and the names of such grantees.

In compliance with your Lordship's request, I have the honour to inform you, that in the Province of Lower Canada, since the 1st of October 1837, no person whatever has been convicted of treason, misprision of treason, or felony, of a political nature; and that, in consequence, no property has been confiscated to the Crown.

I have, &c.

(signed) *Durham.*

— No. 72. —

(No. 107.)

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

My Lord, Castle of St. Lewis, Quebec, 30 October 1838.

No. 72. The Earl of Durham to Lord Glenelg, 30 Oct. 1838.

Among the points to which my attention has been directed, as affecting the continued tranquillity of the province of Lower Canada, and especially of that portion

No. 72.
The Earl of Durham to Lord Glenelg, 30 Oct. 1838.

portion of it in which the British population chiefly reside, the position of the "squatters," as they are termed, that is, persons who have settled upon the waste lands of the Crown without any title, is one which has appeared to me to demand some immediate proceeding. The number of such persons is, I am informed, considerable. Many of them have been settled for several years upon the land which they occupy, and have made large improvements; and the uncertainty of their tenure, which exposes them to ruin at any moment, at the mere pleasure of the Crown or its officers, forms a perilous addition to whatever sources of discontent may exist among the population of the district in which they reside.

It is not needful that I should, at present, enter upon any inquiry as to the general policy which Her Majesty's Government should pursue with regard to individuals of this class. This is a question which will be fully considered in the report I shall have the honour to lay before Her Majesty on the subject of the disposal of the waste lands, the property of the Crown, in these colonies. The case of these individuals is exceptional to that of squatters in general, and appears to require the adoption of an exceptional measure. They belong neither to that portion of the inhabitants of new countries who are the pioneers of civilization, but who never subject themselves to the restraints of society, who, so soon as settlement has reached their vicinity, sell off their improvements and plunge again into the wilderness; nor are they to be counted among those who only seek to avail themselves, without purchase, of the exuberant fertility of a virgin soil, and when this is exhausted, commence clearing in some other spot without ever making any such improvements as enhance the value of the land they occupy. These men on the contrary are squatters, simply in the sense of occupying land without a title, and they have done this, in most cases, not because they were unwilling or unable to pay for the land, but because the legal acquisition of land upon any terms was practically beyond their power.

It may in fact be stated as a characteristic of the system which has been pursued in the disposal of the waste lands of the Crown in this province, that there was no one by whom land might not be more readily obtained than by the person who desired it for the purpose of actual settlement. Such persons were generally poor and uninfluential, and would probably experience considerable difficulty in obtaining a grant at all; and besides this, there were obstacles presented by the situation of the district within which settlements were chiefly made, and by the policy of government, which few of them had ability to surmount. The business of the land-granting department was transacted entirely at Quebec, and any person residing in the townships, who might wish to obtain a grant of land, was compelled to take a journey to that town, a distance of from 90 to 150 miles, and either reside there until his grant or location ticket could be procured, a period probably of many weeks or even months, or repeat his journey from time to time at an expense manifold greater than the value of the lot he sought to obtain. And when to this certain expense was added the uncertainty of success in his application, it can excite no surprise that an individual desirous of establishing himself should have resolved rather to incur the risk of an unauthorized occupation of the first favourable situation he could discover, than to encounter the delay, expense and hazard of an application for a grant at the seat of government.

These squatters, too, are not merely entitled to the favourable consideration of government upon these grounds, but they are almost the only persons who have ever done any thing to give them a claim to the land they seek to acquire. The individuals to whom, with such wanton profusion, the waste lands of the Crown have been granted, had done nothing previously to entitle them to a grant, and, though their grants were made subject to conditions which were intended to advance the settlement of the country, yet these conditions were seldom, even practically, and never strictly, performed. This alienation of Crown property has retarded most lamentably the progress of settlement, and has kept the fairest portion of the province a wilderness up to the present time. The settlement which such persons were bound but neglected to perform, these squatters have actually made; and though I do not conceive that it would be politic on the part of Her Majesty's Government to give any encouragement to squatters for the future, it appears to me both just and expedient, under the peculiar circumstances which I have described, to secure to these individuals the fruits of their labours, and thus to remove the unhappiness and discontent which the uncertainty of their present position naturally produces.

I have

No. 72.
Earl of Durham to Lord Glenelg, 30 Oct. 1838.

I have therefore issued a proclamation, a copy of which I have the honour to enclose, securing to all persons, who have established themselves without a title as *bonâ fide* settlers upon the waste lands of the Crown prior to the 10th September last, an absolute right of pre-emption at the upset or fixed price of wild lands the property of the Crown in their neighbourhood, under such limitations and conditions as appear necessary to prevent any from benefitting by the proclamation, with the exception of those who, under the circumstances I have described, are entitled to the indulgence.

I have, &c.
(signed) *Durham.*

Enclosure in No. 72.

By his Excellency the Right honourable *John George* Earl of *Durham*, Viscount *Lambton*, &c. &c. &c.

A PROCLAMATION.

Encl. in No. 72.

Whereas it hath been represented to us, that in various parts of the province of Lower Canada, many persons have actually settled upon, and improved and cultivated, waste lands, the property of the Crown, without having obtained any grant of such land, or any license to occupy the same; and such persons are therefore liable, at the pleasure of the Crown, to be dispossessed of the land they thus occupy, without any compensation for the improvements they may have effected:

And whereas the acquisition of Crown lands within the province of Lower Canada, either by grant or purchase, has, in respect of persons of little property or influence, been subject to numerous obstacles and harassing delays, so that it has been always difficult and often impossible for such persons to obtain possession of Crown lands, upon which they might settle themselves, except by an occupation, without any title: And whereas a great number of the persons who have in such manner settled upon the waste lands, the property of the Crown, without title, are most desirous of being admitted to purchase the land, and the uncertainty at present attending their future possession thereof is productive of uneasiness and discontent: And whereas, under the circumstances aforesaid, it appears highly expedient and not less just to put an end to all anxiety and dissatisfaction arising from this uncertainty of future possession of the lands which they have improved on the part of such persons as have settled thereon without title, and are now willing to become purchasers of the same: Therefore I do hereby certify and declare, that in any and every case in which any person shall have actually settled upon, improved and cultivated any waste lands, the property of the Crown, in the province of Lower Canada, previously to the tenth day of September last, such person being an actual and *bonâ fide* settler, or his legal personal representative, shall have an absolute right of pre-emption in respect of the lot whereupon he has so settled, and which he has so cultivated and improved, either at the upset or fixed price of wild land, the property of the Crown, in the neighbourhood of such lot, without being required to pay any additional price for the improvements effected upon the same, and without being exposed to the competition of other purchasers: Provided always, that no such person shall, under any circumstance, be entitled to the pre-emption of more than one lot of 200 acres; and that no one shall be considered as so entitled unless he shall have actually cleared and cultivated, in the whole, ten acres of land, and shall prove, to the satisfaction of the agent for the sale of the waste lands of the Crown in the district wherein the lands are situate, that he was an actual settler upon, and commenced the improvement of the lot in respect of which he may claim a right of pre-emption before such tenth day of September last; and provided further, that every such claim to pre-emption, and all necessary vouchers and certificates for the authentication thereof, shall be lodged with the agent for the sale of Crown lands aforesaid within six months after the fixed or upset price of lands in the district, shall have been determined upon and fully certified.

Given under my hand, &c., 31 October 1838.

— No. 73.—

(No. 109.)

Extract of a DESPATCH from the Earl of *Durham*, G.C.B., to Lord *Glenelg*, dated Castle of St. Lewis, Quebec, 30 October 1838.

No. 73.
The Earl of Durham to Lord Glenelg, 30 Oct. 1838.

It will be my duty, on my arrival in England, to call your Lordship's attention to a subject affecting the comfort and contentment of the soldiers serving in North America. I allude to the stoppage of a portion of their pay for the purpose of providing extra necessaries and clothing required for this severe climate.

—No. 74.—

(No 110.)

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

No. 74. The Earl of Durham to Lord Glenelg, 30 Oct. 1838.

My Lord, Castle of St. Lewis, Quebec, 30 Oct. 1838.

I have received a report from the late chief justice, Mr. Sewell, and the other judges of the district of Quebec, upon the case of various prisoners now under sentence of death or transportation. I inclose an extract from this report, relating to the cases of eleven, whom the judges are desirous should be transported. I have also had personal communication with the late chief justice on the subject. He represents the punishment of transportation as the only one of any real efficacy in this province (and especially as a substitution for death), under the circumstances stated in the report.

The very crowed state of the gaol in this district, which at present contains prisoners, with adequate room for not more than about , affords an additional reason for the removal of as many as may be thought fit subjects for transportation. In compliance with the recommendation of the judges, I have granted Her Majesty's pardon to two of the prisoners mentioned in another part of their report, as well as to some others previously recommended by the judges as fit objects of Her Majesty's clemency, and I have consented to direct the transportation of these eleven convicts who are represented to be bad offenders, and chiefly heads of gangs whom it is very desirable to separate permanently from their associates; they will, accordingly, be sent to England for that purpose, under the provisions of the Acts alluded to in the report, before the final close of the present season, although, under other circumstances, I should not have deviated from the tenor of the instructions on this subject, contained in your Lordship's circular despatch of the 25th of May 1837, to Lord Gosford; though your Lordship in your instructions for transporting Cadien, contained in your despatch, No. 77, of the 25th of July, does not allude to those previously issued, while it directly contravenes what they prescribe.

About the policy of abolishing transportation, it is neither my business nor my desire to say anything; but it is very clear that the chief secondary punishment known to our law ought not to be abolished without due care for the substitution of a better in its stead. It appears, however, that the determination to abolish the punishment of transportation in the colonies, and the substitution of some other punishment, was taken with no sufficient regard to the means of secondary punishment existing in them. Any knowledge of this province, at least, must have shown that here no adequate means existed, or were likely to be called into existence, in the state of political affairs in which the government then was.

The gaols in this province are few, and for the most part lamentably ill-constructed and insufficient. They admit of no proper classification of prisoners, and are not susceptible of being applied to any well-regulated system of punishment. They do not actually contain sufficient room for the proper lodging of their ordinary inmates. The effects of the cessation of transportation has been to add a quantity of extraordinary permanent inmates, who take up the room previously inadequate for the ordinary passing occupants of a goal. They are there subjected to the ordinary and very defective discipline of the prison, and have an opportunity for wearying the government with solicitations to remit their punishment.

I have, &c.

(signed) *Durham.*

Enclosure in No. 74.

(Extract.)

Encl. in No. 74.

In the year 1835, a despatch from the Earl of Aberdeen, dated the 2d of March, was communicated to the judges for their guidance. In this despatch it is stated that the charge of forwarding convicts from England to the place of their ultimate destination will be borne by Great Britain, but that the cost of sending the convicts to England must be borne by the province. In pursuance of this direction (communicated by message), the provincial legislature, by the Act 6 Will. 4, c. 1, provided for the expense of transporting convicts to England, and the provisions of this Act were re-enacted by the ordinance passed by Sir John Colborne in May last.

In the course of the last year another despatch from Lord Glenelg, dated the 25th of May 1837, has been communicated to the judges for their guidance, by which the Governor, in

No. 74.
The Earl of Durham to Lord Glenelg, 30 Oct. 1838.

in any case in which sentence of transportation has been pronounced, is directed to commute it for a reasonable length of imprisonment, or such other punishment as according to the law of the colony may be practicable. And by this direction the province is deprived of all the benefits which it would otherwise derive from the provisions of the imperial statutes 5 Geo. 4, c. 84, and 6 Geo. 4, c. 69.

We beg leave to state, that having no penitentiaries or houses of correction, nor power to inflict solitary confinement or hard labour, we are almost deprived of the means of adequate punishment in most of the cases which come before the criminal courts.

On the cases therefore of Jacques Beaudoin, Antoine de la Quoi, John Evans and Michal Falls, who have each been sentenced to seven years' transportation, we respectfully solicit his Excellency's interference to carry their respective sentences into effect, for the future protection of Her Majesty's subjects in this province, against offenders of this class, and in furtherance of the same object, we beg leave to recommend that the sentence of death, which has been pronounced against Joseph Hamel, Charles Lacosse alias Charles M'Leod, James Thompson, Thomas Oliver, Ignace Prévost, Isidore Parè, Joseph Moyen and Jean Baptist Moyen, and each of them, may be commuted into transportation for life.

We have, &c.

(signed) *J. Sewell, C. J.*
Edward Bowen.
Phi. Panet, J.
E. Bedard.

— No. 75. —

(No. 111.)

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

My Lord, Castle of St. Lewis, Quebec, 30 Oct. 1838.

No. 75.
The Earl of Durham to Lord Glenelg, 30 Oct. 1838.

I HAVE had the honour to receive your Lordship's despatch of the 29th of August last (No. 97), enclosing copies of a further correspondence which had passed between the Colonial-office and the British American Land Company, relative to the application to promote emigration to their lands of that moiety of their purchase-money which has heretofore been applied to services connected with the general government of Lower Canada. To derive from the land of these colonies a fund which shall furnish the means at once of improving and of settling it, will be one of the main objects contemplated in any plan which I may have the honour to recommend, for the future disposal of the waste lands, the property of the Crown, in these colonies. I, therefore, approve of the general principle which the British American Land Company desire should be acted upon in the present case; but no advantage appears likely to result either to the colony or to the company, from any small exceptional measure such as this would be, not merely unsupported, but positively counteracted by the course pursued by Government in other respects, and I cannot, therefore, advise a compliance with their request. I trust, however, that within a very short period the adoption of some comprehensive measures on the subject may render it expedient and safe to accede to the present application.

I have, &c.

(signed) *Durham.*

—No. 76.—

(No. 112.)

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

My Lord, Castle of St. Lewis, Quebec, 1 November 1838.

No. 76.
The Earl of Durham to Lord Glenelg, 1 Nov. 1838.

I HAVE the honour to enclose your Lordship the continuation of my correspondence with Sir George Arthur, to which I referred in my despatches, Nos. 47, 61 and 81.

I have, &c.

(signed) *Durham.*

Enclosure 1, in No. 76.

(No. 20.)

My Lord, Government House, Toronto, 27 September 1838.

Encl. 2, in No. 76.

I HAVE the honour to invite your Lordship's attention to an Act, passed by the Parliament of this province at its last session, intituled, "An Act to provide for the more speedy Attainder of Persons indicted for High Treason, who have fled from this Province, or remained concealed

No. 76.
The Earl of Durham to Lord Glenelg, 1 Nov. 1838.

cealed therein, to escape from Justice," which your Lordship will find contained in the accompanying volume of Statutes.

By this Act it is provided, that immediately upon a return being made by any sheriff that a person indicted within his district for high treason or treasonable practices is not to be found therein, a proclamation of attainder shall be issued against such person if he shall not, within three calendar months, surrender himself to the custody of the sheriff of the district where the indictment was found.

The Attorney-general has prepared some proclamations against the persons whose cases come within the provisions of the Act; but, on these instruments being laid before me, I have forborne to direct their issue until I could refer the matter to your Lordship's consideration, in case this measure should in any way interfere with your Lordship's policy regarding this class of persons.

Among the persons who have fled from justice are several leading offenders, whom doubtless it would be imprudent to include in any amnesty, and against them it will be therefore necessary that proclamations should be issued.

Considering the urgency of the statute, I have to solicit as early a reply to this communication as your Lordship's convenience may permit to be afforded.

I have, &c.

The Right honourable
The Earl of Durham, &c. &c. &c.

(signed) *Geo. Arthur.*

Enclosure 2, in No. 76.

(No. 21, Extract.)

My Lord, Government House, Toronto, 29 September 1838.

No. 76

I HAVE the honour to acknowledge the receipt of your Lordship's despatch, No. 10, of the 18th instant.

The Acts of the Provincial Parliament passed in the last session, respecting the disposal of persons implicated in the late revolt, refer me directly to the Executive Council, with whose advice I am required by law to act in many cases. I therefore thought it right to lay upon the table, for the advice and consideration of the members, your Lordship's despatch.

I regret very much that any observations made by the Council in the minute of the 27th and 29th of August, should have given your Lordship offence; and I ought, in behalf of the members, to say that they could not have known that the minute would have been communicated to your Lordship, and, therefore, cannot have intended it to be controversial. The intention, no doubt, was to advise me to a line of conduct which they considered strictly legal and constitutional, and which they believed could be justified to a Legislature extremely and properly jealous of what it considers its right, and to which, though not legally, the Council feels itself, to a certain extent, morally responsible.

I therefore entreat your Lordship not to attribute the earnestness of the Council, in endeavouring to enable me to keep clear of legal difficulties, which might hereafter involve me in discussions fatal to the tranquil exercise of my authority, to any wish to make captious objections, or to intrude unnecessary or unrequired advice.

I have, in obedience to my instructions from Her Majesty's Government, and in pursuance of my wish to make the policy of this Government accord with your Lordship's views, granted a conditional pardon to Jacob Beamer, as well to all the other convicts implicated in the Short Hills incursion, whose cases were not already disposed of; and their sentences are now commuted into transportation for life.

I most earnestly hope that your Lordship's policy in this matter may be productive of benefit, and my best endeavours shall not be wanting to produce that tendency; but I ought not to disguise from your Lordship that, with all the facts before me, I still am strongly inclined to concur in the opinion of the Council, that it would have been advisable to leave the convict Beamer to suffer pursuant to his sentence; for, had this taken place, and could the convicts for transportation be at once removed to England, on their way to their destination, the example would, I think, have been salutary, and, in the end, would prove to have been humane.

After leading a party in arms against the Government in December last, Beamer escaped into the United States, and an indictment for high treason was found against him. Instead of demeaning himself peaceably, in the expectation that a time would come when he might be permitted to return, as others have done under the like circumstances, he added to his first offence the greater crime of bringing with him into the province (then beginning to attain a state of comparative tranquillity) a band of foreign brigands.

He was on this occasion prominent in the midnight robbery of an unoffending individual, without even the poor excuse of that individual being a political opponent.

He was also in command at the attack upon a small body of militia, whilst they were in a distant and defenceless position, and continued, with his party, firing many rounds of musketry into the house, and through the slender floor of the room they occupied; and, finally, set fire to the house, to compel the submission of the occupants.

As the facts appear to me, both the robbery and the attack upon the party of lancers, in which one of that body was wounded, were alike wanton and wicked, and without excuse or possible palliation. I admit that the conduct of Chandler and Waite was bad, but Beamer was distinguished beyond them, by having been actively concerned in the rebellion in December; and in the attack upon the lancers, he was the avowed leader.

Still,

No. 76.
The Earl of Durham to Lord Glenelg,
1 Nov. 1838.

Encl. 2, in No. 76.

Still, I could not consent to recommend to Her Majesty's Government, that this culprit should at a future time be executed; for three months hence the force of example would be lost, which alone renders capital punishment justifiable.

The recommendations of juries are entitled to the utmost respect and consideration; but there were circumstances connected with the petitions which were signed by the sheriff and others of the Niagara district, which led the council not to attach any great weight to them; and still less to the petitions sent in from the States, convinced as this Government is, that most of the parties who got up and signed the petitions were not respectable citizens of the States; but, generally, had been very active abetters of the brigands, and very naturally felt for their captivity and danger.

Your Lordship's opinion, that on such occasions as the piratical outrages on the Niagara frontier, the most prompt and vigorous execution of the most summary process known to our law should be resorted to, was strenuously urged upon me by the executive council; and, at one time, I thought myself that it would be the better course. But the more I reflected upon it, and considered what would be the position of the government when the insurrection was suppressed, and when the excitement of the moment had passed away, the more I became convinced that if the severest punishment were in any cases to be resorted to, the offenders should be tried before the ordinary tribunals of the country, and not by any military court.

I offer these observations to your Lordship, with no intention to oppose myself to your Lordship's views; but simply to explain my own.

Your Lordship has laboured under an entire mistake in supposing that the council recommended, with my approval, that Chandler, Waite and M'Cleod should all be executed. No such recommendation was offered at any time: it was determined that, besides Moreau, another convict should suffer; the council felt it difficult to decide who was the worst, and, finally, all their cases were left undisposed of, that is, they were left under legal sentence for execution, until the judges' report of the other prisoners should be made; the Solicitor-general having represented, that, on carefully looking into the indictments, he was of opinion that Beamer would be found to have been more deeply implicated than either Chandler, Waite or M'Cleod.

With regard to the measure of amnesty, which your Lordship recommends, I do not apprehend any material difference of opinion between your Lordship and myself. The constitutional objections raised by the council appear to be directed against the measure, as applied to persons actually indicted, and against whom legal proceedings are in progress; it seems to me that these persons, if pardoned, should properly receive the royal mercy, upon individual application, and I have no disposition to limit within narrow bounds the clemency which may be bestowed. There is, however, a great difference of opinion between the mass of the people of Lower Canada and the majority in the Upper Province, which has induced me to abate the severity of the law progressively and cautiously, and to seize occasions for showing mercy as they arise, rather than to attain the same end suddenly by a general measure.

I have lately made an extensive tour through the districts east of Toronto, and to the westward as far as London, in the course of which I have endeavoured personally to ascertain the state of the public mind respecting the course of lenity pursued towards persons convicted of treason; and, I regret to say, that the result of my inquiries has not been satisfactory. There is, in fact, a very general opinion, that this Government has gone too far in granting pardon to delinquents, and the loyal inhabitants of the province entertain the strong apprehension, that the impunity extended to traitors will in no small degree have the tendency to expose the province to a recurrence of all the miseries through which it has recently passed.

Still this has not prevented me from pursuing the lenient course pointed out by my instructions, and the number of convicts has been reduced so low, that I shall have no difficulty in ascertaining the number to whom I see no prospect of granting pardon, with a due regard to the public safety.

While the opportunity of extending mercy to those actually in the hands of justice has been used so extensively as to leave but few convicts, I am aware that, of those who have escaped, and who, having been indicted, have been proceeded against, with a view to outlawry; there may be yet some whom I should be disposed to allow to return to the province. I think it, however, but a due respect for the law and public opinion, that those persons should individually apply, and exhibit some disposition to return, and promise to demean themselves loyally for the future, before mercy and indemnity shall be offered to them.

This seems to be in accordance with the opinion of the Secretary of State, to whom I had intimated my intention of resorting to some qualified measure of amnesty. In a despatch dated 7th September instant, his Lordship observes, "I entirely concur in your opinion of the wisdom, as well as the humanity, of encouraging any persons to return to the province who fled from it under an apprehension of the consequences to which their conduct may have exposed them, and whose return is consistent with the public safety and tranquillity. You are fully aware of the desire of Her Majesty's Government that the greatest degree of lenity, compatible with a due regard to the public interests, should be exercised towards such persons, and it will afford them much satisfaction to learn that you have been enabled to carry into effect your own views on this subject."

Under these considerations, I think it right not to delay the proclamations, calling upon these persons to submit to justice, which was the subject of my despatch to your

No. 76.
The Earl of Durham to Lord Glenelg, 1 Nov. 1838.

Lordship (No. 19.) These proclamations I am imperatively required by an Act of the Provincial Parliament to issue forthwith; and they will designate the only fugitives from the province who will be under any necessity to petition for the clemency; and all others will come in under the general amnesty.

I most cordially agree with your Lordship, that it is advisable to remove all apprehensions of legal proceedings being taken against the implicated persons in the province, or who have fled from fear of persecution. It has not been my intention at any time to seek out objects for punishment, or to hold the terrors of the law over the heads of persons who have not already actually come under the notice of the tribunals of the country; and although a proclamation of amnesty, as regards these men, would, no doubt, be less objectionable if authorized in the usual form, by Act of Provincial Parliament, I shall not delay such a beneficial proceeding by awaiting legislative sanction, provided your Lordship can concur with me in the immediate removal out of the province of the prisoners under commuted sentence of transportation, to whom the council will not consent to recommend any further extension of mercy. The names and particulars of these cases are included in the enclosed memorandum.

I have, &c.
(signed) *Geo. Arthur.*

His Excellency the Right hon.
The Earl of Durham, &c. &c. &c.

Enclosure 3, in No. 76.

(No. 12.)

Sir, Castle of St. Lewis, Quebec, 9 October 1838.

Encl. 3, in No. 76.

I HAVE the honour to acknowledge the receipt of your Excellency's despatches, Nos. 19 and 21, of the 27th and 29th ultimo, respecting the disposal of the political prisoners in Upper Canada, and written with reference to my despatch of the 18th.

I am happy to be able to inform you, that the measures mentioned therein as contemplated by your Excellency, which have been more fully explained to me by you during your late visit to Quebec, entirely meet my views of the exigencies of the case. I have only to express a hope that they will be carried into operation without delay; and in the only matter in which my assistance is requisite, I have already made preparations for co-operation with your Excellency in the prompt conveyance to England of the persons on whom you propose to carry the sentence of transportation into effect.

I have, &c.
(signed) *Durham.*

His Excellency Major-general
Sir George Arthur, &c. &c. &c.

—No. 77.—

(No. 113.)

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

No. 77.
The Earl of Durham to Lord Glenelg, 1 Nov. 1838.

My Lord, Castle of St. Lewis, Quebec, 1 Nov. 1838.

I HAVE the honour to inform you that I propose embarking this day on board Her Majesty's frigate Inconstant, and shall proceed direct to Plymouth.

I have, &c.
(signed) *Durham.*

—No. 78.—

(No. 114.)

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

No. 78.
The Earl of Durham to Lord Glenelg, 1 Nov. 1838.

My Lord, Castle of St. Lewis, Quebec, 1 Nov. 1838.

WITH reference to your Lordship's despatch of the 23d of August last, No. 94, I have the honour to acquaint you that I have directed Major Phillpotts, of the Royal Engineers, to proceed to make a survey of the Welland Canal, and then to perform the other services mentioned in that despatch.

I transmit to your Lordship a copy of the estimated expense, amounting to Three hundred and seventy-six pounds one shilling and threepence sterling, which I trust will not be exceeded, and which, together with an allowance to Major Phillpotts of Forty-four shillings sterling per diem, when he is employed from home, and of Twenty-nine shillings sterling per diem when at home, I have sanctioned and directed to be defrayed from the military chest.

I have, &c.
(signed) *Durham*

No. 78.
The Earl of Durham to Lord Glenelg,
1 Nov. 1838.

Enclosure in No. 78.

Quebec, 17 October 1838.

Encl. in No. 78.

ESTIMATE of the probable EXPENSE required for making a SURVEY and REPORT of the WATER COMMUNICATION from *Lake Erie* by the *Welland Canal* and *St. Lawrence* to *Quebec*, as called for by Lord *Glenelg's* Despatch to the Earl of *Durham*, dated Downing-street, 23 August 1838. No. 94.

	£.	s.	d.
One assistant engineer or surveyor and draftsman, for copying plans, &c., 90 days, at 25*s.* a day	112	10	–
One clerk for copying reports, &c., 90 days, at 12*s.* 6*d.*	56	5	–
Two labourers, 90 days, at 5*s.*	45	–	–
Two ditto - 45 ditto, at 6*s.* 3*d.*, employed at a distance from their homes	28	2	6
Expense of transport, carriage and boat hire, &c.	100	–	–
£.	341	17	6
Contingencies and stationery, &c., one-tenth	34	3	9
£.	376	1	3

Amounting to Three hundred and seventy-six pounds one shilling and threepence sterling.

(signed) *George Phillpotts*,
Capt. Roy[l] Eng[rs] and Major.

— No. 79. —

(No. 115.)

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

Her Majesty's Ship "Inconstant,"
At Sea, 10 November 1838.

No. 79.
The Earl of Durham to Lord Glenelg,
10 Nov. 1838.

My Lord,

I HAVE the honour to inform your Lordship that I had, on the morning of my departure from Quebec, an interview with Mr. Sheriff M'Donnell, who had arrived the night before from Kingston, Upper Canada, for the purpose of communicating to the government the alarming intelligence of the existence of a great unwillingness on the part of the militia and volunteers of Upper Canada to tender their active services.

Mr. M'Donnell informed me that the belief amongst them, of the indifference of the British Government to their fate was so general, that they deemed it useless to make any exertions to maintain the connexion with the mother country. He also said that nothing but a declaration from me, of the intentions of the British Government having been misunderstood, would induce them to enrol themselves for the defence of the province this winter. I had no hesitation in assuring him that no trace of that indifference would be found in the measures adopted, or the precautions taken by the government over which I presided, and that I could not imagine the existence of a different feeling in the minds of the British Ministers.

I trusted, therefore, that the same alacrity as was before manifested would be evinced by all classes in the Upper province, in coming forward for the maintenance of the public security.

Mr. M'Donnell stated himself to be perfectly satisfied with my declaration, and was to return to Kingston the same evening.

I regret to state, with reference to this subject, that the feelings expressed by Mr. M'Donnell are also very generally entertained by the British population in Lower Canada.

I have, &c.

(signed) *Durham*.

—No. 80.—

(No. 116.)

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

No. 80.
The Earl of Durham to Lord Glenelg, 10 Nov. 1838.

My Lord, H.M.S. Inconstant, at sea, 10 Nov. 1838.

I HAVE the honour to enclose your Lordship a memorandum of the arrangements which have been made for the distribution of the regular and volunteer forces in the two Canadas, and which will provide for their defence to the utmost extent of the means placed at the disposal of the government.

I have, &c.

(signed) *Durham.*

—No. 81.—

(No. 117.)

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

No 81.
The Earl of Durham to Lord Glenelg, 26 Nov. 1838.

Her Majesty's Ship "Inconstant,"

My Lord, Plymouth Sound, 26 November 1838.

I HAVE the honour to inform you that I arrived this day in Plymouth Sound at 11 P.M. in Her Majesty's Ship "Inconstant," and shall proceed to London as soon as the necessary arrangements for my landing can be made.

I have, &c.

(signed) *Durham.*

—No. 82.—

(No. 118.)

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

No. 82.
The Earl of Durham to Lord Glenelg, 8 December 1838.

My Lord, London, 8 December 1838.

ON my arrival in town yesterday, I received the duplicates of your Lordship's despatches, Nos. 125, 126, 133 and 134.

Referring to your Lordship's despatch, No. 134, I feel that I ought not to delay one moment in transmitting to your Lordship my formal resignation of the offices of Governor-general of British America and Her Majesty's High Commissioner, and I have to request that your Lordship will lay it officially before Her Majesty.

I have the honour, at the same time, to inform your Lordship, that the presentation to you of the full and comprehensive report of the proceedings of my mission, together with the voluminous evidence attached to it, which I have prepared, according to my pledge, must necessarily be delayed until the return to England of the gentlemen connected with my administration; they were to leave America about the 20th ult., and may therefore be expected in a few days

I have, &c.

(signed) *Durham.*

— No. 83.—

No. 83.
The Earl of Durham to Lord Glenelg, 10 December 1838.

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

My Lord, Cleveland-row, 20 December 1838.

I HAVE delayed answering that part of your Lordship's letter of the 10th instant, which relates to the report of the proceedings of my mission, having been in daily expectation of the arrival of Mr. Buller, whose presence is necessary to its completion.

As shortly as possible after his arrival it shall be presented, and I trust that you will find in it all the information which you can require, in order to enable you to form a correct opinion as to the state of the North American provinces.

In the meantime, should you be of opinion that I can furnish you with any details or suggestions immediately necessary for the advantage of Her Majesty's service, I shall be ready to do so.

I am, &c.

(signed) *Durham.*

From Lieutenant-general Sir John Colborne, G. C. B.

No. 84.
Sir J. Colborne to Lord Glenelg, 2 Nov. 1838.

— No. 84. —

(No. 1.)

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

My Lord, Castle of St. Lewis, Quebec, 2 Nov. 1838.

I have the honour to acquaint your Lordship that the Earl of Durham sailed yesterday in her Majesty's ship "Inconstant," for England, and that, in accordance with the provisions contained in his Lordship's commission as Governor-general, I assumed the administration of the government of the province of Lower Canada.

I enclose a copy of the proclamation which I have issued on the occasion.

I have, &c.
(signed) *J. Colborne.*

Enclosure in No. 84.

Province of Lower Canada. } *J. Colborne.*

Encl. in No. 84.

By his Excellency Lieutenant-general Sir *John Colborne*, Knight Grand Cross of the Most Honourable Military Order of the Bath, and of the Royal Hanoverian Guelphic Order, Commander of Her Majesty's Forces in the Provinces of Lower Canada and Upper Canada, and Administrator of the Government of the said Province of Lower Canada, &c. &c. &c. &c.

A PROCLAMATION.

Whereas by certain letters patent, bearing date at Westminster, the 30th day of March, in the first year of the reign of our Sovereign Lady the Queen, our said Sovereign Lady Victoria did constitute and appoint the Right Hon. John George Earl of Durham to be Captain-general and Governor-in-chief in and over our said province of Lower Canada.

And whereas in and by the said letters patent, it is provided, that in case of the death or of the absence of the said John George Earl of Durham out of the province of Lower Canada, in either of such cases, all and singular the powers and authorities granted to the said John George Earl of Durham should be given and granted to the Lieutenant-governor, for the time being, of such province, or in the absence of any such Lieutenant-governor, to such person or persons as might, by warrant uuder the sign manual be authorized and appointed to be the administrator of the government of the said province, or either of them, such powers and authorities, to be by him or them executed and enjoyed during the royal pleasure; but if, upon the death or absence of the said John George Earl of Durham out of the said province of Lower Canada, no person shall be upon the place commissioned and appointed to administer the government of the said province, until the return of the said John George Earl of Durham, from any such absence, or until the royal pleasure could be further made known, the senior military officer, for the time being, in command of the forces within the said province of Lower Canada, should take upon him the administration of the government thereof, and should execute in the said province the said commission and the instructions therein mentioned, and the several powers and authorities therein contained, in the same manner and to all intents and purposes as other the Captain-general or Governor-in-chief should or ought to do.

And whereas, by reason of the absence of his Excellency the Right honourable John George Earl of Durham from and out of the said province of Lower Canada, and under and byvirtue of the above provision, in the said letters patent contained, the administration of the civil government of Her Majesty's province of Lower Canada hath devolved upon me, the said Lieutenant-general Sir John Colborne, being the senior officer commanding Her Majesty's forces within the said province of Lower Canada, with all and every the powers and authorities by the said letters patent vested in the said Right Honourable John George Earl of Durham; I have, therefore, with the advice of Her Majesty's executive council of this province, thought fit to issue this proclamation, to make known the same, and I do hereby require and command that all and singular Her Majesty's officers and ministers in the said province, do continue in the due execution of their several and respective offices, places and employments; and that Her Majesty's loving subjects, and others whom it may concern, do take notice, and govern themselves accordingly.

Given under my hand and seal at arms, at the Castle of St. Lewis, in the city of Quebec, in the said province of Lower Canada, the first day of November, in the year of our Lord One thousand eight hundred and thirty-eight, and in the second year of Her Majesty's reign.

By his Excellency's command,
(signed) *D. Daly,*
Secretary of the Province.

No. 85.
Sir J Colborne to Lord Glenelg, 2 Nov. 1838.

— No. 85. —

EXTRACT of a DESPATCH from Lieutenant-general Sir *John Colborne*, G.C.B., to Lord *Glenelg*, dated Montreal, 5 Nov. 1838.

THE information which Lord Durham has communicated to your Lordship will have prepared you for the movement of the rebels, which has now taken place in all the counties of the Richelieu and in the section of this district, from the left bank of that river to Beauharnois and the south of the St. Lawrence.

The *habitans* are collecting in large bodies at St. Ours, St. Denis, St. Charles, Acadie, Chateauguay, and Beauharnois.

The general movements of the rebels commenced on the 3d. They made an attack on the Indians of the village of Cochanawaga, on Sunday the 4th instant, who sallied out of the church where they were assembled for divine service, repulsed the rebels from the village, and captured 70 prisoners.

I am preparing to march against the rebels in Acadie: our troops occupy La Prairie, Chambly, and St. John's.

No. 86.
Sir J. Colborne to Lord Glenelg, 5 Nov. 1838.

— No. 86. —

(No. 2.)

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

My Lord, Government House, Montreal, 5 Nov. 1838.

I HAVE the honour to transmit to you herewith, with reference to your despatch of the 2d August last, No. 80, certified copies of three Ordinances passed by his Excellency the Earl of Durham and his Special Council, on the 31st ultimo; namely,

No. 30. An Ordinance to make provision for defraying the civil expenditure of the Provincial Government, from the 1st of April to the 10th of October 1838.

No. 31. An Ordinance to make good two certain sums of money therein mentioned, advanced in payment of certain indispensable expenses of the Civil Government of Lower Canada, between the 1st of March and the 31st of October 1838.

No. 32. An Ordinance to appropriate certain sums annually to enable Her Majesty to defray the expenses of pensions conferred on the Honourable Jonathan Sewell, esq., and the Honourable James Reid, esq.

I have, &c.

(signed) *J. Colborne.*

Enclosure 1, in No. 86.

(No. 30.)

AN ORDINANCE to make Provision for defraying the CIVIL EXPENDITURE of the PROVINCIAL GOVERNMENT, from the 1st day of April 1838 to the 10th day of October of the same year.

Encl. 1, in No. 86.

WHEREAS it is expedient to make provision towards defraying the expenses of Her Majesty's civil government of this province, and of the administration of justice therein, from the 1st day of April 1838 to the 10th day of October 1838: Be it therefore ordained and enacted by his Excellency the Governor of the province of Lower Canada, by and with the advice and consent of the special council for the affairs of the said province of Lower Canada, constituted and assembled by virtue of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada;" and it is hereby ordained and enacted, by the authority of the same, that from and out of the unappropriated monies which now are or shall hereafter come into the hands of the Receiver-general of this province for the time being, there shall be paid and applied towards defraying the expenses of the administration of justice and the support of the civil government of this province incurred from the 1st day of April 1838 to the 10th day of October 1838, both days inclusive, such sum or sums as, together with the sums which may be in the Receiver-general's hands at the time of the passing of this ordinance and at the disposal of the Crown, applicable to such purposes, shall amount to a sum not exceeding 29,126*l.* 18*s.* 10*d.* sterling.

And

No. 86.

Sir J. Colborne to Lord Glenelg, 5 Nov. 1838.

And be it further ordained and enacted by the authority aforesaid, that the due application of the monies appropriated by this Act shall be accounted for to Her Majesty, Her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her heirs and successors, shall direct.

Encl. 1, in No. 86.

(signed) *Durham.*

Ordained and enacted by the authority aforesaid, and passed in special council at the city of Quebec, the 31st day of October, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord 1838.

By his Excellency's command.

(signed) *Wm. B. Lindsay*, Clerk, Special Council.

(True copy.)

Wm. B. Lindsay, Clerk, Special Council.

Enclosure 2, in No. 86.

(No. 31.)

AN ORDINANCE to make good two certain SUMS of MONEY therein mentioned, advanced in payment of certain indispensable Expenses of the CIVIL GOVERNMENT of *Lower Canada*, between the 1st day of March 1838 and the 31st day of October of the same year.

Encl. 2, in No. 86.

WHEREAS it is necessary to make good two certain amounts supplied by order of his Excellency Sir John Colborne, whilst administrator of the government of this province, and of his Excellency the Governor-general thereof, severally and respectively for the payment of certain indispensable expenses of the civil government of Lower Canada, between the 1st day of March 1838 and the 31st day of October 1838: Be it therefore ordained and enacted by his Excellency the Governor of the province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province of Lower Canada, constituted and assembled by virtue of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of Lower Canada;" and it is hereby ordained and enacted, by the authority of the same, that from and out of the unappropriated monies which now are or shall hereafter come into the hands of the Receiver-general of this province for the time being, there shall be taken and applied the sum of 5,583 *l.* 19 *s.* 10 *d.* sterling money, to make good a like sum which was taken and applied for the purposes aforesaid, between the said periods, by order of his Excellency Sir John Colborne; and the sum of 18,136 *l.* 17 *s.* 6 *d.* sterling, to make good a like sum which was taken and applied for the purposes aforesaid between the same periods, by order of his Excellency the Governor-general.

And be it further ordained and enacted by the authority aforesaid, that the application of the said amount of 23,720 *l.* 17 *s.* 4 *d.* sterling shall be accounted for to Her Majesty, Her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as the Crown shall direct.

(signed) *Durham.*

Ordained and enacted by the authority aforesaid, and passed in special council at the city of Quebec, the 31st day of October, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command.

(signed) *Wm. B. Lindsay*, Clerk, Special Council.

(True copy.)

Wm. B. Lindsay, Clerk, Special Council.

Enclosure 3, in No. 86.

(No. 32.)

AN ORDINANCE to appropriate certain Sums annually, to enable Her Majesty to defray the Expense of PENSIONS conferred on the Honourable *Jonathan Sewell*, Esquire, and the Honourable *James Reid*, Esquire.

Encl. 3, in No. 86.

WHEREAS it is just and expedient, in consideration of the advanced age and the long and meritorious services of the Honourable Jonathan Sewell, esquire, chief justice of the province of Lower Canada, and of the Honourable James Reid, esquire, chief justice of the Court of King's Bench for the district of Montreal, that on their retirement from the said offices, respectively, a reasonable and fit provision should be made for them: Be it therefore ordained

No. 86.
Sir J. Colborne to Lord Glenelg, 5 Nov. 1838.
—
Encl. 3, in No. 86.

and enacted by his Excellency the Governor of the said province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of the said province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary Provision for the Government of the Province of Lower Canada;" and it is hereby ordained and enacted by the authority of the same, that out of the unappropriated monies that now are or hereafter may be in the hands of the Receiver-general of this province for the time being, there shall, by a warrant or warrants under the hand of the Governor, Lieutenant-governor, or person administering the government of this province for the time being, be paid annually to the said Jonathan Sewell, from and after his retirement from the office of chief justice of this province, during his natural life, the sum of One thousand pounds, sterling money of Great Britain; and to the said James Reid, from and after his retirement from the office of chief justice of the said Court of King's Bench for the district of Montreal, during his natural life, the sum of Seven hundred and thirty-three pounds six shillings and eightpence, sterling money aforesaid.

And be it further ordained and enacted by the authority aforesaid, that the due application of the monies that may be paid by virtue of this ordinance, shall be accounted for to Her Majesty, Her heirs and successors, through the Lords Commissioners of Her Majesty's Treasury for the time being, in such manner and form as Her Majesty, Her heirs and successors, shall be pleased to direct.

(signed) *Durham.*

Ordained and enacted by the authority aforesaid, and passed in Special Council at the city of Quebec, the 31st day of October, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord 1838.

By his Excellency's command.

(signed) *Wm. B. Lindsay*, Clerk, Special Council.

(True copy.)
Wm. B. Lindsay, Clerk, Special Council.

— No. 87. —

(No. 3.)

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

Head Quarters, Odell Town, Seigniory of La Colle,
My Lord, 11 November 1838.

No. 87.
Sir J. Colborne to Lord Glenelg, 11 Nov. 1838.

With reference to my despatch of the 5th instant, I have the honour to acquaint you that the *habitans* between the Yamaska and Richelieu rivers quitted their villages on the night of the 3d, to take up arms against Her Majesty's Government assembled at St. Ours, St. Charles, and St. Michael.

Those from the westward of the Richelieu from Contrecœur, and Vercheres at Belæil; the greater part of the rebels, however, of the Richelieu, on finding that the depots of arms and ammunition which had been promised them were not at the points of rendezvous ready to be delivered to them, returned to their homes on the 4th and 5th instant.

The *habitans* generally of Beauharnois, La Prairie, and l'Acadie, also were in arms on the night of the 3d, and attacked all the loyal subjects residing in their neighbourhood; and either drove them from their homes or made them prisoners. At Beauharnois, Chateauguay, and Napierville, the rebels assembled in great numbers; about 4,000 of them were concentrated at Napierville under the command of Dr. Robert Nelson, Dr. Cote, and Gagnon, between the 3d and 6th instant. Under these circumstances, I ordered the corps under the immediate command of Major-general Sir James Macdonnell, and Major-general Clitherow, to march to l'Acadie and St. John's, with the intention of attacking Napierville on the 9th, but the unfavourable weather, and the very bad state of the roads, prevented the troops from reaching the vicinity of Napierville till late in the evening, and they did not enter the town till the morning of the 10th. The rebels, hearing of the approach of The Queen's troops, dispersed during the night of the 9th and the following morning. When the rebels first established themselves at Napierville, they endeavoured to open a communication with the United States by Rouses Point, with a view of bringing in supplies of arms and ammunition from their friends in the states of New York and Vermont;

No. 87.
Sir J Colborne to Lord Glenelg, 11 Nov. 1838.

Vermont; but the brave, persevering and loyal volunteers of La Colle, Odell Town, Hemmingford, and Sherrington, who from the first moment of the revolt had posted themselves on the frontier, attacked 400 of them on the march from La Colle to Rouses Point, two miles from the frontier line, defeated them, and took one field piece, 300 stand of arms, and drove them across the frontier. On the 9th, being reinforced from Sherrington, the volunteers took possession of the Church of Odell Town, and defended their post with the greatest bravery against an attack of 900 of the rebels on the march from Napierville, under Dr. Nelson, and compelled them to retire with great loss.

I had directed Colonel Taylor (employed on particular service) to proceed to the frontier, to inform the volunteers of the march of the Queen's troops. This officer arrived at Odell Town about half an hour before the volunteers were attacked, and was of the greatest use to them in directing the defence of their position. As soon as I received information of the revolt in Beauharnois, I despatched Major Phillpotts, R. E., with orders to Major Carmichael (particular service) to pass Lake St. Francis from Point au Baudet, near Lancaster, to the south bank of the St. Lawrence, with a detachment of the 71st regiment, on the route from Upper Canada, and two battalions of the Glengary Militia, under Colonels Macdonnell and Fraser, and to march on Beauharnois. This movement was promptly carried into effect by the exertions of Major Phillpotts, Major Carmichael, and the colonels of the Glengary Militia, on the 10th instant. Four or five men of the detachment of the 71st regiment were killed and wounded in driving the rebels from Beauharnois.

I shall take an early opportunity of conveying to your Lordship a more correct account of these occurrences, and of forwarding the reports of the officers commanding the volunteers posted on the frontier. Their loss has not been severe; but several valuable officers and loyal subjects have fallen, and I entreat that their families may be provided for by Her Majesty's Government.

On every occasion since the commencement of this revolt, the British population have come forward with the greatest zeal and activity. No doubt now exists, that the leaders of this revolt have been actively employed in organizing this second attempt to establish a republic in Canada since June, and that a secret oath, which has been so extensively administered to the *habitans*, was taken by a large portion of the disaffected in July and August; but it is certain that a large portion of the *habitans* who appeared in the ranks of the rebels were forced to join them, or have their properties destroyed. Several hundred prisoners have been taken, and among them a French officer, who had a command at Napierville. I enclose two proclamations issued by Dr. Robert Nelson.

I have, &c.

(signed) *J. Colborne.*

Enclosure 1, in No. 87.

DECLARATION.

Encl. 1, in No. 87.

WHEREAS the solemn covenant made with the people of Lower and Upper Canada, and recorded in the Statute Book of the United Kingdom of Great Britain and Ireland, as the 31st chapter of the Act passed in the 31st year of the reign of King George III., hath been continually violated by the British Government, and our rights usurped: And whereas our humble petitions, addresses, protests and remonstrances against this injurious and unconstitutional interference have been made in vain; that the British Government have disposed of our revenue without the constitutional consent of the local legislature, pillaged our treasury, arrested great numbers of our citizens and committed them to prison, distributed through the country a mercenary army, whose presence is accompanied by consternation and alarm, whose track is red with the blood of our people, who have laid our villages in ashes, profaned our temples, and spread terror and waste through the land: And whereas we can no longer suffer the repeated violations of our dearest rights, and patiently support the multiplied outrages and cruelties of the government of Lower Canada: We, in the name of the people of Lower Canada, acknowledging the decrees of a Divine Providence, which permits us to put down a government which hath abused the object and intention for which it was created, and to make choice of that form of government which shall re-establish the empire of justice, assure domestic tranquillity, provide for common defence, promote general good, and secure to us and our posterity the advantage of civil and religious liberty,

SOLEMNLY DECLARE,

1. That from this day forward, the people of Lower Canada are absolved from al allegiance to Great Britain, and that the political connexion between tha power and Lower Canada is now dissolved.

2. That

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2. That a republican form of government is best suited to Lower Canada, which is this day declared to be a republic.

3. That under the free government of Lower Canada, all persons shall enjoy the same rights; the Indians shall no longer be under any civil disqualification, but shall enjoy the same rights as all other citizens of Lower Canada.

4. That all union between Church and State is hereby declared to be dissolved, and every person shall be at liberty freely to exercise such religion or belief as shall be dictated to him by his conscience.

5. That the feudal or seigniorial tenure of land is hereby abolished as completely as if such tenure had never existed in Canada.

6. That each and every person who shall bear arms, or otherwise furnish assistance to the people of Canada in this contest for emancipation, shall be and is discharged from all debts due, or obligations, real or supposed, for arrearages in virtue of seigniorial rights heretofore existing.

7. That the "Douaire Coutumier" is for the future abolished and prohibited.

8. That imprisonment for debt shall no longer exist, excepting in such cases of fraud as shall be specified in an Act to be passed hereafter by the legislature of Lower Canada for this purpose.

9. That sentence of death shall no longer be passed or executed, except in case of murder.

10. That all mortgages on landed estate shall be special, and to be valid shall be enregistered in offices to be created for this purpose by an Act of the legislature of Lower Canada.

11. That the liberty and freedom of the press shall exist in all public matters and affairs.

12. That trial by jury is guaranteed to the people of Lower Canada, in its most extended and liberal sense, in all criminal suits, and in civil suits above a sum to be fixed by the legislature of the state of Lower Canada.

13. That as general and public education is necessary, and due by the Government to the people, an Act to provide for the same shall be passed as soon as the circumstances of the country will permit.

14. That to secure the elective franchise, all elections shall be had by ballot.

15. That with the least possible delay, the people shall choose delegates according to the present division of the country into counties, towns and boroughs, who shall constitute a convention, or legislative body, to establish a constitution according to the wants of the country, and in conformity with the disposition of this Declaration, subject to be modified according to the will of the people.

16. That every male person of the age of 21 years and upwards shall have the right of voting as herein provided, and for the election of the aforesaid delegates.

17. That all Crown lands, also such as are called Clergy reserves, and such as are nominally in possession of a certain company of landholders in England, called the "British North American Land Company," are of right the property of the State of Lower Canada, except such portions of the aforesaid lands as may be in possession of persons who hold the same in good faith, and to whom titles shall be secured and granted by virtue of a law which shall be enacted to legalize the possession of, and afford a title for, such untitled lots of land in the townships as are under cultivation or improvement.

18. That the French and English languages shall be used in all public affairs.

And for the fulfilment of this declaration, and for the support of the patriotic cause in which we are now engaged, with a firm reliance on the protection of the Almighty, and the justice of our conduct, we by these presents solemnly pledge to each other our lives, our fortunes, and our most sacred honour.

By order of the Provisional Government,

Robert Nelson, President.

Enclosure 2, in No. 87.

PROCLAMATION. No. 2.

PEOPLE OF CANADA:

Encl. 2, in No. 87.

WE have been oppressed by the hand of a transatlantic power, and unjustly and cruelly castigated with the rod of unrelenting misrule for a long series of years, so long, that the measure of tyranny has filled to overflowing. We unceasingly, but in vain, have attempted to bridle a bad government, rescind bad laws, enact such as would cause our institutions to emerge from the mire of ancient vassalage, and rise to the level with those which characterize the recent government of the 19th century. We now are compelled, by the force of tyranny, and contrary to our sentiments, to appeal to the force of arms in order that we may acquire and secure to us such rights as are due to a deserving and free people; nor shall we lay those arms down until we shall have secured to our country the blessings of a patriotic and sympathizing government.

To

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To all such persons as aid us in these our patriotic exertions, we extend the hand of fraternity and fellowship. And to such as shall persist in the blind, headlong, plundering, sanguinary and incendiary course that has, to our sorrow, and the suffering of our aged people, our women and our children, so disgracefully stamped the heedless career of Sir John Colborne, the commander of the British forces, and his adherents, we shall in self-defence and in common justice to our people and our cause, inflict the retaliation which their own terrific example has set before us; but, as there are many persons who now repent of their conduct, and of the vandalism of their associates, a course which has driven us to war; and as our sense of humanity, of justice and of honour is cast in a different mould from that of our oppressors, we cannot reconcile to our principle, or to the morals that elsewhere than in the English government in Canada distinguish the age we live in, to exercise their savage example towards them.

We, therefore, solemnly promise to afford security and protection, both in person and property, to all such as shall lay down their arms, and otherwise cease to oppress us; a promise which our character, and the known morals and peaceable habits of our native people sufficiently guarantee. Nor shall we lay down our arms until we shall have effected and secured the object of our first proclamation.

By order of the Provisional Government of the State of Lower Canada.

Robert Nelson, Commander-in-chief of the Patriot Army.

(No. 4.)

— No. 88.—

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

No. 88.
Sir J. Colborne to Lord Glenelg, 17 Nov. 1838.

My Lord, Government House, Montreal, 17 Nov. 1838.

I HAVE the honour to acquaint you, that on my arrival at Sorel on the 3d instant, I found the whole neighbouring seigniories in the greatest state of alarm and consternation, in consequence of the movements of the *habitans* of the counties on the Richelieu, and of the outrages which they were committing in St. Ours, la Presentation, and Contrecœur. I proceeded without delay to Montreal, and as the intelligence from Beauharnois, and the proceedings of the organized secret societies of Montreal, confirmed me in the opinion that the revolt would extend generally through the province, I considered it necessary to issue a proclamation, declaring martial law in the district of Montreal; and to propose to the special council, which I assembled on the 5th instant, the following ordinances; and I am persuaded your Lordship will recommend them to be sanctioned by Her Majesty's Government, under existing circumstances:—

No. 33.—An ordinance to authorize certain banks therein named to suspend specie payments in certain cases.

No. 34.—An ordinance for authorizing the seizing and detaining, for a limited time, of gunpowder, arms, weapons, lead, and munitions of war.

No. 35.—An ordinance for the suppression of the rebellion which unhappily exists within this province of Lower Canada; and for the protection of the persons and properties of Her Majesty's faithful subjects within the same.

No. 36.—An ordinance to authorize the apprehension and detention of persons charged with high treason, suspicion of high treason, misprision of high treason, and treasonable practices; and to suspend for a limited time, as to such persons, a certain ordinance therein mentioned, and for other purposes.

No. 37.—An ordinance to declare and define the period when the rebellion, now unhappily existing in this province, shall be taken and held to cease, and for other purposes.

No. 38.—An ordinance to authorize the Governor, or person administering the government of this province, to appoint persons as justices of the peace and stipendiary magistrates, notwithstanding an Act of the Legislature of the province of Lower Canada, passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled, "An Act for the Qualification of the Justices of the Peace."

Copies of the ordinances which have been passed are annexed. Cap. I. to VI.

The ordinances proposed, and which are still before the special council, are as follows:—

An ordinance for the attainder of persons against whom sentence or judgment of courts-martial shall be given for the crime of high treason,

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under and by virtue of an ordinance passed in the second year of Her Majesty's reign, intituled, "An Ordinance for the suppression of the Rebellion which unhappily exists within this province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same;" and of another ordinance, intituled, "An Ordinance to declare and define the period when the Rebellion, now unhappily existing in this province shall be taken and held to cease, and for other purposes."

An ordinance for more effectually preventing the administering or taking of unlawful oaths, and for better preventing treasonable and seditious practices.

An ordinance to extend the provisions of certain ordinances therein mentioned to the district of Saint Francis, in the province of Lower Canada.

I have, &c.
(signed) *J. Colborne.*

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Province of Lower Canada. } *J. Colborne.*

By his Excellency Sir *John Colborne*, Knight Grand Cross of the most Honourable Military Order of the Bath, Administrator of the Government of the Province of *Lower Canada*, Lieutenant-general and Commander-in-chief of Her Majesty's Forces in the said Provinces, &c. &c. &c.

A PROCLAMATION.

Encl. 1 in No. 88

WHEREAS there exists in the district of Montreal a traitorous conspiracy, by a number of persons falsely styling themselves patriots, for the subversion of the authority of Her Majesty, and the destruction of the established constitution and government of the said province: And whereas the said rebellion hath very considerably extended itself, insomuch that large bodies of armed traitors have openly arrayed themselves, and have made, and do still make, attacks upon Her Majesty's subjects, and have committed the most horrid excesses and cruelties: And whereas, in the parts of the said district in which the said conspiracy hath not as yet broken out in open rebellion, large numbers of such persons, so calling themselves patriots, for the execution of such their wicked designs, have planned means of open violence, and formed arrangements for raising and arming an organized and disciplined force, and in furtherance of their purpose have frequently assembled in great and unusual numbers: And whereas the exertions of the civil powers are ineffectual for the suppression of the aforesaid traitorous and wicked conspiracy and rebellion, and for the protection of the lives and properties of Her Majesty's loyal subjects: And whereas the courts of justice in the said district of Montreal have virtually ceased to exist, from the impossibility of executing any legal process or warrant of arrest therein: And whereas the public safety requires that Law Martial should be exercised: Now, therefore, I have thought fit, by and with the advice and consent of Her Majesty's Executive Council of this province, to issue this Proclamation, to the end that it may be made manifest, that I shall arrest and punish, and cause to be arrested and punished, all persons who have been hitherto, and who now are or hereafter may be anywise acting, aiding or assisting in the said conspiracy and rebellion, and who hereafter may be anywise acting, aiding or assisting in any other conspiracy and rebellion within the said district of Montreal, according to Martial Law, either by death or otherwise, as to me shall seem right and expedient for the punishment of all rebels in the said district.

Given under my hand and seal at arms, at the Government House in the city of Montreal, in the province of Lower Canada, the 4th day of November, in the year of our Lord 1838, and in the second year of Her Majesty's reign.

By his Excellency's command.

(signed) *Thomas Leigh Goldie,*
Acting Secretary of the Province.

Enclosure 2, in No. 88.

Anno Secundo Victoriæ Reginæ.

CAP. I.—AN ORDINANCE to authorize certain BANKS therein-named to suspend SPECIE PAYMENTS in certain cases.

Encl. 2, in No. 88.

WHEREAS it is expedient in the present disturbed state of the province, that certain banking institutions thereof should be authorized to suspend the redemption of their notes in specie: Be it ordained and enacted, by the administrator of the government of this province, authorized

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authorized to execute the commission of Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the authority of the same, that any bank in this province, now incorporated or chartered by any ordinance or law thereof, or by royal charter, which has heretofore ceased, or which shall cease to redeem its notes or other liabilities in the current coin of this province, shall not in consequence thereof be compelled to cease its banking operations, or be deemed to have forfeited its ordinance, act, or royal charter of incorporation, or be liable to any disability, penalty or forfeiture, by reason of its having ceased to redeem its notes and liabilities in lawful current coin as aforesaid, any thing, or any ordinance, or law, or act of incorporation of this province, or in any royal charter of such bank to the contrary notwithstanding: Provided, that it shall appear proper to the Governor, Lieutenant-governor, or person administering the government of the province, that such banks should, under the circumstances disclosed by them, be allowed to continue their business of banking, notwithstanding their suspension of cash payments, in which case it shall be lawful for the Governor, Lieutenant-governor, or person administering the government of the province, in council, to make an order or minute to that effect, which shall be published in the "Quebec Gazette" during the time of such suspension of cash payments, and such order or minute of the Governor, Lieutenant-governor, or person administering the government of the province, and council, shall have the effect of saving such bank from any forfeiture of the rights, benefits or privileges and other advantages conferred on or granted to it by any ordinance of the Governor and Special Council for the affairs of this province, or by any act of the legislature of this province, or by royal charter, by reason of their suspension of cash payments, before or after the making of such order or minute, and from any and every penalty or disability which would or might otherwise ensue thereon: And provided also, that such bank shall, with its petition or application for an order or minute in the behalf aforesaid, and whensoever afterward, during the time of such suspension of specie or cash payments, the same shall be required, render unto the Governor, Lieutenant-governor, or person administering the government of this province, a statement of the affairs of the said bank, containing on the one part the amount of notes in circulation, the net profits in hand, the balances due to other banks, and the cash deposited in such bank, distinguishing deposits bearing interest, if any there be; and on the other part, the amount of current coins and gold and silver bullion in the vaults of the said bank, the value of the buildings and other real estate belonging to the said bank, and notes of other banks held by the said bank, the balances due from other banks, and the amount of all debts owing to the said bank, including and particularizing the amount so owing on bills of exchange, discounted notes, mortgages and other securities, thus exhibiting, on the one hand, the debts due by the said bank, and on the other hand, the resources thereof; and which statement of the affairs of the said bank shall also contain a statement of the amount of the capital stock subscribed, and of the amount thereof actually paid in, the rate and amount of the then last dividend declared by the said bank, the amount of the profits reserved at the time of declaring such dividend, the amount of debts due to the said bank, and secured by the pledge of the stock thereof, belonging to the persons from whom such debts are due, and the amount of debts overdue and not paid, with an estimate of the loss which may probably be incurred from the non-payment of such debts; and a list of the names of all persons who shall, at the commencement of every quarter of the year, during the time for which such statement shall be required and made, have been shareholders in the said bank, specifying the number of shares held by each and every such person at the commencement of each quarter; and also the amount of paper discounted for, or monies loaned to the directors, or for which they may be in any way security to the said bank; and the said statement of the affairs of the said bank shall be rendered, as aforesaid, under the oaths of the president, or vice-president, and three of the directors and the cashier, or principal officer of the bank rendering the same; which oaths shall and may be administered by any judge of Her Majesty's Court of Queen's Bench for this province: Provided always, that nothing herein-contained shall compel or authorize any bank to particularize in any such statement the private account of any person or persons with the said bank.

II. And whereas it may be found impracticable for individuals or associations of individuals, during the suspension of payments in specie by all or any of the incorporated or chartered banks in this province, to obtain gold or silver coins legally current therein, and it is necessary to make such provision as may afford reasonable protection in that behalf; Be it therefore ordained and enacted by the authority aforesaid, That so long as the said incorporated or chartered banks in this province, or any of them, shall, under the provisions of this ordinance, have authority to suspend payments in specie, it shall and may be lawful for the courts of this province, in any actions depending or to be hereafter brought in any of the said courts, on summary proof being made that the amount of debt was tendered by the defendant to the plaintiff before the institution of the action, in notes of the said incorporated or chartered banks, which shall have been authorized to avail themselves of the provisions of this ordinance (the said notes being generally current at par, and payable to the bearer thereof,) and on the said amount of debt being in such notes also paid into court, to be accepted by the plaintiff if he see fit, to stay proceedings in such action without costs, until further orders shall be made thereon, and the amount of the said debt shall not bear interest from the day that the tender thereof shall be made, if the said amount be subsequently paid into court in notes as aforesaid: Provided it be made to appear to the satisfaction of the

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court, that the necessity for proceeding in such action does not arise from the want of the amount of debt being ascertained.

III. And be it further ordained and enacted by the authority aforesaid, That during the continuance of this ordinance, no action or suit shall be prosecuted against any one of the aforesaid banks, which shall avail itself of the provisions of this ordinance, in order to compel payment of any notes of such bank, expressed to be payable on demand, and it shall be lawful for the president and directors of every such bank, during the continuance of their suspension of cash payments in the manner allowed by this ordinance, to apply to the court wherein any such action shall be brought or shall be depending, to stay proceedings accordingly therein in a summary way, and in case such action or suit shall be brought to compel payment of any note or notes made payable on demand, such court shall stay all proceedings during the continuance of this ordinance, or during the suspension of cash payments as provided by this ordinance: Provided always, that if it shall appear to such court to be necessary for the purpose of ascertaining the amount of any demand on such bank, or otherwise for the furtherance of justice, that any proceedings should be had for such purpose, it shall be lawful for such court to permit proceedings to be had in any such action or suit for such necessary purpose only: Provided also, that no costs shall be recovered against any such bank, in any action or suit which shall be brought for the purpose of compelling payment of any debt or demand, unless the court, wherein the same shall be brought, shall be of opinion that the same was necessary for the purpose of ascertaining the amount of such debt or demand, or the title thereto, or for the furtherance of justice as aforesaid.

IV. And be it further ordained and enacted by the authority aforesaid, That so long as any of the said incorporated or chartered banks in this province shall, under the provisions of this ordinance continue their business of banking without paying their notes in specie on demand, the total amount of the notes of such bank in circulation shall not, at any time, exceed the amount of the capital stock of such bank actually paid in.

V. And be it further ordained and enacted by the authority aforesaid, That during the time of such suspension of specie or cash payments, it shall not be lawful for any incorporated or chartered bank, in this province, which hath suspended or shall suspend specie or cash payments, to sell any portion of the gold or silver which may be in its possession, or to make any other disposition thereof which shall diminish the amount according to its legal value, than by paying in change the fractional parts of a dollar: Provided always, that nothing herein contained shall prevent the said banks respectively from disposing of the specie in their vaults to Her Majesty's Government for the public service, by and with the consent of the Governor, Lieutenant-governor, or person administering the government of this province, and the executive council thereof.

VI. And be it furthered ordained and enacted by the authority aforesaid, That all and every the provisions in this ordinance contained, shall and may likewise extend to a certain Association or Joint Company, established in London, for the purpose of carrying on the business of banking in the provinces of British North America, under the name or title of "The Bank of British North America," and whereof a branch has been established in each of the cities of Quebec and Montreal: Provided always, that in lieu of the statement and statements required of the other banks by the first section of this ordinance, the local directors and manager of each of the said branches, shall furnish under the oaths of three of the said local directors and of the manager respectively, a true and faithful return of the affairs of the said branches, in conformity with the Schedule A. hereunto annexed.

VII. And be it further ordained and enacted by the authority aforesaid, That all and every the provisions in this ordinance contained, shall and may likewise extend to a certain Association, or Joint Stock Company, carrying on the business of banking at the city of Montreal, under the name and firm of Viger, Dewitt and Company, and commonly called the "People's Bank," or "La Banque du Peuple:" Provided always, that in addition to the statement and statements required by the first section of this ordinance, the said association do furnish, under the oaths therein expressed, a list of the names, places of residence and additions of the copartners and stockholders of and in the said association; with the number of shares and amount of capital stock subscribed by each of them respectively, and the amount of such capital stock by each of them actually paid in; and distinguishing, also, in such list of copartners and stockholders the names of such of them as are the president, vice-president and directors of the said association.

VIII. And be it further ordained and enacted by the authority aforesaid, that if any person shall knowingly swear falsely, in any matter stated by him under the provisions of this ordinance, he shall, on conviction, be deemed guilty of wilful and corrupt perjury.

IX. And be it further ordained and enacted by the authority aforesaid, That this ordinance shall continue and be in force until the 1st day of June, 1839, and no longer: Provided always, that it shall and may be lawful for the Governor, Lieutenant-governor, or person administering the government of this province, by and with the advice of the executive council thereof, by his proclamation under the great seal of the province, to declare that this ordinance and all the provisions thereof shall cease and determine at any time before the lapse of the period aforesaid, but not less than two months from and after the date and publication of the said proclamation.

X. And be it further ordained and enacted by the authority aforesaid, That in so far only as this ordinance is concerned, an ordinance of the administrator of the government of the said province, by and with the consent and advice of the special council for the affairs of the said province, passed in the first year of the reign of Her Majesty, entituled, "An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor, or person authorized to execute the Commission of Governor, and

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Special Council of this Province, shall take effect," be repealed; and the same is hereby repealed, in so far only as this ordinance is concerned; and it is hereby further ordained and enacted by the authority aforesaid, that the present ordinance shall commence and have full power, effect and authority, so soon as the Governor, Lieutenant-governor, or person administering the government of the said province, shall have assented to and signed this present ordinance.

SCHEDULE (A.)—ABSTRACT from the Books of the Bank of *British North America, Montreal,* exhibiting a general Statement of the Affairs of the Branch.

Gold and silver, and other coined metals on hand -					Capital stock. Amount actually paid in - - -				
Bills and cheques on banks in these provinces - - -					Bank notes in circulation -				
Do. on other banks elsewhere					Net profits on hand - -				
Amount of debts due, including notes, bills of exchange, and all stock and funded debts of any description, except the balances due from other banks and branches -					Balances due other banks and branches - - -				
					Bank acceptances outstanding				
					Cash deposits bearing interest				
					Cash deposits, including all sums whatsoever due from the bank not bearing interest, its bills in circulation, profits and balances excepted - - - -				
Balances due from other banks and branches - - -									
Real estate - - -					Amount of dividends unclaimed				

We do hereby certify, to the best of our knowledge and belief, that the above statement of the affairs of the Bank of British North America at Montreal is correct.

Sworn before me at Montreal, this day of } (signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, at the Government-house, in the city of Montreal, the 6th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By His Excellency's command,

Tho. Leigh Goldie, Asst. Clerk of the Special Council.

Enclosure 3, in No. 88.

Anno Secundo Victoriæ Reginæ.

CAP. II.—An ORDINANCE for authorizing the Seizing and Detaining, for a limited time, of GUNPOWDER, ARMS, WEAPONS, LEAD, and MUNITIONS of WAR.

Encl. 3, in No. 88.

WHEREAS it is necessary during the insurrection and rebellion now existing within the district of Montreal, to prevent gunpowder, arms, lead or other material for making or casting musket bullets, weapons and munitions of war, from being acquired by or conveyed to the disaffected and rebellious within this province; Be it therefore ordained and enacted by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make Temporary Provision for the Government of Lower Canada," and it is hereby ordained and enacted by the authority aforesaid, that from and after the passing of this ordinance, it shall and may be lawful for any justice of the peace, magistrate, or other person or persons whomsoever, by any of them authorized, subject or subjects of Her Majesty, to take possession of, seize and detain any gunpowder, arms, lead or other materials for making or casting musket bullets, weapons and munitions of war, in the possession of any person or persons whomsoever within this province, save and except such as are or may be in the hands and possession of Her Majesty's forces, or of Her Majesty's officers, or of persons holding the same under the authority of Her Majesty's Government, and to enter in, into, and upon any dwelling house, building of any kind whatsoever, lands and tenements, to search for the same, and there to seize, attach and detain the same, and that it shall be the duty of the justice, magistrate, or other person or persons by any of them authorized, so seizing or taking, or causing to be arrested and taken any such gunpowder, arms, lead or other materials for making or casting musket bullets, weapons and munitions of war, to convey the same, or cause the same to be conveyed, to the police office in the cities of Montreal and Quebec, and town of Three Rivers, respectively, and to the office of the clerk of the peace, in the village of Sherbrooke, as the case may be, or to some

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military post within the said district, respectively, and to deliver them there, to the end that the same may be secured and disposed of in such manner as the authorities, civil or military, then and there being, may determine.

II. And be it further ordained and enacted by the authority aforesaid, That any person or persons who shall resist or otherwise impede any such justice of the peace, magistrate, peace officer, or other person or persons whomsoever, subjects of Her Majesty, in the due execution of the provisions of this ordinance, shall be guilty of a misdemeanor and being thereof convicted, on the oath of one witness, before any justice of the peace, shall be committed to the common gaol, without bail or mainprize, for the space of three calendar months.

III. And be it further ordained and enacted by the authority aforesaid, That this ordinance shall continue and be in force unto the 1st day of January 1840, and no longer: Provided always, that it shall be competent for the Governor, Lieutenant-governor, or person administering the government of this province, by and with the advice of the executive council, to limit, by proclamation, the duration of this ordinance to a period within the said date.

IV. And be it further ordained and enacted by the authority aforesaid, That an ordinance of this province, made and passed in the first year of the reign of Her Majesty, intituled, "An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor or person authorized to execute the Commission of Governor, and Special Council of this Province, shall take effect," be, and the same is hereby repealed, as to this ordinance only; and that this present ordinance shall commence and have effect within the said province, so soon as the Governor, or person authorized to execute the commission of Governor of the said province, shall have assented to and signed this present ordinance.

J. Colborne.

Ordained and enacted by the authority aforesaid, and duly passed in special council, at the Government-house in the city of Montreal, the 8th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

W. B. Lindsay, Clerk, Special Council.

Enclosure 4, in No. 88.

(No. 35.)

Anno secundo Victoriæ Reginæ.

CAP. III.—AN ORDINANCE for the suppression of the REBELLION which unhappily exists within this Province of *Lower Canada,* and for the protection of the persons and properties of HER MAJESTY'S faithful subjects within the same.

Encl 4, in No. 88.

WHEREAS a traitorous conspiracy, for the subversion of the authority of Her Majesty, and for the destruction of the established constitution and government, hath unfortunately existed within this province for a considerable time, and hath broken out in acts of the most daring and open rebellion: And whereas his Excellency Sir John Colborne, Administrator of the Government of this Province, did lawfully, and by virtue of the authority in him reposed, by proclamation, under his hand and seal at arms, bearing date at the Government-house, in the city of Montreal, the 4th day of this present month of November, declare martial law to be in force in the district of Montreal, in the said province, and as well before as since the said declaration of martial law in the said province the said rebellion did greatly extend, insomuch that large bodies of armed traitors did openly array themselves, and make the most daring and violent attacks upon Her Majesty's forces, and upon other persons in authority, and committed the most horrid excesses and cruelties on the properties and persons of Her Majesty's loyal subjects: And whereas the said rebellion still continues to rage in the said district of Montreal, and the parties therein concerned continue to desolate and lay waste the country, by the most savage and wanton violence, excess and outrage, and the civil power is set at defiance, and the ordinary course of the justice and of the law of the land is stopped in the said district: And whereas it is expedient and necessary to provide a remedy for the speedy trial and punishment of persons offending in that behalf; Be it therefore ordained and enacted, by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada," and it is hereby ordained and enacted by the authority aforesaid, That from and after the passing of this Ordinance, it shall and may be lawful for the Governor of the said province, or the person administering the government thereof, from time to time, during the continuance of the said rebellion, whether the ordinary courts of justice shall or shall not at such time be open, to issue his orders to all officers commanding Her Majesty's forces, and to all others whom he shall think fit to authorize in that behalf, to take the most vigorous and effective measures for suppressing the said rebellion in any part of the said district of Montreal, which shall appear to be necessary for the public safety, and for the safety and protection of the persons and properties of Her Majesty's peaceable and loyal subjects, and to punish all persons who before the passing of this Ordinance, that is to say,

since

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since the 1st day of the present month of November, have been, or were, or hereafter may be, acting, aiding or in any manner assisting in the said rebellion, or maliciously attacking the persons or properties of Her Majesty's loyal subjects in furtherance of the same, according to martial law, either by death or otherwise, as to him shall seem expedient for the punishment and suppression of all rebels in the said district of Montreal, and to arrest and detain in custody all persons heretofore or now engaged in such rebellion, or suspected thereof, and to cause all persons so arrested and detained in custody to be brought to trial in a summary manner by courts martial, to be assembled under such authority, and to be constituted in such manner, and of such description of persons, as the said Governor, or person administering the government of the said province, shall from time to time direct, for all offences committed since the said 1st day of November, or hereafter to be committed, in furtherance of the said rebellion, whether such persons shall have been taken in open arms against Her Majesty, or shall have been otherwise concerned in the said rebellion, or in aiding or in any manner assisting the same: and to execute the sentence of all such courts martial, whether of death or otherwise, and to do all other acts necessary for such several purposes. Encl. 4, in No 88.

II. And be it further ordained and enacted by the authority aforesaid, That no act of this Ordinance, or of the powers thereby granted, which shall be done in pursuance of it, shall be questioned in any of Her Majesty's courts of justice in the said province.

III. And be it further ordained and enacted by the authority aforesaid, That if any person who shall be detained in custody under the powers created by this Ordinance shall sue forth a writ of habeas corpus, it shall be a good and sufficient return to such writ that the party suing forth the same is detained by virtue, and under the authority, of this Ordinance, and that in answer to any such writ of habeas corpus, it shall not be necessary to produce the body of the person or persons so detained in custody.

IV. Provided always, and be it further ordained and enacted by the authority aforesaid, That nothing in this Ordinance contained shall be construed to take away, abridge or diminish the acknowledged prerogative of Her Majesty, for the public safety, to resort to the exercise of martial law against open enemies or traitors, or any powers by law vested in the Governor or person administering the government of the said province, or of any other person or persons whomsoever, to suppress treason and rebellion, and to do any act warranted by law for that purpose, in the same manner as if this Ordinance had never been made, or in any manner to call in question any acts heretofore done for the like purposes.

V. And be it further ordained and enacted by the authority aforesaid, That it shall and may be lawful for the Governor or person administering the government of this province, by proclamation, under his hand and seal at arms, from time to time, to extend all and every the provisions of the present Ordinance to any other districts or parts of this province, for such period or periods of time as to him may seem meet.

VI. And be it further ordained and enacted by the authority aforesaid, That this Ordinance shall continue and be in force until the 1st day of June next, and no longer.

VII. And be it further ordained and enacted, by the authority aforesaid, That an Ordinance of this province, made and passed in the first year of the reign of Her Majesty, intituled, "An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor, or person authorized to execute the Commission of Governor, and Special Council of this Province, shall take effect," be, and the same is hereby repealed, as to this Ordinance only; and that this present Ordinance shall commence and have effect within the said province, so soon as the Governor or person authorized to execute the commission of Governor of the said province shall have assented to and signed this present Ordinance.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, at the Government-house, in the city of Montreal, the 8th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay,* Clerk, Special Council.

Enclosure 5, in No. 88.

Anno Secundo Victoriæ Reginæ.

No. 36.

CAP. IV.—AN ORDINANCE to authorize the apprehension and detention of Persons charged with HIGH TREASON, SUSPICION of HIGH TREASON, MISPRISION of HIGH TREASON and TREASONABLE PRACTICES, and to suspend, for a limited time, as to such Persons, a certain Ordinance therein mentioned, and for other purposes.

WHEREAS divers persons charged with high treason, suspicion of high treason, misprision of high treason, and treasonable practices, are detained in prison or in custody in this province, and it is highly expedient and necessary that means should be provided for the more easily apprehending and more secure detention of such persons for a limited time, and of others who may be suspected or charged with such crimes: Therefore for the better preservation of the peace and of the laws and liberties of this province, be it therefore ordained Encl. 5, in No. 88.

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and enacted by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada," and it is hereby ordained and enacted by the authority of the same, That all or any persons that are or shall be in prison or otherwise in custody in this province, at or upon the day of the making and passing of this Ordinance, or after, by any warrant for high treason, suspicion of high treason, misprision of high treason, or treasonable practices, may be detained in safe custody without bail or mainprize during the continuance of this Ordinance, and that no judge or justice of the peace shall, during such continuance, bail or try any person or persons so committed, without an order from the Governor or person administering the government of this province, by and with the advice and consent of the executive council of the said province, any law, ordinance or statute to the contrary notwithstanding.

II. And be it further ordained and enacted by the authority aforesaid, That the Ordinance of the Governor-in-chief of this province, made and passed by and with the advice and censent of the legislative council of the said province, in the 24th year of the reign of his late Majesty king George the Third, intituled, "An Ordinance for securing the Liberty of the Subject, and for the Prevention of Imprisonment out of the Province," in so far as the same may be construed to relate to cases of high treason, suspicion of treason, misprision of high treason and treasonable practices, be suspended until the first day of June next, and that until the said day, no judge, justice of the peace, or other officer of the law in this province, shall liberate, try or admit to bail any person or persons that is, are, or shall be in prison, committed or in custody within the said province for such causes aforesaid, without an order from the Governor, or personad ministering the government of the said province: Provided always, that from and after the said 1st day of June next, the said persons so committed in prison, or in custody, shall have the benefit and advantage of all laws, ordinances and statutes any way relating to or providing for the liberty of Her Majesty's subjects in this province.

III. And be it further ordained and enacted, That this present Ordinance shall continue unto the said 1st day of June next, and no longer.

IV. And be it further ordained and enacted, That it shall be lawful for the Governor or person administering the government of the said province, from time to time, and at such times, and for and during such periods of time as to him shall seem meet, to suspend this present Ordinance and the operation thereof in any one or more of the districts of this province, or in any part or parts thereof, by proclamation under the great seal of the said province in that behalf, and that this present Ordinance shall be suspended as to any one or more of the said districts or parts of the said province, from the day of the date of such proclamation or proclamations, for and during the period or periods in such proclamation or proclamations defined and declared.

V. And be it further ordained and enacted by the authority aforesaid, that at ordinance of this province made and passed in the first year of the reign of Her Majesty, intituled, "An Ordinance to declare and ascertain the period when the Laws and Ordinances made and passed by the Governor or Person authorized to execute the Commission of Governor, and Special Council of this Province shall take effect," be, and the same is hereby repealed as to this Ordinance only, and that this present Ordinance shall commence and have effect within the said province as soon as the Governor or person authorized to execute the commission of Governor of the said province shall have assented to and signed this present Ordinance.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, at the Government-house in the city of Montreal, the 8th day of November, in the 2d year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

Enclosure 6, in No. 88.

Anno Secundo Victoriæ Reginæ.

No. 37.

CAP. V.—AN ORDINANCE to declare and define the period when the REBELLION, now unhappily existing in this Province shall be taken and held to cease, and for other purposes.

Encl. 6, in No. 88.

WHEREAS it is expedient to declare and define the period at which the rebellion, now unhappily existing in this province, shall be held and deemed to cease, and to have ceased, and to make provision for obviating any questions that may arise, as to the validity of certain proceedings after such cessation; Be it therefore ordered and enacted by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for

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for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the authority aforesaid, That the traitorous conspiracy and rebellion, which now unhappily exists in this province, shall be held and deemed to exist and prevail, within the said province, until the said Governor, Lieutenant-governor, or person administering the government of the said province shall, by proclamation, issued under his hand and seal at arms, declare the same to have ceased, and been effectually suppressed, and that the said traitorous conspiracy and rebellion shall be held and taken to have ceased, and been effectually suppressed, upon and from and after the day of the date of the said proclamation.

II. And be it further ordained and enacted by the authority aforesaid, That if any court or courts martial, appointed and constituted by the Governor, or person administering the government of the said province, under and by virtue of an ordinance passed in the second year of the reign of Her Majesty, intituled "An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same," shall, on the day of the date of the said proclamation, be still in being, and remain constituted, it shall be lawful for such court or courts martial, notwithstanding that the said traitorous conspiracy and rebellion shall be so as aforesaid declared to have ceased, to hear, try, and determine all charges or accusations against any person or persons, or to continue the trials then already begun, of any person or persons, and to give sentence for any of the offences in the said Ordinance mentioned, according to martial law, in the same manner as if such traitorous conspiracy and rebellion had not ceased, or such proclamation had not been issued.

III. Provided always, and it is hereby further ordained and enacted, That the provisions of this present Ordinance shall not extend, nor be construed to extend, to any offences of the nature and description in the said ordinance mentioned, other than those which were committed between the first day of this present month of November, and the day of date of the proclamation to be issued in manner aforesaid.

IV. And be it further ordained and enacted by the authority aforesaid, That this Ordinance shall continue and be in force until the first day of June now next ensuing, and no longer.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house, in the city of Montreal, the 16th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

Enclosure 7, in No. 88.

Anno Secundo Victoriæ Riginæ.

No. 38.

CAP. VI.—AN ORDINANCE to authorize to Governor, or person administering the Government of this Province, to appoint persons as Justices of the Peace and Stipendiary Magistrates, notwithstanding an Act of the Legislature of the Province of Lower Canada, passed in the sixth year of the reign of his late Majesty King William the Fourth, intituled, "An Act for the Qualification of the Justices of th Peace."

Encl. 7, in No 88.

WHEREAS it is expedient that the Governor, or person administering the government of this province, should be invested with the power of nominating and appointing such and so many persons, to be justices of the peace and stipendiary magistrates for such and so many of the districts, counties, seigniories, townships, cities, boroughs, parishes and extra parochial places within the said province, as to him may seem meet, although such persons may not be qualified to be or to act as justices of the peace, according to the requirements of the Act of the Legislature of the said province, intituled, "An Act for the Qualification of the Justices of the Peace;" Be it therefore ordained and enacted, by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of, and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada," and it is hereby ordained and enacted by the authority aforesaid, That it shall and may be lawful for the Governor, Lieutenant-governor, or person administering the government of the said province, by commission, or by any instrument or instruments under his hand and seal, to nominate and appoint such and so many persons to be justices of the peace and stipendiary magistrates, for such and so many districts, counties, seigniories, townships, cities, boroughs, parishes, and extra parochial

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chial places as to him may seem meet, although such persons may not be qualified to be or to act as justices of the peace, under the provisions of the said Act of the Provincial Legislature, any thing in the said Act of the Provincial Legislature to the contrary hereof notwithstanding.

II. And be it further ordained and enacted by the authority aforesaid, That this present Ordinance shall continue and be in force until the first day of May, 1840, and no longer.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house in the city of Montreal, the 16th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay,* Clerk, Special Council.

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No. 89.
Sir J. Colborne to Lord Glenelg, 17 Nov. 1838.

(No. 5.)

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

My Lord, Government House, Montreal, 17 Nov. 1838.

In my despatch of the 11th instant I mentioned the movements and projects of the rebels in L'Acadie, La Prairie, and Beauharnois, and the measures which I had adopted to check and disperse the rebel force collected at Chateaugay, Beauharnois and Napierville. I have now the honour to transmit to you the several reports of the officers who have been employed in command of the corps acting against the rebels, and to state that their dispersion has been complete. I had reason to believe, from the information which had been conveyed to me, in regard to the extensive conspiracy that exists in the United States, in connexion with the disaffected of these provinces, that the brigands enrolled in the states of Vermont and New York were prepared to take advantage of the movements of the insurgents to enter Lower Canada from the Champlain and Alberg. I therefore made arrangements the day after the outbreak to assemble a force that would enable me effectually to protect the province from the invasion of the brigands of the United States, and put an end to the outrages of the rebels.

On the 7th and 8th the troops, under the command of Major-general Sir James Macdonell, and Major-general Clitherow, had passed the St. Lawrence and were concentrated at St. John's and L'Acadie, consisting of the 1st dragoon guards, 7th hussars, grenadier guards, 15th, 24th, 71st and 73d regiments, and two batteries of the royal artillery, and, on the 9th, marched in two columns towards Napierville, one by St. Valentine, opposite Isle-aux-Noix, to occupy the road leading from La Colle to the frontier, and the other by the direct route of L'Acadie. The columns entered Napierville nearly at the same time, and the rebels, who had been attacked and harassed on the 7th and 8th by the volunteers of the La Colle frontier, assembled at Odell Town, endeavoured to join their associates posted on the Chateaugay river; but, on hearing of the operations of the detachment, 71st regiment, and the Glengarry militia at Beauharnois and Chateaugay, they dispersed, and either returned to their homes or fled to the frontier. The detachment of the 71st regiment and the Glengarry militia, which I had ordered Major Phillpots to assemble at Coteau-du-Lac, and to cross to Point Cartier, in Hungry Bay, passed Lake St. Francis on the 10th, under the command of Major Carmichael (particular service) and, after a march of 23 miles, drove the rebels out of Beauharnois before evening, and followed them towards the Chateaugay river. On the 11th Sir James Macdonell proceeded with his corps to St. Edouards and to St. Remi, on his receiving information that the rebels were still in possession of that village.

Major-general Clitherow returned to St. John's, and passed the Richelieu to Henryville, to check a movement which the brigands had projected from Alberg. The 66th regiment, with a demi-battery of artillery, which had been directed to move from Sorel to St. Hilaire, nine miles from St. Charles, kept in check the rebels of St. Cesaire, St. Marie de Manoir, and those from Contre-Cœur and Vercheres assembled on the left bank of the Richelieu. I returned to Montreal

on

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on the 13th, and found, from a report from Major Young (particular service), commanding at Prescott in Upper Canada, that the United States brigands had effected a landing two miles below that town. I lost no time in ordering a detachment of the 71st regiment, the 93d regiment and the Glengarry volunteers to cross from Beauharnois to the Cascades in Vaudreuil, and to be conveyed from Coteau-du-Lac to Prescott, and Colonel Wetherall with a detachment of the royal regiment from Montreal. The greater part of this force, I believe, reached the neighbourhood of Prescott on the 14th, 15th and 16th instant. These corps, when united, will amount to about 2,000 men, a force, I have no doubt, quite sufficient to repel any further attack which may be projected by the brigands on that district of the St. Lawrence.

The companies of the 93d regiment, which were on the route to Toronto at the outbreak at Beauharnois, and were ordered to pass the Lake St. Francis with the Glengarry militia, were, I hope, to be at Prescott on the evening of the 14th, and will be stationed in Upper Canada.

I have, &c.
(signed) *J. Colborne.*

Enclosure 1, in No. 189.

Encl. 1, in No. 189.

Sir, La Colle Frontier, Odell Town, 7 November 1838.

I HAVE the honour to acquaint you, for the information of his Excellency Sir John Colborne, of the events on this frontier, although the communication should properly come through Lieutenant Colonel Odell.

Yesterday forenoon our picquet was attacked at La Colle steam grist mill, by a party of horse and foot rebels, when four of the mounted were either killed or wounded, as they were seen to fall from their horses: at the same time the picquet was compelled to give way. It was reported that a large body of rebels was coming on the west road of La Colle to co-operate with the force which had already come in; and, under our view, it was thought proper to take up a new position for the night, which we did, to save us from being surrounded. In the mean time, I suggested the propriety of requesting Major Schriver to advance, with all his disposable force, to render us assistance to dislodge the enemy, who had posted themselves on the lines on the east road, leading from Mr. Screen's tavern; number said to be between 400 and 500. Major Schriver joined us with his forces about 10 o'clock, and, after forming a plan of attack, we advanced; in the first instance, despatching Captain Fisher, with his company, to the north, to cut off the retreat, Captain Weldon's company to flank the left, the La Colle frontier company to make the attack on the right, supported by Captain ————, Major Schriver, with his battalion, to carry the centre. I have the pleasure to state, the whole advanced in good order and fine spirits, although they were aware the enemy had at least one field piece. The attack was commenced by the La Cole frontier company being first fired at by the enemy, when, in a few minutes, the whole line was engaged; and I have the pleasure to state, that, in about 20 or 25 minutes, the enemy ran in every direction, the greatest number crossing the lines, leaving behind them one six-pounder, a large number of American muskets, cannon shot, both round and grape, one keg of powder, as well as a quantity of ball cartridge, and a great number of pikes, leaving 11 dead on the field and seven prisoners; and it is gratifying to be able to state that every officer and non-commissioned officer and private volunteer have done their duty.

Major Schriver, not thinking it safe to leave the Hemmingford position open, returned immediately after the action. The enemy's marauding party, horse and foot, advanced one mile south of La Colle village, carrying with them such valuables as they could lay their hands on. This took place about the close of the action.

Permit me to suggest to his Excellency the propriety of following up this victory, as they are now disheartened; and, as far as I can understand, not well armed. I think 500 regulars, with two pieces of artillery and one troop of dragoons, would be able, with the assistance of the volunteers, to route and put to flight all the rebels on this side of the St. Lawrence, and I strongly advise that this movement should take place immediately, before they can recruit and get a further supply of arms.

I beg the liberty of further remarking, that the whole of the volunteers, as well as the La Cole militia, have been under arms since this day week, and up day and night; and I fear they cannot stand out much longer, unless the military come to their assistance; and by a timely force, a great deal of mischief and calamity may be prevented.

I have, &c.

Lieutenant-colonel Taylor,
&c. &c. &c. St. John's.

(signed) *E. March,*
Captain La Cole Frontier Light Infantry.

P.S.—Two of our men killed, and one severely wounded.

Captain Elliot, of the rebel army, severely wounded, and taken prisoner; afterwards given up at the request of Mr. Moorhouse, by Lieutenant-colonel Odell, and carried across the lines.

(signed) *E. M.*

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Enclosure 2, in No. 89.

Sir, Odell Town, 9 November 1838.

Encl. 2, in No. 89.

I HAVE the honour to report to you, for the information of his Excellency the Commander of the Forces, the result of an affair with the rebels which has just terminated, and which reflects high honour upon the loyal volunteers of this district.

At half-past ten A. M., I received from my advanced guard a report that the rebels were approaching in great force from La Colle and Napierville. The whole force under my command amounted to 200 men only, and we were very short of ammunition. I directed therefore that a concentration should take place at Odell Town Chapel, a stone building, which I considered tenable as a military post.

The enemy came on us with rapidity, and opened upon us a heavy fire of musketry. We kept them off, however, for about half an hour, and finally took up our position in the chapel, sweeping the road with a gun which had previously been captured from them.

After an action of two hours and a half, during which several brilliant and successful sallies were made by the volunteers (during one of which I was reluctantly obliged to fire two barns belonging to Mr. Smith, which afforded shelter to the enemy's riflemen), the rebels retreated, leaving 50 men dead on the field, and carrying off about as many wounded. I have the honour to enclose a return of the force opposed to us, by which his Excellency will perceive that we were opposed by 911 men. These were under the personal command of Dr. Robert Nelson, aided by Brigadier Hinderlang, an officer of the French army. The satisfaction I experience in thus recording an instance of the gallantry of the loyal volunteers is greatly diminished by the necessity I am under of reporting the death of Captain M'Allister and five men, and the present loss of service, by wounds, of Lieutenant Hiram Odell, and eight men.

Finding the great disparity of force between the loyalists and the rebels, I wrote to Captain Grattan, at Isle aux Noix, asking him if he could, consistently with the safety of the fort, give me any aid. That officer replied by marching in person with a detachment, accompanied by Ensign Hutton, of the 73d, and assistant-surgeon Dr. Ryan. This party arrived too late to participate in the action; but I beg to assure his Excellency, that Captain Grattan's rapid march, his forethought in bringing ammunition and gunners, and the aid I have since received from him, entitle him to my warmest thanks. Ensign Hutton, an old officer, has shown himself zealous and intelligent, and Dr. Ryan's medical services have been very valuable in relieving the sufferings of the wounded.

I am also glad to record the arrival, as volunteers, of Captain Vaughan, Lieutenant Johnson, and Captain Rose, of Caldwell's Manor. The two former, with their men, reached us just as the enemy were in retreat, and aided in their complete discomfiture.

Major Schriver, also, with his Hemmingford battalion, came up shortly after the action. Captain Alexander M'Fee and Lieutenant Cascadden; Captain Donald M'Fee, Lieutenant Spearman, and Ensign Hayes; Captain Woolrich, Lieutenant Simons, and Lieutenant Shields, with their respective companies, accompanied Major Schriver as officers; while Captain Edwards, Lieutenant Barratt, and Ensign Carran, with Mr. Willsie, preferred to shoulder the firelock, rather than remain behind. Captain M'Allister, Lieutenant Nesbitt, and Ensign Towin, participated in the action as volunteers; nor can I close this despatch without mentioning that I feel highly indebted to Lieutenant-colonel Odell, Major Odell, Captains March, Hays, Wildon, Strikes and Stott, and Lieutenant Odell, for their advice, cheerful co-operation, and ready zeal in the performance of their various duties.

I am also anxious to bring to his Excellency's notice, and to recommend to protection and reward, Serjeant Beattie, of the royal regiment, who has shown himself a gallant, good soldier, under very trying circumstances.

(signed) *Charles Cyril Taylor.*

P. S.—I enclose herewith some important documents taken from the person of Brigadier Hinderlang, now a prisoner.

Colonel Rowan, Military Secretary.

Enclosure 3, in No. 89.

Encl. 3, in No. 89.

Sir, Beauharnois, 10 November, 10 P.M.

I HAVE the honour to acquaint you, for the information of his Excellency the Commander of the Forces, that, in conjunction with Colonel Philpotts, a detachment of one officer of engineers, 22 sappers and miners, one captain, three subalterns, four serjeants, two buglers, and 121 rank and file, 71st regiment, with upwards of 1,000 Glengary men, were landed at Hungry Bay this morning, marched, and took Beauharnois, rescued all the prisoners, with the exception of Messrs. Ellice, Brown, Norman, Ross, Norval, Bryson, Houndslow and Surveyer, supposed to be at Chateauguay, with the loss of one man killed, and three wounded, of the 71st regiment.

The men are much fatigued, and we wait here for orders.

I have, &c.

L. Carmichael, Colonel P. S.

Major Hall, Assistant Quartermaster-general.

No. 89.
Sir J. Colborne to Lord Glenelg, 17 Nov. 1838.

Enclosure 4, in No. 89.

Sir, Beauharnois, 13 November 1838.

Encl. 4, in No. 89.

Colonel Carmichael having marched yesterday to St. Martin's with the 1st and 2d regiments, Glengary Highlanders, it becomes my duty to send you the enclosed return of the men wounded in our attack on this place on the night of Saturday last, the 10th instant. I regret exceedingly to have occasion to inform you, that I have found it impossible to prevent the destruction of the greater part of this village by fire.

The whole of the troops were under arms for this purpose until past three o'clock on Sunday morning,, although they had been so much fatigued and harassed by the exertions of the preceding day; but they had no means of extinguishing the flames, which I am sorry to say have extended to the houses of many loyalists.

This part of the country seems to be now tolerably quiet. The volunteers are daily bringing in many prisoners, some of whom appear to have been ringleaders, and very active in the late rebellion. I have assembled a court of inquiry for the purpose of investigating the conduct of each individual, in order that those only whose conduct appears to have been decidedly bad may be sent down to Montreal. The proceedings of this court shall be sent to you with the prisoners in a few days.

I have, &c.

Lieut.-col. Eden, D. A. General, Head Quarters.

(signed) *George Philpotts*, Major R. E., Local Col. Com^s at Beauharnois.

71st Light Infantry.

Return of Men of Captain *Spier's* Company who were wounded in an Encounter with the Rebels at *Beauharnois*, on the Evening of the 10th November 1838.

Reg. No.	NAMES.	AGE.	REMARKS.
938	Private Adam John Coll - -	20	
453	„ Peter Suoner - -	24	-- died at 12 o'clock p.m., 11 Nov. 1838.
731	„ Thomas Beattie - -	25	

(signed) *W^m Spier*, Captain 71st Reg^t, Com^s Detachment.

(signed) *George Philpotts*, Ass^t Q. M. General.

Enclosure 5, in No. 89.

Sir, St. Edward's (or St. George), 11 Nov. 1838.

Encl. 5, in No. 89.

I have the honour to report my arrival at this place. By all accounts the rebels have completely dispersed. Soon after leaving Douglas's Corner, we came to the houses of two notorious rebels, of the name of Boyer, who were engaged in the revolt of last winter. I caused their houses to be burned; and at La Grande Frenier I also had the house of a notorious rebel, of the name of Bell, a blackmith, and who manufactured pikes for the insurgents, to be destroyed by fire on our march; and at this place I have made prisoners of several leaders of minor note, whose houses I shall also cause to be destroyed on my moving off. I have received intelligence that the rebels who left Chateauguay yesterday morning, with their prisoners, 12 in number, dispersed at Pigeonière last evening, distant about two miles from St. Edward's, setting the prisoners at liberty, amongst whom were Mr. Ellice, Colonel Clive and Mr. Brown, who immediately proceeded to La Prairie.

I shall send this evening for intelligence. I shall be guided by what I learn, either in making a move, or halting here till I receive your further instructions.

I have, &c.

(signed) *J. M^cDonnell*, M. Gen^l.

His Excellency Lieut.-gen. Sir J. Colborne, G. C. B.
&c. &c. &c.

Enclosure 6, in No. 89.

Sir, Chambly, 15 November 1838.

Encl. 6, in No. 89.

I have the honour to acquaint you that on my arrival here yesterday evening, I learned that the camp in the Boucherville Mountain had broken up, and that Miotte had crossed over at the ferry to Point Olivier. I also heard of some threatened disturbances at St. Mary's, on the opposite side of the river. I ordered an officer and 30 men of the 15th, accompanied by some loyal persons acquainted with the inhabitants, to leave this at five o'clock this morning, and go there to search for arms, not without hopes of taking Miotte.

No. 89.
Sir J. Colborne to Lord Glenelg, 17 Nov. 1838.

Encl. 6, in No. 89.

Some arms were taken, and two leading agitators are brought in, who remain for examination to-morrow. I also learnt from the curé of this place (who has been most praiseworthy in his exertions to restrain his flock from participating in the rebellion, and in bringing to justice the agitators and those who coerced the peaceably disposed), that he had learned that three guns and a considerable quantity of arms and ammunition were in the mill near the lake, in the centre of the Boucherville Mountain. That he had sent a young ecclesiastic of the name of Le Zéore, to recommend to his parishioners, for their own interest, the voluntary surrender of all those warlike stores immediately to him, to be by him delivered to me, and hourly expected them.

As they did not arrive last night, I patrolled to the mountain this morning with 20 dragoons, and on arriving at the wood about 11 o'clock, met Major Johnston, with the 66th and two guns, proceeding to make the seizure. After making some visits for arms, and sending home the patrol, I joined Major Johnston at the Mill, and found him in possession of three guns, ten or a dozen casks of powder, some 30 muskets, and a great many pikes, also a good deal of ammunition made up, particularly artillery cartridges, with bags containing some dozen of musket-balls attached to each.

Major Johnston was to return to Belœil for the night with his capture, the particulars of which he will no doubt himself detail; but I write this, as I have a more direct means of communication.

I have, &c.

The Military Secretary, Montreal. (signed) *Geo. Cathcart*, Lieut.-col., K.D.G.

Enclosure 7, in No. 89.

Sir, Prescott, 12 November 1838.

Encl. 7, in No. 89.

I HAVE to acquaint you for the information of his Excellency the Commander of the Forces, that the patriots effected a landing at the windmill point, two miles from this on the road to Cornwall, at 10 o'clock this morning. At four, when perfectly dark, they attempted to run two large schooners alongside the wharf in the town; but the small garrison being on the alert, in expectation of an attack from some quarter, their object was defeated, and they got into the American waters, where they anchored; and at nine, assisted by the States steamer, "United States," which, as well as "The Paul Pry" ferry-boat, between this and Ogdensburg, the rebels took possession of last night, they disembarked a body of them with three guns, without the possibility of preventing it, as, had we moved in that direction in sufficient force, the town and block-house must have been left nearly defenceless, and would, in all probability, have fallen into the hands of the enemy. They still retain possession, and until joined by a reinforcement of troops, I fear we shall not be able to dislodge them.

"The Experiment" Government steamer arrived at five o'clock, and exchanged several shots with the steamer, one of which struck her, and she is now near Ogdensburg at anchor. She also attacked one of the schooners, but without effect, as she immediately took refuge in the United States waters. I shall immediately forward an application to Kingston for assistance.

"The Experiment" still remains ready to renew the attack whenever she has an opportunity.

I have, &c.

(signed) *Plomer Young*, Col[l] Par[l] Service.

I expect to be able to write more fully to-morrow. They are computed at 800; 400 of which we suppose to be landed.

Captain Goldie, A.D.C.

(No. 6.) —No. 90.—

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

No. 90.
Sir J. Colborne to Lord Glenelg, 18 Nov. 1838.

My Lord, Head Quarters, Montreal, 18 Nov. 1838.

I HAVE the honour to report to you, that through the activity and exertions of Lieutenant-colonel Dundas, 83d regiment, commanding at Kingston, the brigands from the United States, who effected a landing near Prescott, surrendered on the 17th instant. The report of Lieutenant-colonel Dundas is annexed.

I am persuaded, that although Upper Canada may be constantly exposed to similar aggressions, the efforts of the vicious population of the United States to disturb that province will end in the destruction of the brigands who venture to invade it, and whom it is evident the Americans cannot restrain.

Your Lordship will hear with great satisfaction that 5,000 of the Upper Canada militia had assembled at Prescott to repel the invaders before they surrendered.

I have, &c.

(signed) *J. Colborne.*

No. 90.
Sir J. Colborne to Lord Glenelg, 18 Nov. 1838.

Encl. in No. 90.

Enclosure in No. 90.

Sir, Prescott, Upper Canada, 16 November 1838.

I HAVE the honour to acquaint you, for the information of his Excellency the Commander of the Forces, that I came down here yesterday from Kingston, with four companies of the 83d regiment, two 18-pounders, and a howitzer, and moved up from the town to a position about 400 yards from the windmill and adjoining houses, occupied by the brigands. They did not move or come out of the house to oppose my advance. The 18-pounders opened with a good effect upon the stone buildings near the mill. Captain Sandom, with two gun-boats, in which he carried two 18-pounders, took up a position below the windmill, which he cannonaded, but not with much effect. After cannonading these buildings for an hour, or rather more, observing the brigands to be quitting them, and endeavouring to escape, I ordered the troops to advance; very little resistance was offered by the party occupying the windmill, but a smart fire was opposed to us from the adjoining stone buildings. It being dark before the troops got round the buildings, and the brigands in the windmill having displayed a white flag, they were summoned to surrender themselves unconditionally, which they did. Eighty-six prisoners were immediately secured, and sixteen others, who were wounded, were removed from the mill as conveyance could be found. A large supply of arms, 26 kegs of powder and three pieces of ordnance fell into our hands. Some of the brigands effected their escape from the buildings when darkness came on, and hid themselves in the brushwood on the bank under the mill. I directed the militia to scour the bank, and several prisoners were thus secured, among others, a Pole, calling himself General Van Sault, who, it is understood, was the principal leader. All the buildings adjoining the mill are destroyed, but the latter I directed to be occupied by a company of militia, and propose that it should continue to be so, or entirely demolished. I am happy to say this service was performed with the loss of one man only of the 83d regiment.

I have, &c.

Captain Goldie, A.D.C. (signed) *H. Dundas*,
Montreal. Lieutenant-colonel 83d Regiment Commanding.

—No. 91.—

(No. 10.)

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

My Lord, Government House, Montreal, 28 Nov. 1838.

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.

Cap. VII. to XII.

I HAVE the honour to transmit herewith for your Lordship's information, with reference to my despatch (No. 4) of the 17th instant, printed copies of the following ordinances which have been passed by the special council since that date, viz.

No. 39. An Ordinance for the attainder of persons against whom sentences or judgments of courts martial shall be given, under and by virtue of an ordinance passed in the second year of Her Majesty's reign, intituled, "An Ordinance for the suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same;" and of another Ordinance passed in the said second year of Her Majesty's reign, intituled, "An Ordinance to declare and define the period when the Rebellion, now unhappily existing in this Province, shall be taken and held to cease, and for other purposes."

No. 40. An Ordinance for more effectually preventing the administering or taking of unlawful Oaths, and for better preventing treasonable and seditious practices.

No. 41. An Ordinance to extend the provisions of certain Ordinances therein mentioned to the district of Saint Francis, in the Province of Lower Canada.

No. 42. An Ordinance to confirm certain Ordinances of the Governor of this Province, and of the Special Council for the affairs thereof, and to declare the period at which they respectively commenced and took effect.

No. 43. An Ordinance to authorize the trial in any district of this Province of persons charged with certain crimes and offences.

No. 44. An Ordinance to authorize the Governor or person administering the Government of this Province, to cause the confinement in any of the gaols in the said Province of persons committed or detained for certain crimes, and for other purposes.

I have, &c.

(signed) *J. Colborne.*

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.

Encl. 1, in No. 91.

Enclosure 1, in No. 91.

Anno Secundo Victoriæ Reginæ.

No. 39.

CAP. VII.—AN ORDINANCE for the Attainder of Persons against whom Sentences or Judgments of Courts Martial shall be given, under and by virtue of an Ordinance passed in the second year of Her Majesty's reign, intituled, "An Ordinance for the Suppression of the Rebellion which unhappily exists within this Province of *Lower Canada*, and for the Protection of the Persons and Properties of Her Majesty's faithful Subjects within the same;" and of another Ordinance passed in the said second year of Her Majesty's reign, intituled, "An Ordinance to declare and define the Period when the Rebellion, now unhappily existing in this Province, shall be taken and held to cease, and for other purposes."

WHEREAS his Excellency Sir John Colborne, the administrator of the government of this province, did lawfully and by virtue of the authority in him reposed, by proclamation under his hand and seal at arms, bearing date at the Government House in the city of Montreal, the 4th day of the present month of November, declare martial law to be in force in the district of Montreal, in the said province: And whereas, in and by an ordinance of the administrator of the government of the said province, authorized to execute the commission of Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, passed in the second year of the reign of our Lady the Queen, intituled, "An Ordinance for the Suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the Protection of the Persons and Properties of Her Majesty's faithful Subjects within the same;" it is enacted that it shall and may be lawful for the Governor, or person administering the government of the said province, to arrest and detain in custody all persons before that time or then engaged in the said rebellion, or suspected thereof, and to cause all persons so arrested and detained in custody to be brought to trial in a summary manner, by courts martial, to be assembled under such authority, and to be constituted in such manner, and of such description of persons, as the said Governor, or person administering the government of the said province, shall from time to time direct, for all offences committed since the first day of this present month of November, or thereafter to be committed, in furtherance of the said rebellion, whether such persons shall have been taken in open arms against Her Majesty, or shall have been otherwise concerned in the said rebellion, or in aiding or in any manner assisting the same, and to execute the sentence of all such courts martial, whether of death or otherwise, and to do all other acts necessary for such several purposes: And whereas it is expedient and necessary to ascertain and declare what shall be the consequences in law of the sentences or judgments of any court or courts martial to be given or passed in the behalf aforesaid; Be it therefore ordained and enacted by his Excellency the administrator of the government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted by the authority aforesaid, that all and every the sentences and judgments whereby the pain of death shall be adjudged, made, given and passed by any court martial or courts martial to be appointed and constituted by the Governor or person administering the government of the said province, under and by virtue of the said ordinance and of the ordinance of the administrator of the government of the said province, authorized to execute the commission of Governor thereof, with the advice and consent of the special council for the affairs thereof, passed in the second year of the reign of our said Lady the Queen, intituled, "An Ordinance to declare and define the period when the Rebellion, now unhappily existing in this Province, shall be taken and held to cease, and for other purposes," upon or against any person or persons whomsoever, by virtue of the said ordinances, shall have the effect of an attainder or attainders of the person or persons upon and against whom such sentences or judgments shall be made, given and passed, to all intents and purposes whatsoever in the law; and that the lands, tenements, hereditaments, credits, rights, goods, chattels, and all other things, personal and real, of all and every such person or persons so sentenced or adjudged, shall be and remain forfeited to the Queen's Majesty, Her heirs and successors, for ever; without prejudice, however, to the rights of the *bonâ fide* creditors of such persons so sentenced or adjudged to suffer the said pain of death, for all dues, charges and incumbrances existing prior to the commission of the offence for which such sentence or judgment shall have been so made, given or passed.

II. And be it further ordained and enacted by the authority aforesaid, that it shall be the duty of all and every judge advocate or judge advocates who shall be appointed to act as such at and during the said court or courts martial, or any of them, and he and they are hereby required to deliver or transmit to the prothonotary of Her Majesty's Court of Queen's Bench for the said district of Montreal, forthwith after the giving and passing of any sentences or judgments in the behalf aforesaid, true and correct copies of all and every such sentences or judgments, certified under the hand and seal of the president of any such court or courts martial, and by the signature of any such judge advocate or judge advocates, and the prothonotary of the said court is hereby required to affile of record in the said Court of Queen's Bench all and every such sentence and sentences, judgment and judgments, and duly to enrol the same.

III. And

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.
Encl. 1, in No. 91.

III. And it is hereby further ordained and enacted by the authority aforesaid, that office copies of any such sentences or judgments so delivered to the said prothonotary, and affiled of record, certified by the said prothonotary, shall, in all Her Majesty's courts of judicature, and for all legal purposes whatsoever, be good and sufficient evidence of the contents of such sentences or judgments.

IV. And to the end that all creditors and claimants upon the property of such person or persons so sentenced or adjudged to suffer the pain of death may have an opportunity of establishing such claims, charges and incumbrances as may be respectively due to each, and be paid the same out of the proceeds of such property; Be it therefore further ordained and enacted by the authority aforesaid, that within fifteen days after the affiling of such judgments or sentences of such courts martial with the prothonotary of the said Court of Queen's Bench, it shall and may be lawful for and on behalf of Her said Majesty to sue out writs in virtue of such sentences or judgments directed to the sheriff of the said district, commanding him to seize and sell the moveable and immoveable property of such persons so sentenced or adjudged to suffer the pain of death, after such advertisements, and in the same mode and manner as may now by law be used in respect to executions or judgments for debt rendered in the said Court of Queen's Bench, and to make return of his doings and levyings on such writs to the said court as he is now by law held and bound to do on writs of execution; and all persons having claims *afin de distraire* or *afin de charge*, or for dower upon such immoveable property, shall be held, as is now practised, to make and file oppositions in support of the same with the said sheriff, accompanied by affidavits establishing the claim, fifteen days at least before the day fixed for the sale of such immoveable property; and all persons having claims upon the monies levied and returned by the said sheriff before the said court, shall be held to make and file their claim on the day after such return shall be made by the said sheriff, and all persons failing to make such opposition within the delays herein prescribed for the same respectively, shall be wholly and for ever precluded from so doing, and from all claims which, under such oppositions, might have been established.

V. And be it further ordained and enacted by the authority aforesaid, That all purchasers at such sheriff's sales, uuder such writs as aforesaid, shall have a valid, absolute and indefeasible title to such property so by them purchased, to them, their heirs and assignns for ever.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house in the city of Montreal, the 20th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, in the year of our Lord, 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

Enclosure 2, in No. 91.

Anno Secundo Victoriæ Reginæ.

No. 40.

Encl. 2, in No. 91.

CAP. VIII. — AN ORDINANCE for more effectually preventing the administering or taking of unlawful Oaths and for better preventing Treasonable and Seditious Practices.

WHEREAS divers wicked and evil-disposed persons have, of late, attempted to seduce divers of Her Majesty's subjects in this province from their allegiance to Her Majesty, and to incite them to acts of sedition, rebellion, treason and other offences, and have endeavoured to give effect to their wicked and traitorous proceedings, by imposing upon the persons whom they have attempted to seduce and incite the pretended obligation of oaths unlawfully administered, and whereas divers societies and associations have been, of late, instituted in this province, of a new and dangerous nature, inconsistent with public tranquillity and with the existence of a regular government; Be it therefore ordained and enacted, by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled "An Act to make temporary provision for the Government of Lower Canada," and it is hereby ordained and enacted, by the authority of the same, That any person or persons who shall, in any manner or form whatsoever, administer, or cause to be administered, or be aiding or assisting at, or present at and consenting to the administration or taking of any oaths or engagement purporting or intending to bind the person taking the same to commit any treason or murder, or any felony punishable by law with death, or to engage in any seditious, rebellious or treasonable purpose, or to disturb the public peace, or to be of any association, society or confederacy formed for any such purpose, or to obey the orders or commands of any committee or body of men not lawfully constituted, or of any leader or commander or other person not having authority by law for that purpose, or not to inform or give evidence against any associate, confederate, or other person, or not to reveal or discover any illegal act done or to be done,

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.

Encl. 2, in No. 91.

or not to reveal or discover any illegal oath or engagement which may have been administered or tendered to or taken by such person or persons, or to or by any other person, or the import of any such oath or engagement, shall, on conviction thereof by due course of law, be adjudged guilty of felony, and may be transported for any term of years not exceeding 21 years, and every person who shall take any such oath or engagement, not being compelled thereto, shall, on conviction thereof by due course of law, be adjudged guilty of felony, and may be transported for any term of years not exceeding seven years.

II. Provided always, and be it further ordained and enacted, That compulsion shall not justify or excuse any person taking such oath or engagement, unless he or she shall, within eight days after the taking thereof, if not prevented by actual force or sickness, and then within eight days after the hindrance produced by such force or sickness shall cease, declare the same, together with the whole of what he or she shall know touching the same, and the person or persons by whom and in whose presence and when and where such oath or engagement was administered or taken, by information, on oath, before one of Her Majesty's justices of the peace for the district in which such oath or engagement was administered or taken.

III. And be it further ordained and enacted by the authority aforesaid, That persons aiding and assisting at, or present and consenting to the administering or taking of any such oath or engagement as aforesaid, and persons causing any such oath or engagement to be administered or taken, though not present at the taking or administering thereof, shall be deemed principal offenders, and shall be tried as such, although the person or persons who actually administered such oath or engagement, if any such there shall be, shall not have been tried or convicted.

IV. And be it further ordained and enacted by the authority aforesaid, That it shall not be necessary, in any indictment against any person or persons administering or causing to be administered or taken, or taking any such oath or engagement as aforesaid, or aiding or assisting at, or present at and consenting to the administering or taking thereof, to set forth the words of such oath or engagement, and that it shall be sufficient to set forth the purport of such oath or engagement, or some material part thereof.

V. Provided always, and be it further ordained and enacted by the authority aforesaid, That any engagement or obligation whatever in the nature of an oath shall be deemed an oath within the intent and meaning of this ordinance, in whatever form or manner the same shall be administered or taken, and whether the same shall be actually administered by any person or persons, or taken by any person or persons, without any administration thereof by any person or persons.

VI. And be it further ordained and enacted by the authority aforesaid, That from and after the passing of this ordinance, all and every society or association now established or hereafter to be established, the members whereof shall, according to the rules thereof, or to any provision or any agreement for that purpose, be required to keep secret the acts or proceedings of such society or association, or admitted to take any oath or engagement which shall be an unlawful oath or engagement within the intent and meaning of the foregoing provisions of this ordinance, or to take any oath or engagement not required or authorized by law; and every society or association, the members whereof or any of them shall take or in any manner bind themselves by any such oath or engagement, or in consequence of being members of such society or association; and every society or association, the members whereof or any of them shall take, subscribe, or assent to any engagement of secrecy, test or declaration not required by law, and every society, of which the names of the members or any of them shall be kept secret from the society at large, or which shall have any committee or select body so chosen or appointed, that the members constituting the same shall not be known by the society at large to be members of such committee or select body, or which shall have any president, treasurer, secretary or delegate, or other officer so chosen or appointed, that the election or appointment of such persons to such offices shall not be known to the society at large, or of which the names of all the persons and of all committees or select bodies of members, and of all presidents, treasurers, secretaries, delegates and other officers, shall not be entered in a book or books for that purpose, and to be open to the inspection of all the members of such society or association; and every society or association which shall be composed of different divisions or branches, or of different parts acting in any manner separately or distinct from each other, or of which any part shall have any separate or distinct president, secretary, treasurer, delegate or other officer elected or appointed by or for such part, or to act as an officer for such part, shall be deemed and taken to be unlawful combinations and confederacies: and every person who, from and after the passing of this ordinance, shall become a member of any such society or association, at the passing of this ordinance, shall afterwards act as a member thereof, and every person who, after the passing of this ordinance, shall directly or indirectly maintain correspondence or intercourse with any such society or association, or with any division, branch, committee or other select body, treasurer, secretary, delegate or other officer or member of such society or association, whether within or without the province, as such or who shall by contribution of money or otherwise aid, abet or support such society, or any members or officers thereof as such, shall be deemed guilty of an unlawful combination or confederacy.

VII. And be it further ordained and enacted by the authority aforesaid, That every person, who, at any time after the passing of this ordinance, shall, in breach of the provisions thereof, be guilty of any such unlawful combination or confederacy as in this ordinance is described, and shall be convicted thereof upon indictment by due course of law, shall and may be transported for a term not exceeding seven years, in the manner provided by law for the transportation

transportation of offenders, or imprisoned for any term not exceeding two years, as the court before whom such offenders shall be tried shall think fit; and every such offender who shall be so ordered to be transported, shall be subject and liable to all laws concerning offenders ordered to be transported.

Encl. 2, in No. 91.

VIII. And be it further ordained and enacted by the authority aforesaid, That if any person shall knowingly permit any meeting of any society or association, hereby declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society to be held in his or her house, apartment, barn, outhouse or other building, such person shall, for the first offence, forfeit a sum not exceeding fifty pounds currency, and shall, for any such offence committed after the date of his or her conviction, for such first offence, be deemed guilty of an unlawful combination and confederacy in breach of this ordinance, and shall be punished as thereby directed.

IX. And whereas certain societies have been long accustomed to be holden in this province, under the denomination of Lodges of Free Masons, the meetings whereof have been, in great measure, directed to charitable purposes; Be it therefore ordained and enacted by the authority aforesaid, That nothing in this ordinance shall extend to the meetings of any such society or lodge, which before the passing of this ordinance have been, or which may hereafter be holden under the said denomination, and in conformity to the rules prevailing among the said societies of Free Masons: Provided always that such societies or lodges shall have been, or shall be, erected and constituted by, or under the authority of, warrants in that behalf, granted by, or derived from, any grand master, or grand lodge, in the United Kingdom of Great Britain and Ireland.

X. And be it further ordained and enacted by the authority aforesaid, That it shall be imperative on each and every rector, curate, vicar, or other priest or minister performing the parochial or clerical duty of any parish or other church in this province, to read this ordinance, or cause it to be read publicly at the door of the parish church, and where there is no church, at any other place of public worship, immediately after divine service in the morning, on the three consecutive Sundays immediately following the reception of this ordinance by such rector, curate, vicar, or other priest or minister in each parish, township, or extra parochial place within this province.

XI. And be it further ordained and enacted by the authority aforesaid, That it shall be the duty of the law officers of the Crown to make an abstract of the said ordinance, which abstract shall be printed and forwarded with the said ordinance, and be distributed and posted in each parish, township, and extra parochial place within this province, in such manner as the Governor, Lieutenant-governor, or person administering the government thereof, may direct.

XII. And be it further ordained and enacted by the authority aforesaid, That this ordinance shall continue and be in force until the 1st day of November, in the year of our Lord 1842, and no longer.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house in the city of Montreal, the 20th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command.

(signed) *W. B. Lindsay*, Clerk, Special Council.

Enclosure 3, in No. 91.

Anno Secundo Victoriæ Reginæ.

No. 41.

CAP. XI.—AN ORDINANCE to extend the provisions of certain Ordinances therein mentioned, to the District of Saint Francis, in the Province of *Lower Canada.*

Encl. 3 in No. 91.

WHEREAS his Excellency the Administrator of the Government of the said province of Lower Canada, by proclamation, bearing date under his hand and seal at arms, the 16th day of the present month of November, at the Government-house, in the city of Montreal, was pleased to extend to the district of Saint Francis, in the said province, all and every the provisions of an ordinance of the administrator of the government of the said province, by and with the advice and consent of the special council for the affairs thereof, passed in the second year of the reign of our sovereign lady the Queen, intituled, "An Ordinance for the suppression of the Rebellion which unhappily exists within this province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same," to be in full force and effect in the said district of Saint Francis, until the 1st day of June now next ensuing. And whereas it is expedient and necessary to extend to the said district of Saint Francis, all and every the provisions of certain ordinances of the administrator of the government of the said province, and of the said special council hereinafter mentioned; Be it therefore ordained and enacted, by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of, and under the authority of an Act of the

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.

Encl. 3, in No. 91.

Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted, by the authority of the same, That a certain ordinance of the administrator of the government of the said province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, made and passed in the second year of the reign of our sovereign lady the Queen, intituled, "An Ordinance to declare and define the period when the Rebellion now unhappily existing in this Province shall be taken and held to cease, and for other purposes;" and also a certain other ordinance of the administrator of the government of the said province, with the advice and consent of the said special council, made and passed in the second year of the reign of our said sovereign lady the Queen, intituled, "An Ordinance for the attainder of persons against whom sentences or judgments of Courts Martial shall be given, under and by virtue of an Ordinance passed in the second year of Her Majesty's reign, intituled, 'An Ordinance for the suppression of the Rebellion which unhappily exists within this province of Lower Canada, and for the protection of the persons and properties of Her Majesty's faithful subjects within the same;' and of another Ordinance, passed in the said second year of Her Majesty's reign, intituled, 'An Ordinance to declare and define the period when the Rebellion now unhappily existing in this province shall be taken and held to cease, and for other purposes;'" and all and every the provisions of the said two ordinances be, and the same are hereby extended to the said district of Saint Francis; and that the same shall have full force and effect within the said district of Saint Francis, until the 1st day of June now next ensuing.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house in the city of Montreal, the 20th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

Enclosure 4, in No. 91.

Anno Secundo Victoriæ Reginæ.

No. 42.

CAP. X.—An Ordinance to confirm certain Ordinances of the Governor of this Province, and of the Special Council for the affairs thereof, and to declare the period at which they respectively commenced and took effect.

Encl. 4, in No. 91.

WHEREAS the great seal of this province was not, at or after the passing thereof, affixed to the ordinances hereinafter mentioned, passed by the Governor of the said province, by and with the advice and consent of the special council for the affairs thereof, and doubts may arise out of the omission in that respect, and as to the time and times when the said ordinances respectively commenced and took effect; and whereas it is expedient to remove and obviate any such doubts in that behalf; Be it therefore ordained and enacted by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada," and it is hereby ordained, enacted, and declared by the authority aforesaid, That an ordinance of the Governor of the said province, by and with the advice and consent of the special council for the affairs thereof, passed in the second year of Her Majesty's reign, intituled, "An Ordinance for establishing an efficient system of Police in the cities of Quebec and Montreal;" and also a certain other ordinance of the said Governor and special council, passed in the said second year of Her Majesty's reign, intituled, "An Ordinance to prevent the discharge of certain persons, until they shall have given security;" and also a certain other Ordinance of the said Governor and special council, passed in the said second year of Her Majesty's reign, intituled, "An Ordinance to make provision for defraying the Civil Expenditure of the Provincial Government, from the 1st day of April 1838, to the 10th day of October of the same year;" and also a certain other ordinance of the said Governor and special council, passed in the said second year of Her Majesty's reign, intituled, "An Ordinance to make good two certain sums of money therein mentioned, advanced in payment of certain indispensable expenses of the Civil Government of Lower Canada, between the 1st day of March 1838, and the 31st day of October in the same year;" and also a certain other ordinance of the said Governor and special council, passed in the said second year of Her Majesty's reign, intituled, "An Ordinance to appropriate certain sums annually, to enable Her Majesty to defray the expenses of Pensions conferred on the Honourable Jonathan Sewell, esquire, and the Honourable James

James Reid, esquire," be, and the same are, and each and every of them is hereby confirmed to all intents and purposes whatsoever, and that the said above-mentioned ordinances did respectively commence and took effect on the day and days on which they were respectively passed in the said special council, as certified by the clerk of the said special council, in the same manner, in all respects, as if the great seal of the said province had been affixed to the said several ordinances at the times of their being respectively passed in the said special council, and assented to by the Governor.

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.

Encl. 4, in No. 91.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council under the great seal of the province, at the Government-house in the city of Montreal, the 20th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

Enclosure 5, in No. 91.

Anno secundo Victoriæ Reginæ.

No. 43.

CAP. XI.—AN ORDINANCE to authorize the Trial in any District of this Province of Persons charged with certain crimes and offences.

WHEREAS divers persons are now committed and in custody, charged with high treason, misprision of high treason and other crimes and offences, and it is expedient, for the purpose of ensuring impartial proceedings against the persons aforesaid, and such others as may hereafter offend in the same respect, that the trials of any of the said persons should, if deemed necessary, be had in any of the districts of the said province, other than those in which such crimes and offences may have been committed; Be it therefore ordained and enacted, by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of, and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada;" and it is hereby ordained and enacted, by the authority aforesaid, That it shall and may be lawful for the Governor, or person administering the government of the said province, by a commission or other instrument, to be issued from time to time, at his discretion, under the great seal of this province, to order, direct and appoint that any person or persons now committed to any gaol in the said province, arrested or in custody, or who may hereafter be committed to any gaol in the said province, be arrested or be in custody, charged with high treason, suspicion of high treason, misprision of high treason, treasonable practices, sedition, arson or murder, shall be tried, for any such crimes or offences, in any other district or districts in the said province, other than that, or those, in which the said crimes or offences may have been committed; and that the trial and trials of the said person or persons shall be had, and the said crimes and offences with which they may stand charged, or for which they may be indicted, shall be inquired of, heard and determined before the Court of Queen's Bench, for any district or districts in the said province within which the Governor, or person administering the government of the said province, shall have as aforesaid ordered, appointed and directed, such person or persons, or any of them, to be tried, or before any Commissioners of Oyer and Terminer, to be appointed by commission to be issued, having power to inquire, hear and determine all treasons, misprisions of treason, treasonable practices, sedition, murder and arson within any such district, in whatsoever other district or place within the said province such person or persons may have committed or done any of the said crimes and offences, and in like manner to all intents and purposes as if such treason, misprision of treason, treasonable practices, sedition, murder or arson had been done, perpetrated and committed within the said district or districts where they shall have been so inquired of, heard and determined as it is aforesaid; and that in such case and cases no challenge of the district, or otherwise in that behalf, shall be allowed.

Encl. 5, in No. 91.

II. And be it further ordained and enacted by the authority aforesaid, That this ordinance shall continue and be in force until the 1st day of November, in the year of our Lord 1842, and no longer.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house, in the city of Montreal, the 24th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

No. 91.
Sir J. Colborne to Lord Glenelg, 28 Nov. 1838.

Encl. 6, in No. 91

Enclosure 6, in No. 91.

Anno Secundo Victoriæ Reginæ.

No. 44.

CAP. XII.—AN ORDINANCE to authorize the Governor, or person administering the Government of this Province, to cause the confinement in any of the Gaols in the said Proviuce of persons committed or detained for certain crimes, and for other purposes.

WHEREAS it is expedient that the Governor, or person administering the government of the said province, should be authorized and empowered to cause any person or persons now committed to gaol, or arrested or in custody, or who may be hereafter committed to gaol, be arrested or be in custody, charged with high treason, misprision of high treason, treasonable practices, sedition, murder and arson, to be committed to any gaol or gaols in this province, and from time to time to remove them to any other gaol or gaols in the said province as to him may seem meet; Be it therefore ordained and enacted, by his Excellency the Administrator of the Government of this province, authorized to execute the commission of the Governor thereof, by and with the advice and consent of the special council for the affairs of the said province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the reign of Her present Majesty, intituled, "An Act to make temporary provision for the Government of Lower Canada," and it is hereby ordained and enacted by the authority aforesaid, That it shall and may be lawful for the Governor, or person administering the Government of the said province, by warrant or other instrument, under his hand and seal at arms, to cause and direct any person or persons now committed to any gaol, arrested or in custody, or who may hereafter be committed to any gaol, arrested or in custody, charged with high treason, misprision of high treason, treasonable practices, sedition, murder and arson, to be conveyed and committed to any other gaol, or to any gaol or gaols in the said province, and again from time to time, at his discretion, to cause any of the persons aforesaid to be removed to any gaol or gaols in the said province, and to be detained in safe custody in any of the said gaols, unti therefrom discharged by warrant or warrants of the Governor, or person administering the government of the said province, or until otherwise discharged therefrom in due course of law; any law, usage or statute to the contrary thereof in anywise notwithstanding.

II. And be it further ordained and enacted by the authority aforesaid, That this present ordinance shall continue and be in force until the 1st day of November, in the year of our Lord 1842, and no longer.

(signed) *J. Colborne.*

Ordained and enacted by the authority aforesaid, and duly passed in special council, under the great seal of the province, at the Government-house, in the city of Montreal, the 24th day of November, in the second year of the reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland Queen, Defender of the Faith, and so forth, and in the year of our Lord 1838.

By his Excellency's command,

(signed) *W. B. Lindsay*, Clerk, Special Council.

— No. 92. —

No. 92.
Sir J. Colborne to Lord Glenelg, 30 Nov. 1838.

EXTRACT of a DESPATCH from Lieutenant-general Sir *J. Colborne*, G. C. B. to Lord *Glenelg*, dated Government House, Montreal, 30 Nov. 1838.

I HAVE the honour to acquaint you that no occurrence of importance has taken place in this province since my despatch of the 17th instant. The *habitans* generally of the disturbed districts have returned to their respective parishes, and, in many instances, have assisted the magistrates in arresting the persons who have been most active in the rebellion. Arms and ammunition to a great extent were introduced during the autumn in every district. Several large seizures of arms and powder have already been made by the troops; and, with a view of obtaining further information with respect to the places in which arms have been deposited, and to the conduct of offenders who have been conspicuously employed in enrolling the *habitans* for seditious purposes, I have directed four regiments, under the command of Major-general Sir James Macdonell, to march by the right bank of the St. Lawrence, through the seigniories that have taken a part in the revolt, and to pass the Richelieu at St. Antoine, to St. Hyacinthe and St. Cesaire. On the return of this force, now employed on the Yamaska, I shall move two battalions to Terrebonne, to the northward of Montreal.

I had

No. 92.
Sir John Colborne to Lord Glenelg, 30 Nov. 1838.

I had reason to suppose that some attempt would be made on the frontier eastern townships to disturb the district of St. Francis, and that the brigands from Vermont were prepared to support any movement in the neighbourhood of the townships of Barnston and Hatley. By the exertions of the loyal and spirited settlers of Sherbrooke and Stanstead, and most of the eastern townships, order has been preserved and the disaffected subjects concerned in resisting the civil power have been apprehended. The report of Lieutenant-colonel Nickle upon this affair, who commands the volunteers of the townships, is annexed, respecting the apprehension of the offenders. I receive despatches from Major-general Sir George Arthur daily, in which he presses me to reinforce the troops in Upper Canada, in consequence of the large assembly of brigands at Detroit, Cleveland and Buffalo, and of the information which he has received of their intention to invade the western and Niagara districts; I have, therefore, ordered the 73d regiment to proceed to Toronto. The left wing of this corps will probably reach Toronto to-morrow; and, on its arrival, another regiment may be sent to the London district, a reinforcement that cannot fail to give confidence, and effectually protect that part of the province. The regular force in Upper Canada consists of seven regiments, exclusive of artillery and cavalry.

22d November.

The reports of the means and preparations of the brigands are probably much exaggerated, as well as the extent of the disaffection in certain districts of the Upper province, but I am convinced that the brigands and organized societies in the neighbouring states will not abandon their projects of invasion unless we increase our force.

Enclosure in No. 92.

Sir, Stanstead, Lower Canada, 22 November, 1838.

Encl. in No. 92.

I INFORMED you in my last despatch that it was my intention to move upon the township of Barnston in a few days; I have now the satisfaction to communicate for the information of his Excellency, that this contemplated movement took place on the morning of the 20th instant, and was attended with success. We took in the whole fourteen prisoners, exclusive of some who have since been arrested. Some were examined yesterday, and four sent to Sherbrooke gaol.

I have much satisfaction in stating that the proceedings have been attended with the happiest results. The confidence of the loyal inhabitants has been completely established; they have come to Stanstead and communicated their wishes and ideas, which heretofore they had not dared to do from the threats of the rebels, and now are extremely anxious that their militia should be called out, and a volunteer corps established in Barnston. I think a company formed there would now contribute much to the peace and good order of the townships, as the nest of ruffians are completely dispersed. Have the goodness to inform me what I am to do on this head.

I have, &c.
(signed) *Robert Nickle*,
Colonel, Particular Service.

Lieutenant Griffin,
Dep. Assist. Adjt.-Genl.

—No. 93.—

EXTRACT of a DESPATCH from Lieutenant-general Sir *John Colborne*, G. C. B., to Lord *Glenelg*, dated Government House, Montreal, 19 December 1838.

No. 93.
Sir J. Colborne to Lord Glenelg, 19 Dec. 1838.

THE instructions conveyed by your Lordship's despatch of the 26th October, No. 126, that an ordinance should be proposed to the special council for constituting tribunals by which, in future, rebels and murderers might be tried, leaves me in no doubt as to the intention of Her Majesty's Government to authorize the constitution of such a tribunal as may prevent any failure in the administration of justice in cases of sedition and rebellion. The sudden renewal of the revolt has exposed the local government to the embarrassments and serious difficulties which it encountered last year, in regard to bringing to justice offenders guilty of treason and murder.

The erection of a court, altogether unprecedented in the province, of the nature suggested by your Lordship, would, I think, have been at the present moment generally considered very objectionable, and could not have prevented the escape from justice of offenders charged with crimes since the outbreak, without giving the court a retrospective jurisdiction, and making the ordinance

No. 93.
Sir John Colborne to Lord Glenelg, 19 Dec. 1838.

an *ex post facto* law; it became my duty, therefore, from the evident inadequacy of the ordinary tribunals to impart vigour to the administration of justice demanded by the emergency, to state to the special council, with the advice of the executive council, the necessity of establishing a court, with competent authority for the trial of rebellion, murder and treasonable practices which had occurred since the 1st of November, and adapted to accomplish the object in view in the actual circumstances of the province. The progress of the insurrection had been rapid and extensive, and as the prisoners, most of whom had been taken with arms in their hands, were hourly increasing, it was necessary to legislate not prospectively only, but for the punishment of offences already committed.

With reference to these considerations, I feel confident that Her Majesty's Government will approve of the ordinance which was proposed to the special council at that particular crisis, for the purpose of holding courts martial for the trial of offences to which I advert, confirming rather than introducing a form of trial which, although unusual, is not unknown, and which, without any abrupt innovation, would provide the only tribunal which, in the deplorable state of this province, could be relied on to dispense impartial justice between the Crown and the subject. The ordinance was passed on the 8th ultimo, intituled, "An Ordinance for the Suppression of the Rebellion which unhappily exists within this Province of Lower Canada, and for the Protection of the Persons and Properties of Her Majesty's faithful Subjects within the same." Its provisions were carried into effect without delay. I directed a general court martial to be assembled soon after the dispersion of the insurgents, consisting of a president and twelve members, six field officers and six captains, and I appointed two special judge advocates, Mr. Mondelet, Queen's Counsel, and Mr. Day, an eminent barrister of Montreal, to assist the deputy judge advocate. The court was convened on the 28th ultimo, and commenced its proceedings with the trial of Joseph Narcisse Cardinal, Joseph Duquette, Jean Louis Thibert, Francois Maurice Lepailleur, Joseph Lecuyer, Jean Marie Thibert, Léandre Ducharme, Joseph Guimond, Louis Guérin alias Dussault, Antoine Cotê, Edouard Thérin, and Louis Lesage alias Laviolette.

These men had all participated either in the outrages committed at Chateaugay, or in the attack of the Indian village at Caughnawaga. I refer your Lordship to the evidence given before the court martial for their respective criminality.

The court, after a long and impartial examination of the evidence for the prosecution, and having allowed the prisoners four days to prepare for their defence, and having afforded them every facility for procuring witnesses, and given their earnest attention to the testimony in their defence, pronounced the following sentences:

"The court has acquitted the prisoners, Edouard Therien and Louis Liesige otherwise called Louis Lesage dit Laviolette; and has found the prisoners, Joseph Narcisse Cardinal, Joseph Duquette, Joseph L'Ecuyer, Jean Louis Thibert, Jean Marie Thibert Léon Ducharme otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dussault otherwise called Blanc Dussault, Antoine Coté and Francois Maurice Lepailleur, individually and collectively guilty of the charges preferred against them, and has sentenced them to be hanged by the neck till they be dead, at such time and place as his Excellency the Commander of the Forces and Administrator of the Government may appoint; but the court has recommended six of the prisoners, viz. Joseph L'Ecuyer, Jane Marie Thibert, Léon Ducharme otherwise called Léandre Ducharme, Joseph Guimond, Louis Guérin dit Dussault otherwise called Blanc Dussault, and Antoine Coté, for a commutation of the sentence of death for a punishment less severe."

It is scarcely necessary for me to mention to your Lordship how painful is the duty which devolves on me at this moment. Convinced, however, that the safety of both provinces depends on the firmness and unhesitating decision of the executive government, and persuaded that the insurgents were in a great degree encouraged in the second revolt by the recollection of past impunity, and the hope of future amnesty, and receiving daily proof of the infatuation by which a large portion of the population have been drawn into a belief in the impotence of justice, I feel that severe examples have become indispensable, and

No. 93.
Sir John Colborne to Lord Glenelg, 19 Dec. 1838.

and it only remains for me seriously to consider how the cause of public justice can be vindicated with the least possible sacrifice of human life.

With the probable result of the trials pending, I did not deem it necessary that the four unfortunate men under sentence of the general court-martial should suffer the extreme penalty of the law; I therefore left it to the executive council to decide on the comparative criminality of the convicts. Their painful deliberation has terminated in leaving Joseph Narcisse Cardinal and Joseph Duquette for execution, which will be carried into effect on Friday the 21st instant. Joseph Narcisse Cardinal is a notary by profession, and was a member of the House of Assembly for the county of Beauharnois; he resided at the village of Chateaugay, and has long been conspicuous as a public instigator to those acts of violence which have caused his own ruin. A man of intelligence and education, he was fully aware of the cruelty and guilt of his designs. He was a leader of the revolt in that part of the country, and was followed with implicit confidence by the ignorant habitans, of whose misery he has been the principal author.

Joseph Duquette was a leader in the revolt of last winter, and was in the affair near Missisquoi Bay when Gagnon and Bouchette entered the province with an armed force from the United States, and more active than Cardinal in the violence perpetrated on the loyal subjects in the village of Chateaugay, and in the attack upon the Indians. He is reported to have kept a tavern, was an influential man among the rural population, a constant fomenter of discord, and occupied a station of command among the rebels.

The proceedings of the court martial held upon these prisoners have been protracted; but the cases submitted for their decision were of an unusual and extraordinary nature, involving questions which must become precedents. Her Majesty's Government may be assured, that, although I feel strongly convinced of the necessity, in the state of alarm which exists in this province, that the executive government should not be found unwilling to incur the responsibility of inflicting extreme punishments, without which, it is generally affirmed, the safety of the community would be endangered, I shall not forget to temper justice with mercy, however great the clamour may be for making numerous examples.

The number of prisoners that have been lodged in the gaol of Montreal on political accusations amounted to 753, of whom 164 have been discharged. Several of these appear to have been unjustly arrested, but in the confusion and alarm on the first outbreak, almost every individual who had been concerned in the last revolt was suspected, perhaps with reason, to have promoted the conspiracy which has been so secretly conducted.

A commission has been appointed to examine the depositions against the prisoners, with the view of liberating those who cannot be convicted of treason, or offences of a serious nature.

I find there were not less than 13,000 habitans assembled between the 3d and 8th of November, in the Montreal district, in expectation of being supplied with arms from the United States. The province is perfectly quiet at present, but the refugees on the frontier are busily employed in furthering hostile preparations, and I have received information from New York, that 30 officers, natives of France or Poland, have arrived at St. Alban's and Alburg, to organize the Canadians, and that the brigands intend to enter the Lower Province from Vermont and between Rouse's Point and Fort Covington. We are prepared to receive them; and I have no doubt if the attacks projected on Upper Canada do take place, that the troops in this province will be kept actively employed in guarding the frontier. It is with great concern that I inform your Lordship that many houses were burnt in L'Acadie and in Beauharnois while the rebels were in arms, but these acts were in no instance sanctioned, except where arms and ammunition were discovered, or committed by the regular force employed, but by persons who had suffered by the insurgents and were acquainted with the character of their neighbours. Under such circumstances as have occurred, it is scarcely possible to prevent irregularities, but I have satisfaction in reporting that in every instance in which any have taken place, the officers have used their utmost exertions to bring the offenders to punishment.

No. 94.
Sir J. Colborne
to Lord Glenelg,
8 January 1839.

— No. 94. —

(No. 3.)

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

My Lord, Government House, Montreal, 8 Jan. 1839.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 19th November (No. 4). With reference to your observations on Lord Durham's proclamation of the 9th of October, I lose no time in communicating to you my opinion in respect to the course which it will be necessary for the local government to pursue, to prevent the immediate return of the exiles to Lower Canada, to whom your Lordship adverts, under the altered circumstances of their cases since the date of the proclamation in question.

In consequence of the insurrectionary movements in November, and of the conspicuous part which many of the political offenders, at present absent from the province, have taken in the late conspiracies, none of those who were exempted from the general amnesty of the 28th of June could be allowed again to take up their residence in this province without producing the worst effects on the minds of the *habitans*, to whom they have long been known, and who have so severely suffered from their influence and proceedings. Rodier and Cartier, two of the refugees who were excluded from the amnesty, returned to Montreal nine or ten days before the outbreak, and petitioned to be permitted to remain. I complied with their request on their giving security for their future conduct; and they, I believe, feel grateful for the clemency which has been extended to them.

Several of the exiles from Bermuda have been some time on the frontier; one of them, by the name of Goddu, entered the province and proceeded to St. Cesaire, the parish in which his family resided. I directed him to quit the province, and to be informed that he would be arrested should he return without permission; he has since his departure petitioned upon the subject of his pardon; and it will be a matter for future consideration how long he should be excluded from the province.

Wolfred Nelson, Bouchette and Gauvin, attended a public meeting at New York, assembled by the patriots for the purpose of encouraging the continuance of hostilities against Canada; these offenders, therefore, have no claim, under any circumstances, to obtain advantage from the construction given to the amnesty in Lord Durham's proclamation of the 9th of October.

Assured of the firm support of Her Majesty's ministers, I shall continue to exercise the full powers which I possess as Administrator, in adopting such vigorous measures as appear necessary to protect the loyal inhabitants from the suspense and agitation which might result from the unrestrained attempts of the disaffected to propagate their own views, and to renew the disorder and confusion which they succeeded in creating by their intrigues and incessant labour during the summer and autumn of last year.

I have, &c.

(signed) *J. Colborne.*

UPPER CANADA.

From Lord Glenelg.

UPPER CANADA.

From Lord Glenelg.

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UPPER CANADA.

From Lord Glenelg.

— No. 1. —

(No. 70.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.

No. 1.
Lord Glenelg to Sir Geo. Arthur, 22 May 1838.

Sir, Downing-street, 22 May 1838.

I HAVE received your despatch of the 29th March, No. 1, reporting your proceedings up to that date, and the measures which you proposed to adopt with reference to the militia and volunteers, and stating that two of the most active of the persons engaged in the late revolt, having been brought to trial, had pleaded guilty and been sentenced to death, and assuring me that the most merciful consideration would be shown towards the prisoners generally.

I have laid your despatch before the Queen, and have to convey to you Her Majesty's approbation of the proceedings which you have reported. Since the receipt, indeed, of your despatch, intelligence has appeared in the public papers of the execution at Toronto of Messrs. Lount and Matthews, the individuals, as I presume, alluded to in your despatch.

I have every confidence that, before consenting to such a measure, you devoted to the cases of these persons a calm and dispassionate consideration, but as I have hitherto received from you no report of these executions or of the grounds on which you decided to let the law take its course, I abstain for the present from any further comment on them.

I am happy to learn, through the same channel of information, that no further executions were likely to take place.

Her Majesty's Government have received with much satisfaction your report of the absence of any disturbance on the frontier, since the affair at Point au Pelé Island, and that, at the date of your despatch, there was nothing to excite particular apprehension for the safety of the Province.

I sincerely rejoice at the good understanding which appears to have been established between yourself and the governor of the state of New York, who I am persuaded will cordially second your efforts to maintain tranquillity and restore a good feeling between Her Majesty's subjects in Upper Canada and the citizens of the state over which he presides. I earnestly hope that you may have been able to carry into effect without delay the reductions which you contemplated in the embodied militia.

I have, &c.

(signed) *Glenelg.*

— No. 2. —

(No. 82.)

EXTRACT of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.; dated Downing-street, 30 May 1838.

No. 2.
Lord Glenelg to Sir Geo. Arthur, 30 May 1838.

Vide Papers relative to Upper Canada, ordered by The House of Commons to be printed 21 June 1838, No. 524, p. 5.

I HAVE received your despatch of the 14th April last (No. 4), reporting the execution, on the 12th of that month, of Lount and Matthews, who had been convicted, on their own confession, of "high treason," and explaining, at considerable length, the views adopted by yourself and the Executive Council with regard to these prisoners, and the considerations which appeared to you imperatively to demand that the law in this case should be allowed to take its course.

Her Majesty's Government regret extremely that a paramount necessity should have arisen for these examples of severity. They are, however, fully convinced

No. 2.
Lord Glenelg to Sir Geo. Arthur, 30 May 1838.

that you did not consent to the execution of these individuals without having given the most ample consideration to all the circumstances of the case, and they have no reason to doubt the necessity of the course which, with the entire concurrence of the Executive Council, you felt it your duty to adopt.

With respect to the disposal of the other prisoners, Her Majesty's Government cannot give you any specific instructions, until they shall have received the report which you lead me to expect. But I cannot defer expressing our earnest hope that, with respect to these persons, your opinion that no further capital punishments will be necessary, may have been acted on. Nothing would cause, Her Majesty's Government, more sincere regret than an unnecessary recourse to the punishment of death, and I am persuaded that the same feeling will influence not only yourself, but the Executive Council. The examples which have been made in the case of the most guilty will be sufficient to warn others of the consequences to which they render themselves liable by such crimes, and this object having been accomplished, no further advantage could be gained by inflicting the extreme penalty of the law on any of their associates.

No. 3.
Lord Glenelg to Sir Geo. Arthur, 31 May 1838.

— No. 3. —

(No. 86.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.

Sir, Downing-street, 31 May 1838.

THE British minister at Washington has communicated to Her Majesty's Government the circumstances under which Mr. Aaron Vail has been despatched to Canada, to inquire into the cases of any American citizens who may be there in custody on charges connected with the late insurrection; and from your despatch of the 1st instant, No. 11, I perceive that Mr. Vail has already executed his mission, as far as Upper Canada is concerned. We learned, with much satisfaction, that the President had appointed for this service a gentleman well acquainted with the laws and customs of this country, and we trust that the favourable results anticipated from his mission by Mr. Fox may be realized.

I have, &c.
(signed) *Glenelg*.

No. 4.
Lord Glenelg to Sir G. Arthur, 31 May 1838.

— No. 4. —

(No. 85.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *G. Arthur*, K. C. H.

Sir, Downing-street, 31 May 1838.

Vide Papers relative to the Affairs of Canada, ordered by the House of Commons to be printed, 1 May 1838. No. 357, p. 167.

I HAVE had the honour to lay before the Queen the address to Her Majesty from the House of Assembly of Upper Canada, dated the 15th February last, on the subject of the late attempts of American citizens to invade Her Majesty's dominions in British North America, and praying that effective steps may be taken for the future protection of the Province of Upper Canada from any similar attacks.

Her Majesty has received this address very graciously, and has commanded me to apprize the House of Assembly of Upper Canada, in reply, that she is engaged in communications with the Government of the United States on the subject to which it refers; and Her Majesty trusts that the questions depending between the two countries will be adjusted in such a manner as will be compatible with the honour of Her Majesty's Crown, the just rights of her faithful Canadian subjects, and the friendly relations subsisting between the two countries.

I have, &c.
(signed) *Glenelg*.

— No. 5. —

No. 5.
Lord Glenelg to Sir Geo. Arthur, 1 June 1838.

(No. 87.)

EXTRACT of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.; dated Downing-street, 1 June 1838.

I HAVE received your despatch of the 24th April, No. 8, reporting the general state of feeling in the Province of Upper Canada, and the reasons which induce you to apprehend another attack on the western frontier by persons from the United States; and announcing that, in consequence of the present aspect of affairs, you have been compelled to pause in the measures which you had taken for disembodying the militia.

Her Majesty's Government have received, with much regret, the intelligence conveyed in your despatch; but as the reinforcements of Her Majesty's troops, which have proceeded from this country to Canada, must ere this have reached their destination, I trust that a greater degree of confidence has been restored, and that you will have been enabled to complete the reduction of the militia and volunteer corps, which cannot be kept up without great expense to the public, and serious inconvenience to individuals.

— No. 6. —

No. 6.
Lord Glenelg to Sir G. Arthur, 12 July 1838.

(No. 111.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 12 July 1838.

I HAVE received your despatches of the 30th of May, No. 22, and of the 7th of June, No. 26, on the subject of the trials of the persons implicated in the late rebellion in Upper Canada, and of the manner in which they should be disposed of. The second of these despatches reached me after I had prepared an answer to the first, and happily relieves me from the necessity of entering into the prolonged discussion to which that answer was devoted. It is very gratifying to me to find that the conclusion to which I was led by the examination of the voluminous documents accompanying your despatch of the 30th of May, that the number of persons to undergo punishment might be materially lessened, is confirmed by the result of your mature deliberations on the whole question, as reported in your despatch of the 7th of June. The receipt of this despatch has left me hardly any other duty to perform on this occasion, than that of expressing the concurrence of Her Majesty's Government in your opinion, and their adoption of your advice.

In the first place, you will perceive, on referring to the Earl of Durham's commission, which during his Lordship's absence from Upper Canada you are authorized to execute, that the Royal prerogative of mercy is delegated to you without the exceptions formerly made, of the cases of murder and high treason. It is therefore in your power, either to grant pardons in particular cases, or even to declare a general amnesty. But in any measure of the latter description it would be obviously very inconvenient that a different principle should be observed in Lower and Upper Canada. This is consequently one of the subjects on which it is fit that you should act in concert with the Earl of Durham. It would be unnecessary to trouble his Lordship upon any particular case in which no general policy was involved.

I concur in your views as to the inexpediency of merely banishing from the Province British subjects who have their settled place of abode there. The probable consequence would be that which you anticipate; that is, the increase on the border of a body of men whose hostility to the British Government would be exasperated by the desire to regain their homes, and whose efforts for its subversion would be more active and dangerous than before.

I am also of your opinion that banishment may be a very proper mode of disposing of strangers who have invaded the Province, and against whom it may not be necessary to proceed with greater severity. The pardon of such offenders would of course be granted on the condition, that the judgment or proceedings against them should only be stayed so long as they should not be found again within Her Majesty's dominions in North America.

No. 6.
Lord Glenelg to Sir G. Arthur, 12 July 1838.

You have, as it appears to me, correctly distinguished between political offences in which a large number of persons have been engaged, and crimes of ordinary occurrence, such as robbery, or individual acts of violence and outrage. Whatever indulgence it may be just or politic to show towards the former, there can be no sufficient reason for exempting thieves, robbers or incendiaries, whose aim was plunder, from the penalties due to their offences. The imprisonment of these persons, with hard labour, in the Penitentiary, would therefore appear the most judicious course of proceeding. But the grounds of the distinction should be most clearly made known to the public.

There remains the class of prisoners ordered for transportation. It is a great relief to find from your despatch of the 7th of June, that there is no danger of any material difference between your judgment and that of Her Majesty's Government on this part of the general question. I adopt your opinion that in the present instance, the good of society will be best consulted by subjecting a few to such penalties as may "mark the sense entertained by Government of the heinousness of the offence, and by mercy and complete indemnity towards all others."

You have pointed out with great clearness the obstacles which prevented the application of this general principle to the cases of the numerous prisoners mentioned in your despatch of the 30th of May. It is vain, as you observe, to "seek for mere shadows of distinction" between different cases, or "where the punishment of a few will answer the ends of justice to punish many, because all are equally guilty." If subtle distinctions were allowed to guide the decision of the Government, or if without discrimination the sentence of transportation were carried into effect against all the prisoners who have been selected for that mode of punishment, it would be impossible to escape the imputation of caprice and favour on the one hand, or of undue severity on the other. I am, therefore, glad to learn that you anticipate the early arrival of a time when mercy may be extended to many of these without risk of remonstrance or discontent. The gradual developement of favourable circumstances in some of these cases, and the consequent sympathy towards some of the prisoners which you report, confirm the expediency of a considerable reduction in the number of the persons marked for transportation.

I agree in your opinion that this reduction should, in appearance, as well as in reality, originate rather with the provincial than with the Home Government.

I have therefore to convey to you the authority you require to relieve from the sentence of transportation, and from the inferior penalties of banishment, imprisonment, or confiscation, any persons whom you may think worthy of that indulgence. This you will do as you propose, not as reversing wrong judgments, but as acting upon information which the Executive Council did not possess, and upon views to which the legal tribunals could not advert.

It would, however, be a reasonable condition to attach to such remission that the parties should find securities, at least for a time, for their future good conduct.

You will convey to the Executive Council the expression of Her Majesty's gracious approbation and acknowledgment, of the diligence with which they have investigated these cases, and of the spirit by which they appear to have been guided.

As it is necessary that the Earl of Durham should be apprized of what is passing on this subject, you will have the goodness to transmit to him copies of this correspondence.

I have, &c.

(signed) *Glenelg.*

—No. 7.—

(No. 115.)

No. 7.
Lord Glenelg to Sir G. Arthur, 18 July 1838.

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 18 July 1838.

I HAVE to acknowledge the receipt of your despatches of the 1st and 9th June, Nos. 23 and 27.

The first of these despatches reports the destruction, by a body of armed persons from

No. 7.
Lord Glenelg to Sir G. Arthur, 18 July 1838.

from the American shore, of the British steamboat Sir Robert Peel, and encloses various documents connected with that transaction.

The second states that the American steamboat Telegraph had, through the mistake of two militia sentries at Brockville, been fired into, and reports the measures which had been immediately taken for investigating this affair.

I have transmitted copies of your communications, and of the despatches which I have received from the Earl of Durham, relative to the destruction of the Sir Robert Peel, for the consideration of Viscount Palmerston, in order that the necessary representations regarding them may be made to the Government of the United States.

It is of course impossible for me at present to give you any specific instructions in regard to that subject, but I will not delay my approval of the energy and prudence which you have shown on this occasion, and of the steps adopted to satisfy the authorities of the United States as to the facts connected with the firing into the steamboat Telegraph. I feel assured that your proclamation of the 31st May, warning Her Majesty's Canadian subjects against any acts of retaliation, will have been attended with beneficial results, and that the distribution of the troops, which, as I learn from the Earl of Durham, has been made along the frontier, under the immediate directions of Sir John Colborne, will effectually protect the Canadian frontier.

On the general subject of the military force to be stationed in Canada, I am in correspondence with the Earl of Durham, and you will of course communicate to his Lordship any circumstances connected with Upper Canada, a knowledge of which may appear to you necessary to the just consideration of it.

I have, &c.
(signed) *Glenelg.*

— No. 8. —

(No. 122.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.

No. 8.
Lord Glenelg to Sir G. Arthur, 31 July 1838.

Sir, Downing-street, 31 July 1838.

I HAVE to acknowledge the receipt of your despatch of the 19 June, No. 28, reporting the general state of affairs in Upper Canada at that date, and enclosing certain resolutions adopted at Sandwich, in the Western District, and other documents relative to the course pursued towards the persons taken in arms against the Government.

I have addressed you so fully on these subjects, and more especially respecting the treatment of the prisoners, in my late despatches, that it only remains for me, on the present occasion, to convey to you my approbation of the answer which you returned to the petition of the magistrates of Sandwich and Amherstburg. In regard to the conduct of persons within the American territory, and the apprehended invasion of Upper Canada, Her Majesty's Government have been in correspondence with the Earl of Durham and Her Majesty's minister at Washington, and they have learned with much satisfaction that the government of the United States have adopted such measures as are calculated to deter persons residing within their territory from attempting to invade Canada, and to compel the evacuation of the islands in the St. Lawrence and in the Lakes, by the parties who have assembled there.

I have, &c.
(signed) *Glenelg.*

— No. 9. —

No. 9.
Lord Glenelg to
Sir Geo. Arthur,
22 August 1838.

(No. 129.)

EXTRACT of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.; dated Downing-street, 22 August 1838.

30 June - No. 32.
1 July - No. 33.
10 July - No. 37.
27 July - No. 43.
28 July - No. 44.

I HAVE to acknowledge the receipt of your despatches, of the dates and numbers mentioned in the margin, reporting the recent proceedings in those parts of Upper Canada which border on Lake Erie and the Rivers Niagara and St. Clair, and the trial and conviction of James Morrow, the leader of the attack on the provincial cavalry at Short Hills.

While Her Majesty's Government sincerely regret the alarm and excitement to which the inhabitants of Upper Canada have been exposed, it is a subject of much satisfaction that the result has hitherto proved the groundlessness of that alarm, and the failure of the attempts to effect any successful invasion on the British territory. With the exception of the affair at the Short Hills, not only have the insurgents met with no favourable issue, but they appear to have been unable even to collect any considerable force. Her Majesty's Government have much pleasure in acknowledging the activity and decision displayed by you during the late events, and the ready loyalty of the great body of the inhabitants of Upper Canada. Although Her Majesty's Government regret that a necessity should have arisen for again resorting to capital punishment, they are bound to acknowledge, that the circumstances proved against Morrow justified that course. Morrow was indeed opposed to the attack on the Lancers as impolitic, but he took an active part in the attack, and up to that time appears to have been the avowed leader of a party of invaders, who committed acts of violence and robbery of the most flagrant character. Her Majesty's Government, however, trust that the execution of the leader will have enabled you to inflict a less severe punishment on his associates. They are convinced that it will be your anxious desire, as far as possible, to avoid the infliction of the extreme penalty of death, and that the course ultimately decided on, with respect to the persons whose trials had not at the date of your despatch taken place, will involve no greater severity than the safety of the Province imperatively demands.

Her Majesty's Government have perceived with much satisfaction, that during the late transactions the authorities of the United States have cordially co-operated with the Government of Canada in endeavouring to put a stop to the attacks on Her Majesty's dominions, and that the central Government of that country appear to be now fully alive to the danger likely to arise from such unchecked aggressions. Under these circumstances, and with the force available in Upper Canada for the protection of the loyal inhabitants, I indulge a sanguine hope that tranquillity will be speedily restored, and that the harassing feeling of suspense and insecurity which has so long been kept alive by events on the frontier, will cease to interfere with the welfare and prosperity of the Province.

— No. 10. —

(No. 139.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

No. 10.
Lord Glenelg to
Sir Geo. Arthur,
4 September 1838.

Sir, Downing-street, 4 September 1838.

HER Majesty's Government have received with much pleasure the information contained in your despatch, No. 40, of the 15th July, of the satisfactory result of Mr. Vail's mission, and of the justice which he has done to the authorities in Canada on the subject to which that mission referred. The high character and influence of this gentleman in the United States will, I trust, secure that weight to his opinion, founded on personal observation, which will remove any misconception which may previously have existed in the United States on this subject, and will produce among the people of that country a just and correct impression, of the conduct and proceedings of the British authorities in Canada.

I have, &c.
(signed) *Glenelg.*

— No. 11. —

(No. 142.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

No. 11.
Lord Glenelg to Sir G. Arthur, 7 Sept. 1838.

Sir, Downing-street, 7 Sept. 1838.

I HAVE received your despatch, No. 52, of the 6th August, informing me of the measures which have been taken for the reduction of the militia in Upper Canada, and the re-delivery of their arms and unexpended stores to the Ordnance officers in the province. I have to convey to you my approval of those measures. Her Majesty's Government have been gratified to find in this despatch a confirmation of your opinion of the improved state of feeling in Upper Canada, and of the disposition of the American Government to discourage the attempts of their citizens on the frontier. There seems every reason to hope that public confidence will speedily be completely restored to Her Majesty's loyal subjects in that province. I entirely concur in your opinion of the wisdom as well as humanity of encouraging any persons to return to the province, who fled from it under an apprehension of the consequences to which their conduct may have exposed them, and whose return is consistent with the public safety and tranquillity. You are fully aware of the desire of Her Majesty's Government that the greatest degree of lenity, compatible with a due regard to the public interests, should be exercised towards such persons; and it will afford them much satisfaction to learn that you have been enabled to carry into effect your own views on this subject.

I have, &c.

(signed) *Glenelg*.

— No. 12. —

(No. 152.)

No. 12.
Lord Glenelg to Sir Geo. Arthur, 21 October 1838.

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 21 October 1838.

I HAVE received your despatch, No. 69, of the 28th September, explaining the circumstances under which a body of Indians had been employed in concert with Her Majesty's troops in Upper Canada.

Subsequently to the date of your despatch you will have received mine of the 22d August, in which I expressed the views of Her Majesty's Government, and asked for information on this subject. I am happy to find, from your present report, that I had correctly anticipated the motives which occasioned the employment of the Indians.

Adverting to the observations on this subject contained in my despatch of the 22d August, I have only further to express the desire of Her Majesty's Government, that in the event of the indispensable necessity for the future employment of Indians on any emergency, they may, as far as practicable, be made use of as a body of reserve or for defensive purposes, in order that they may be kept, if possible, from actual contact with an opposing force.

I have, &c.

(signed) *Glenelg*.

— No. 13. —

No. 13.
Lord Glenelg to Sir G. Arthur, 30 Nov. 1838.

(No. 173.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 30 November 1838.

See Despatch 16 Oct. p. 216.

IN a despatch dated 16th October last, and recently received from the Earl of Durham, on the state of affairs in the Canadas, he observes, with reference to the Upper Province, "I have been struck by the extent of that terror with which all classes and all parties see, in the disturbance of my policy, the harbinger of a winter similar in its political character to the last. The sudden unanimity of all parties in that most divided province has been as alarming as extraordinary. For when those in power and those who, in attempting to snatch it from them, advanced to the brink of rebellion, signed the same address—when the leaders of the Reformers seconded the resolutions moved by the heads of the family compact, I could not but infer that an unanimity so strange must have been produced by the indications of sure and awful peril."

In a subsequent despatch from Lord Durham, dated at sea on the 10th instant, he informs me that on the morning of his departure from Quebec he had an interview with Mr. Sheriff M'Donnell, who had arrived the night before from Kingston, Upper Canada, for the purpose of communicating to him the intelligence of the existence of a great unwillingness on the part of the militia and volunteers of Upper Canada to tender their active services, which Mr. M'Donnell attributed to the general belief amongst them of the indifference of the British Government to their fate.

I do not possess any information as to the particular occurrence to which Lord Durham alludes in the latter part of the paragraph which I have quoted from his despatch of the 16th October, nor do I find any confirmation of Mr. M'Donnell's statement in your despatch to Lord Durham of the 24th October, a copy of which has been transmitted to me by his Lordship, and in which you state the measures which you had then adopted for arming a portion of the militia, to the amount of 5,000 men, to which I shall advert in a separate despatch. As, however, it would appear that some general misapprehension exists in Canada in regard to the views and policy of Her Majesty's Government towards both of the provinces, I transmit to you herewith the copy of a despatch on this subject which I have addressed to Sir J. Colborne, and I have to desire that you will consider as addressed to yourself the instructions contained in it, with a view to the removal of erroneous impressions and to the encouragement of Her Majesty's faithful subjects in Canada.

See Despatch No. 6, 24 Nov. p. 86.

I have, &c. (signed) *Glenelg*.

— No. 14. —

No. 14.
Lord Glenelg to Sir Geo. Arthur, 13 December 1838.

(No. 178.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.

Sir, Downing-street, 13 December 1838.

See Despatch, No. 15, 13 Dec. 1838, p. 90.

I ENCLOSE for your information the accompanying copy of a despatch which I have addressed to Sir J. Colborne, with whom it will be desirable that you should communicate, with respect to any claims which may arise in Upper Canada, founded on the arrangement stated in that despatch, as to the militia or volunteers.

The only case belonging to the latter class, adverted to in my despatch to Sir J. Colborne, which has been brought under my notice from the Upper Province, is that of the widow of the late Colonel Moodie. In this instance the Legislature of Upper Canada, by the Act 1 Vic. c. 47, anticipated the arrangement which Her Majesty's Government have sanctioned with regard to the two cases of a similar description, which have been brought under the consideration of the Government from the Lower Province.

I take this opportunity of transmitting to you the copy of my despatch to Sir J. Colborne, marked separate, of the 24th ultimo, to which reference is made in my despatch of this date, of which a copy is herewith sent.

I have, &c.

(signed) *Glenelg*.

— No. 15. —

(No. 180.)

EXTRACT of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.; dated Downing-street, 13 December 1838.

No. 15.
Lord Glenelg to Sir G. Arthur,

I HAVE the honour to acknowledge the receipt of your despatches of the 22d, 30th, and 31st October last, Nos. 75, 78 and 79, reporting the information which had reached you, respecting an extensive conspiracy organized in Canada, and in the neighbouring States of the Union, against the peace of Her Majesty's Canadian possessions, and detailing the measures which you had in consequence adopted, of calling out the militia and volunteers, and of communicating with the United States' authorities, and with Her Majesty's Minister at Washington. I have also received your despatches of the 14th and 15th November, Nos. 88 and 89, describing the further progress of events up to the latter date.

I have had the honour to lay these despatches before The Queen, and Her Majesty commands me to express her approbation of the zeal and energy with which, in the anticipation of a formidable invasion of the Province from the United States, you adopted the necessary measures for the protection of Upper Canada.

You advert in these despatches to an apprehended reluctance in the militia of Upper Canada, to come forward in defence of the Province. So far as this reluctance is ascribed to the grievances of which they are said to complain, I must refer you to my answer to so much of your confidential despatch of the 14th November, as relates to this subject. Her Majesty is happy to perceive, that no sooner did actual danger arise, than the usual loyalty and promptitude of the militia and volunteers of Upper Canada was evinced, and that, in the recent outbreak in Lower Canada, valuable assistance was rendered by the Glengarry militia from the Upper Province, while in the attack near Prescott, there had assembled at that place, before the final capture of the invaders, a body of 5,000 of the militia of Upper Canada.

Her Majesty commands me to convey through you to the militia and volunteer corps engaged on these occasions, her high sense of their gallantry and loyalty.

You report that, acting on the recommendation of Sir J. Colborne, and on the advice of your Executive Council, and of a military board to whom you had referred the question, you have armed a considerable militia and volunteer force, four regiments of which you have directed to be embodied for 18 months. You are already aware, from my despatch to Sir John Colborne, of which I transmitted to you a copy in my despatch of the 30th ult., No. 173, that Her Majesty's Government cordially commit to the discretion of the local authorities a resort to such measures as, with the information they possess, appear to them requisite for the security of the Province, and they entertain no doubt of the necessity of the arrangements which you had felt it your duty to make in this respect. Her Majesty's Government, however, are anxious that, in all points connected with the defence of the Province, you should communicate with Sir J. Colborne, and act in entire accordance with his directions, and that all future arrangements in respect to militia or volunteers, should be made subject to his sanction and approval.

I have the pleasure of conveying to you my entire approbation of your proclamation, transmitted in your despatch No. 88, and I am gratified to learn that its beneficial effects had already been apparent.

The intelligence which I have received from Sir J. Colborne, of the affair at Prescott, and which is of a later date than that contained in your despatches, is most satisfactory. I trust that, even if the signal failure of this attempt at an invasion should not deter the brigands from a similar inroad, his anticipation of the destruction of the invaders will be justified by the result. With the large military force now in Canada, aided by the valuable services of the loyal inhabitants, the confidence which Sir J. Colborne entertains on this subject appears to me to be fully warranted.

— No. 16. —

No. 16.
Lord Glenelg to Sir G. Arthur, 14 Dec. 1838.

(No. 183.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 14 December 1838.

I HAVE had the honour to receive your despatch of the 26th October last, No. 77, enclosing copies of your correspondence with Lord Durham relative to the disposal of the prisoners convicted of treasonable offences in Upper Canada.

Under present circumstances I am most reluctant to engage further in the discussion of the questions controverted between the Earl of Durham and yourself respecting the limits of your mutual authority, nor do I see the necessity of doing so.

Indeed it does not appear to me that there was any real opposition between the general principles maintained on each side in that discussion, whatever may have been the difference of opinion as to the application of those principles to the particular case in which the correspondence originated.

I have already stated to you the satisfaction which I felt at your having deferred to Lord Durham's views on this point; and I am well assured that you were influenced by the most sincere desire to adopt that course which was most conducive to the public interest, irrespective of any personal feeling. I must, however, express my dissent from the opinion which seems to have been entertained by the Executive Council that the interposition of Lord Durham, on the occasion in question, involved a surrender of an important part of the constitution of Upper Canada, or that any intention existed of altogether divesting you of the discretion and responsibility necessarily attaching to the Lieutenant-governor of the province.

I have, &c.
Glenelg.

— No. 17. —

No. 17.
Lord Glenelg to Sir G. Arthur, 3 January 1839.

(No. 193.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 3 January 1839.

I HAVE had the honour to receive your despatches of the 24th and 27th November, Nos. 92, 93, and 94, reporting the final defeat and capture of the brigands who attacked Prescott,—the expectation entertained of another descent on Upper Canada, at either extremity of Lake Erie, or in the neighbourhood of Belleville, on Lake Ontario,—and the measures adopted by you under these circumstances for the protection of the province.

I had previously received from Sir John Colborne, and laid before The Queen, the intelligence of the result of the affair at Prescott, and Her Majesty had commanded me to desire Sir John Colborne to express to the regular troops, and to the militia and volunteers engaged on that occasion, Her sense of their gallantry and promptitude in the defeat of this attempt at an invasion of Upper Canada. I have now communicated to the General commanding in chief your testimony to the valuable services of Colonel Dundas, Major Young, and Major Carmichael; and to the Lords Commissioners of the Admiralty your report in favour of Captain Sandom, together with a copy of that officer's despatch relative to the affair between the "Experiment" and the "United States" steamers. I have also communicated to Viscount Palmerston so much of your despatch of the 24th November as seemed to require that representations should be addressed to the United States' Government.

Her Majesty's Government entirely approve the measures which, under the apprehension of immediate attack, you took for the safety of Upper Canada, and they are happy to perceive that through the energy and promptitude displayed by yourself and the officers serving under you, the lawless bands, who had collected within the American frontier, were deterred from carrying into effect their hostile designs against the province. Notwithstanding the backwardness to which you advert

advert as having been in several instances evinced by the inhabitants of Upper Canada to enter on active service in the militia, or as volunteers, it is highly gratifying to observe that, on the only occasion on which any urgent demand for their services existed, they came forward with the greatest zeal and alacrity, and that in no instance do the designs of the brigands from the United States appear to have met with encouragement or co-operation from any portion of Her Majesty's subjects in the Upper Province. Her Majesty deeply regrets that they should be harassed by the expectation of constant attacks from the frontier, but I trust that with the large regular force which Sir J. Colborne informs me is now stationed in Upper Canada, the fullest confidence will be felt by the inhabitants in the existing means for their defence and security.

No. 17. Lord Glenelg to Sir Geo. Arthur, 3 January 1838.

I have, &c.
(signed) *Glenelg.*

— No. 18. —

(No. 194.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K. C. H.

No. 18. Lord Glenelg to Sir Geo. Arthur, 5 January 1839.

Sir, Downing-street, 5 January 1839.

I HAVE the honour to acknowledge the receipt of your despatch of the 4th ultimo, No. 100, enclosing a copy of the proceedings of the court-martial assembled for the trial of Nils S. Von Shoultz, who acted as leader of the brigands, by whom the Province of Upper Canada was recently invaded, in the neighbourhood of Prescott. You also enclose a copy of the warrant for his execution, which you had directed to be carried into effect on the 8th ultimo.

Her Majesty's Government entirely agree in the necessity of allowing the law to take its course in this instance.

I have, &c.
(signed) *Glenelg.*

— No. 19. —

COPY of a DESPATCH from Lord *Glenelg* to Sir *George Arthur.*

No. 19. Lord Glenelg to Sir Geo. Arthur, 25 January 1839.

Sir, Downing-street, 25 January 1839.

I TRANSMIT herewith, for your information and guidance, the copy of a despatch which, on the 18th instant, I addressed to Sir J. Colborne, relative to the manner of dealing with those persons in Canada who may hereafter be sentenced to transportation, or whose sentences may be commuted for transportation to one of Her Majesty's penal colonies, for offences connected with the late insurrection.

I have, &c.
(signed) *Glenelg.*

— No. 20. —

(No. 202.)

COPY of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H.

No. 20. Lord Glenelg to Sir Geo. Arthur, 30 January 1839.

Sir, Downing-street, 30 January 1839.

I HAVE to acknowledge the receipt of your despatch of the 18th December, No. 113, enclosing the copy of an address presented to you by the Canadians of French origin inhabiting Toronto and its neighbourhood; I have laid this despatch before The Queen, and I am commanded to express the satisfaction with which Her Majesty has received this assurance of loyalty and attachment to Her person and Government.

I have, &c.
(signed) *Glenelg.*

No. 21.
Lord Glenelg to Sir Geo. Arthur, 1 February 1839.

— No. 20. —

(No. 204.)

COPY of a DESPATCH from Lord *Glenelg* to Lieuteuant-Governor Sir *George Arthur*, K.C.H.

Sir, Downing-street, 1 February 1839.

I HAVE had the honour to receive your despatch of the 13th ultimo, No. 105, reporting the invasion of Upper Canada, in the neighbourhood of Windsor, by a body of brigands from the United States; their defeat and dispersion by the militia and volunteers of the province; and the measures adopted by you for bringing to trial the prisoners taken on this occasion.

Her Majesty has received with much satisfaction your report of the loyal and gallant conduct of the militia and volunteers engaged in repelling this wanton and unprovoked attack. While the Queen deeply laments that the lives of any of Her faithful subjects should have been sacrificed, in the discharge of this duty, Her Majesty trusts that the total absence of the slightest co-operation with the lawless and unprincipled invaders on the part of any of Her subjects in Upper Canada, together with the promptitude and energy evinced by all classes of them in resisting this renewed violation of the British territory, and the consequent total defeat of the invaders, will at length have the effect of deterring the brigands within the United States, from further attempts of a similar kind.

Her Majesty's Government fully approve the measures taken by you for the safe custody and trial of the prisoners. I have further to convey to you the approval of Her Majesty's Government of your answer to the address of the corporation of Toronto.

I have, &c.
(signed) *Glenelg*.

No. 22.
Lord Glenelg to Sir G. Arthur.
2 Feb. 1839.

— No. 22. —

(No. 205.)

EXTRACT of a DESPATCH from Lord *Glenelg* to Lieutenant-Governor Sir *George Arthur*, K.C.H., dated 2 February 1839.

I HAVE the honour to acknowledge the receipt of your despatches of the 13th and 22d December, Nos. 106 and 117, enclosing copies of the proceedings of the courts-martial on the cases of various prisoners taken at Prescott, together with other documents relating to the course to be adopted towards the convicted offenders.

To your request that you may be supported by the expression of the unqualified approbation of the Ministers of the Crown, in the measures which you have taken upon an occasion of the most arduous and responsible nature, I cannot hesitate to answer that you are entitled to their entire approbation. Painful as the necessity was, for permitting the extreme sentence of the law to be executed upon the prisoners mentioned in this report, as having been left for execution, Her Majesty's Government do not think, that, under the circumstances of the case, the decision which you adopted could have been avoided, consistently with a due regard to the paramount duty of the Executive Government, to protect the loyal and peaceful inhabitants of the province, from wanton and unprovoked attacks on their property and lives.

It is impossible at this distance, and with the imperfect information which even the most elaborate written reports can convey, to form any distinct opinion as to the extent to which it may be necessary to carry the infliction of the extreme penalty of death, the principles stated by yourself will be your surest guide. I trust that you may be spared the distressing duty of making any considerable addition to the number of capital punishments; but it is a subject on which the decision must be referred in the first instance to the local authorities, who, I am persuaded, will not permit a single execution to take place, except from the conviction that it is indispensable for the purpose of arresting the progress of these murderous attacks on the Queen's subjects, and for the defence of the loyal and peaceful inhabitants of Canada. In any case of doubt with respect to the disposal of convicted prisoners, it will be desirable that you should communicate with Sir John Colborne, as Governor-General, before a final decision is taken. It would be impossible to advance with safety beyond these very general remarks; but in a situation so replete with difficulty, you are entitled to demand and to receive the most favourable construction of the measures which you may take for the public good.

UPPER CANADA.

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

UPPER CANADA.

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

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UPPER CANADA.

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

No. 1.
Sir Geo. Arthur to Lord Glenelg, 23 March 1838.

— No. 1. —

(Separate.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*.

My Lord, Toronto, 23 March 1838.

I HAVE the honour to report, for your Lordship's information, that I reached this city this morning, that I have been sworn in as Lieutenant-governor of the Province, and been since obliged to devote every moment in conferring with Sir Francis Head, who proceeds immediately to England by way of New York.

Under such circumstances it is not possible for me to do more than simply to state, that at this moment there is not, so far as I can learn, any hostile movement being made, either by disaffected persons within the Province, or by foreigners without.

I shall have the honour to address your Lordship in detail in the course of a few days, when I shall put you in possession of the state of the Province at this very anxious moment.

I have, &c.
(signed) *George Arthur.*

— No. 2. —

(No. 1.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K C.H., to Lord *Glenelg*; dated Toronto, 29 March 1838.

No. 2.
Sir Geo. Arthur to Lord Glenelg, 29 March 1838.

IN my despatch, marked "separate," of the 23d instant, I had the honour to inform your Lordship that I had on that day assumed the administration of the government, and that, so far as I was able to learn, there was no hostile movement being made, either by disaffected persons within the Province, or by foreigners without.

The great pressure of public business which of late had devolved on my predecessor prevented his preparing in writing, for my information and guidance, any general review of the actual condition of the colony, with respect either to its civil or its military relations; and as Sir Francis Head proceeded to England the very day of my arrival in this city, I could glean of course but very hasty and imperfect information on any matters.

My time has been devoted, independently of the current business, which brooks no delay, to circumstances connected with the trial and disposal of the state prisoners, to the management of the force employed in every part of the Province, and to the consideration of the consequent large expenditure in connexion with it.

With regard to the great body of the prisoners against whom informations have been laid, and true bills found, my situation is very difficult. Two of the most active of Mr. M'Kenzie's partizans have been brought to trial, have pleaded guilty, and were this morning sentenced to be executed on the 12th of next month. This result, together with the case of General Sutherland, who is now under trial before a general court martial which was assembled before my arrival in the colony, must bring the question, how are the state prisoners to be disposed of? to an issue; and I have thought it right to review it in its general bearing, and am now engaged in drawing up a minute, which I propose to lay before the Executive Council to-morrow. At present, therefore, whilst public feeling is so conflicting, the large preponderating party looking to the Executive Government to put down treason by energetic measures, and the party styling themselves Reformers hoping for the most lenient course, I can do no more than say, that your Lordship may rest satisfied that the subject shall be calmly and dispassionately reviewed, and that the most

No. 2.
Sir Geo. Arthur to Lord Glenelg, 29 March 1838.

merciful consideration shall be shown towards the prisoners, that the peculiar circumstances and state of the country will admit.

The Reformers have in the present instance acted with great indiscretion. At a moment when so many of their party are suffering under the legal penalties to which their recent conduct has subjected them, they have thought proper to present me with an address, which I cannot but fear is calculated to rekindle a warm and unkindly feeling among the preponderating constitutional party. I have the honour herewith to enclose a copy of the address, with my answer.

With respect to the militia, and the expenses contingent on so large a body being still employed, it is my intention to bring that subject also immediately before the Executive Council. I cannot consider it indispensably necessary to retain so large a force in arms now that the "Neutrality Bill" has passed both Houses of Congress, and received the assent of the President of the United States; and it is, moreover, of the most urgent importance that some of the militia should return to their farms without delay, or we shall have no seed in the ground, and consequently no harvest, which, in the event of possible contingencies, would be attended with the most disastrous consequences to the colony.

Any immediate reduction, however, in the embodied militia which, after consultation with the Council, I may deem it advisable to make, will necessarily be to a very limited extent, until I shall have communicated with Sir John Colborne on the subject, since it is highly necessary that the state of affairs in the Lower Province should be taken into consideration in adopting a measure of that nature. I look of course to the early arrival of an additional force from England, and that the regular troops in this Province will be much increased.

I have thought it, both in policy and in consistency with my own feelings, right to come to a good understanding with the Governor of the State of New York, and I enclose the copy of a letter which I have this day addressed to him.

29 March 1838.

Enclosures in No. 2.

(No. 1.)

TO His Excellency Sir *George Arthur*, &c. &c., Lieutenant-Governor.

May it please your Excellency,

Encl. 1, in No. 2.

We, Her Majesty's dutiful and loyal subjects, the undersigned inhabitants of the city of Toronto, approach your Excellency to tender you our congratulations on your appointment to the government of Upper Canada, and upon your safe arrival, after a long and protracted voyage at this inclement season of the year. We request your Excellency will accept, on this occasion, the expression of our sincere attachment to Her most gracious Majesty's person and Government, an attachment as sincere and devoted as that can be of those who may differ with us in opinion on measures of colonial administration. We do not approach your Excellency to oppress you with any reiteration of complaints. The history of the Province is before you, and an impartial inquiry into it, with the experience of a short time, will enable your Excellency to judge of the reasonableness of the objects of reformation, for many years sought by a very large portion of Her Majesty's subjects in this Province. The unhappy state of the country will probably, for the present, restrain all expressions of public opinion, and we do not desire to revive discussions for which men's minds are at present obviously quite unfit. We are, however, prepared to assure your Excellency, that in the promotion of public order, and the adoption of measures for the pacification of the country, you will have the prompt and energetic support of the loyal, patriotic, and constitutional reformers of the Province. We have observed, with feelings of unmixed pleasure, the desire manifested by all parties in England, that severe punishments should not be inflicted upon the unfortunate persons engaged in the late lamentable rebellion, and that in deference to this universal feeling, and in obedience to the dictates of her own most gracious and amiable disposition, Her Majesty has been pleased to authorize the proclamation of a general amnesty for political offences. In carrying into effect the gracious inclinations of Her Majesty in this Province, your Excellency will have the noblest gratification of an elevated mind, the announcement of pardon to the miserable and guilty, and we venture to assure you that an administration thus begun, will be hailed as the commencement of a long course of general confidence, peace, and prosperity, and we sincerely pray that it may be happy and glorious to yourself, and both satisfactory and honourable to Her Majesty and the noble empire over which she promises so worthily to reign.

750 signatures.

No. 2.
Sir Geo. Arthur to Lord Glenelg, 29 March 1838.

(Reply.)

Gentlemen,

I THANK you for your congratulation on my appointment to the government of this Province.

I am much gratified to receive from you expressions of loyalty and attachment to Her Majesty's person and Government, which, without reference to political distinctions, which I do not desire to renew, I am convinced are truly sincere and unqualified. I am happy to find that you express your unwillingness to revive political discussions connected with reform, for it could not fail to be a most painful subject to me at this moment, when so many of Her Majesty's subjects are placed in circumstances of the utmost peril, and their unfortunate families exposed to desolation and ruin. The specious delusion by which these unhappy men were seduced from their allegiance to their Sovereign, and were led to become accessaries, if not principals, in the crimes of treason, robbery, arson, and murder, being no other than reform.

I cannot but regret that under these circumstances any portion of the inhabitants of this city should have felt it necessary at this moment to present themselves under the character of reformers, as a distinct class of the people of this Province. The doing so has a tendency to awaken excitement, and to agitate the community at a period when every man is liable to be called upon to take a part in the administration of justice, and should be able to approach that sacred duty with a mind sobered, disciplined, and unprejudiced. You must, moreover, be aware that individually, as loyal subjects of Her Majesty, you are entitled to the protection, respect, and consideration of the Government, and to these I hope you will see that no classification or profession relating to abstract political opinions ought to make any addition.

In considering the cases of the unfortunate persons to whom you have alluded in your address, it is of the greatest consequence that the Executive Government, having regard to justice as well as mercy, should have no misgiving that there exists any probability of a renewal of the disgraceful scenes which have so recently disturbed the tranquillity of the colony through the malignant recklessness of men whose professed object was reform.

Punishment can never be justifiably resorted to as an act of vengeance; it is only to be sanctioned as the necessary means of preventing the recurrence of crime, and this necessity would plainly be much obviated if attachment and a spirit of obedience to the Sovereign and the laws were known to exist amongst all classes of the community.

(No. 2.)

Dear Sir, Government-House, Toronto, 29 March 1838.

I HAVE the honour, with very pleasing recollections of your courtesy and kindness to me whilst at Albany, as well as those of Mr. Secretary Dix, to inform your Excellency that I reached this city on Friday last, the 23d instant, and succeeded Sir Francis Head in the administration of the Province of Upper Canada.

I received yesterday, from Mr. Fox, a copy of the "Neutrality Bill," which has passed both Houses of Congress, and received the assent of the President; I conclude, therefore, all the power will be at the disposal of the general government of the United States, which is necessary to restrain the lawless characters who have recently acted with such audacious violence on the frontiers, and that so large a force of our militia as are occupying the frontiers can no longer be required to preserve the peace of this territory; and, consequently, it is my intention to withdraw most of these troops at an early period.

I am sure your Excellency will concur with me, that every possible occasion for excitement and irritation should, on both sides, be speedily removed; and if your people are now brought under the restraint of the laws, the sooner we resume a peaceable aspect on the frontier the better.

It will give me much satisfaction to maintain the most friendly understanding; and I sincerely hope to see an early abatement of the strong excitement which the late invasion of this Province almost universally drew forth from the people.

I have, &c.

His Excellency Governor Marcy, &c. &c. &c. (signed) *George Arthur.*

No. 3.
Sir Geo. Arthur to Lord Glenelg, 24 April 1838.

— No. 3. —

(No. 8.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*.

Upper Canada, Toronto, 24 April 1838.

IN my despatch (No. 1) of the 29th March I had the honour to inform your Lordship that there was not at that moment any cause to excite your Lordship's particular apprehension for the safety of this Province.

Since that period the trials of the prisoners have been proceeded with, and in my despatch of the 14th instant (No. 4) I have informed your Lordship, at considerable length, what course is being pursued in that matter by the Government.

Independent of the information which has been derived from the trials and statements of the prisoners, I have been unceasingly endeavouring to acquire, by the most extensive inquiries, what is the general feeling in the country and what may be further intended by the lawless characters on the frontier; and the result, I regret to say, is far from being satisfactory.

On the American frontier there are thousands of lawless characters—"the scum" of the population, to use the language of Mr. Aaron Vail, who is now in this city on a special mission from the President of the United States—ready for any enterprise proposed; and with them, many persons who have fled from this Province, and others who remain in it, are closely associated.

The accounts from the frontier during the past week, and especially during the last two days, leave no doubt that another attack is meditated upon our western country, and to what extent the patriots will receive support from the disaffected in this Province it is quite impossible to judge.

The expense being so great, I had commenced disembodying the militia; but I am obliged to pause. Large quantities of arms have been lately collected and deposited on the Niagara frontier; and Colonel Kirby, who commands in that quarter, reports that the intercourse kept up between the malcontents and the Americans is unceasing and increasing, and that he has no doubt the latter have already sent large quantities of arms across the river; that is, to the British side.

I have written to Sir John Colborne requesting that he will send me the additional force intended for this Province; but whether it come or not, your Lordship need be under no undue anxiety respecting the ultimate consequences of any attack.

— No. 4. —

(No. 11.)

No. 4.
Sir G. Arthur to Lord Glenelg, 1 May 1831.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Upper Canada, Toronto, 1 May 1838.

3d April 1838.
25th April 1838.

I beg to transmit for your Lordship's information, a copy of a letter which has been addressed to me by his Excellency Mr. Fox, (with my reply thereto,) on the subject of the inspection, with which Mr. Vail was lately charged by the President of the United States, to make into the cases of the American prisoners at present in custody in the gaols of this Province.

Enclosures in No. 4.

(No. 1.)

Sir, Washington, 3 April 1838.

Encl. 1, in No. 4.

THE President of the United States having judged it expedient to send an authorized agent into her Majesty's Provinces, for the purpose of inquiring into, and reporting upon, the actual condition of various individuals, claiming to be American citizens, who are now in confinement in Canada, the Secretary of State has, by desire of the President, requested me to introduce to your Excellency Mr. Aaron Vail, late United States Chargé d'Affaires in London, who has been charged with this commission.

Your

No. 4.
Sir Geo. Arthur to Lord Glenelg, 1 May 1838.

Your Excellency will, I am persuaded, see no objection to causing Mr. Vail to obtain all such facilities of intercourse with those of his fellow-countrymen who are in confinement or under trial in Canada upon charges arising out of the late disturbances, as are not inconsistent with legal rules and usages.

The high character and standing of Mr. Vail, and the manner in which he discharged his former diplomatic functions in England, cause me to view with satisfaction his appointment upon the present occasion; and I am confident that the result of his mission will produce a beneficial effect, by dissipating false rumours, which tend to keep alive feelings of ill-will between the British and American inhabitants on the Canadian frontier.

I have, &c.
(signed) *H. S. Fox.*

His Excellency
Major-General Sir George Arthur, K. C. B.,
&c. &c. &c.

(No. 2.)

(Extract.)

Sir, Upper Canada, Toronto, 25 April 1838.

I HAVE the honour to acknowledge your Excellency's letter of the 3d instant, informing me that the President of the United States had judged it expedient to send an authorized agent into Her Majesty's provinces, for the purpose of inquiring into and repo ting upon the actual situation of various individuals, claiming to be American citizens who are now in confinement in Canada; and that Mr. Aaron Vail has been charged with this commission. Encl. 2, in No. 4.

Mr. Vail arrived in this city on the 23d instant, and yesterday visited the gaol. He found the citizens of the United States who were in confinement treated in all respects with the same degree of kindness and humanity as Her Majesty's subjects under similar circumstances.

Mr. Vail has presented to me a memorandum containing the names of seven American citizens who are in the gaol at Kingston, and of one who is in the gaol at Toronto, whom he recommends for indulgent consideration.

I will cause a report to be made of their cases by the law officers of the Crown, and I shall be happy to find their cases light, and that indulgent consideration may with propriety be extended to them.

It was quite impossible that a more proper person than Mr. Vail could have been selected by the President, and I trust all the benefit will result from his mission that you anticipate.

I have &c.
(signed) *George Arthur.*

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

— No. 5. —

(No. 22.)

No. 5.
Sir G. Arthur to Lord Glenelg, 30 May 1838.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H. to Lord *Glenelg*, dated Upper Canada, Toronto, 30 May 1838.

Vide Papers ordered by the House of Commons to be printed, 21 June 1838, No. 524, p. 5.

WITH reference to my despatch of the 14th April (No. 4.), in which was detailed the proceedings of this Government as respected the prisoners charged with acts of treason during the late revolt, I have now the honour to continue my narrative up to the present time, with the intention of conveying such full information as may enable your Lordship to judge accurately of the principles upon which this Government has acted, and of their application to the particular cases which have been considered and decided upon.

The execution of the prisoners, Lount and Matthews, reported in my despatch (No. 4.), I am happy to say has produced the most salutary results. On the one hand, it has demonstrated to the disaffected, that the Government looked upon the crime of rebellion as of the most heinous character, and that no weakness or appre hension existed on the part of the authorities to prevent the infliction of punishment upon traitors; while, on the other hand, it has generally satisfied the loyalists, who, some short time since, did not hesitate to express their opinions as to the considerable extent to which the last penalty of the law should be carried into effect.

The utmost quiet and tranquillity prevailed on the occasion of the execution, and the assemblage of people present was very much smaller than might have been expected. The loyalists generally abstained from being present at the fatal catastrophe, from a noble and generous feeling which did them much honour; and the disaffected were too much prostrated and disheartened to allow of their making the execution an occasion for any display of insubordination or hostile excitement.

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I have every reason to believe that the unhappy men themselves were fully sensible of the justice of their sentence, and of the necessity which existed for their being made a public example; and that if it can be supposed that any feelings of resentment accompanied them to the scaffold, they were directed towards their guilty associates, who led them into crime, deserted them on the first appearance of danger, and who are now in safety in the United States, unremitting in their wicked exertions to bring further distress and calamity upon this colony.

This detail will enable your Lordship now to estimate the unfounded statements which continually appear in the American newspapers, and which it is but too probable will reach England and be repeated there as facts, by men who would be glad of any pretext for attack upon the measures of Her Majesty's Government respecting the Canadas, or for justifying colonial treason.

Your Lordship will perceive that, as regards the traitors now in the hands of justice, and who were not participators in the invasion of this Province, I do not see any necessity for carrying the extreme penalty of the law into effect, to any further extent.

I explained in my despatch (No. 4) the nature of the commission of inquiry established by my predecessor in the home district. The functions and legal authority of that body were, in fact, no greater than those of ordinary justices of the peace; and the commission was appointed for the purpose of ensuring the utmost possible prudent, uniform, and dispassionate course, in the preliminary proceedings to be taken against the persons arrested on charges of high treason.

When the commission was appointed, a great number of prisoners were found in custody, and considerable numbers were daily brought in; in the whole, amounting to a number which it was unsafe to keep in confinement, or, with any regard to mercy or forbearance, to view as objects of punishment. To limit the number of arrests was, therefore, one of the first objects of the Government; and the next was, to discharge those who appeared to be the least deeply implicated, so as only to leave in confinement those of the insurgents whom it might afterwards be thought fit to visit with punishment for their more active or important share in the rebellion.

This latter duty was discreetly and properly assumed by the commissioners; and, although it was not strictly within the powers vested in them by their appointment, they took upon themselves the responsibility of discharging upon bail, merely to keep the peace and be of good behaviour for the space of one year, a number of the prisoners brought before them, who, by their own confession, were distinctly guilty of high treason. Others, who appeared more guilty, or of more importance, were required to find bail to appear before the next court of oyer and terminer in the home district, to answer to such charges as might be preferred against them, and, in the meantime, to keep the peace and be of good behaviour; whilst the few against whom nothing of consequence appeared were dismissed without bail for default of evidence.

I should also inform your Lordship that many persons remain at large in the Province who may be found to be implicated in the late revolt, and who are liable to arrest and prosecution unless the Executive Government shall interfere in their behalf.

I would respectfully represent to your Lordship the necessity of enlarging the powers of the Lieutenant-governor as to pardoning the crime of high treason, and issuing proclamations of amnesty.

This power, if it should seem objectionable to Her Majesty's Government to extend it generally, may be properly limited to the cases arising out of the late revolt. I fear, that in the changing circumstances of the Province, and at so great a distance from England, it will be impossible for me to recommend or designate the terms in which any general proclamation of pardon should issue directly from Her Majesty. Such general amnesty may, on its arrival in Upper Canada, be found too comprehensive; or it may, from what appears now to be necessary caution, be too much narrowed when applied to a future state of things; and such being unfortunately the fact, will involve the Government in one of two difficulties, which have already been felt to be embarrassing; namely, the exceeding by the local Government the authority given by formal and positive instructions, or delays for reference to Her Majesty's Government, which, in matters requiring prompt and decided action, cannot fail to be injurious.

I have, in the next place, to inform your Lordship of the proceedings in Council relative to the prisoners in custody in the home district, who petitioned under the Act of the Provincial Parliament, mentioned in my despatch, No. 4.

I herewith

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I herewith transmit to your Lordship a report of the commissioners of inquiry in the home district, containing a summary of the evidence in each particular case taken before the commission, and also some facts of general notoriety, which it was necessary to notice, although they did not properly form the subject of strict legal inquiry.

The high character and great experience of the Chief Justice led me to consider that his presence and assistance in such an investigation were likely to be eminently useful, both to the prisoners and to the Government, and I therefore made it a point to request his attendance in Council. I also requested the attendance of the Attorney-general, who has, of course a most intimate knowledge of every case; and after long and much anxious deliberation, the Order in Council, of which I herewith transmit your Lordship a copy, was issued on the 4th instant.

The first object of the Government was to relieve the prisone rs h o should be considered proper objects of extreme clemency.

In considering the cases of the prisoners, the Council had reference to informations in detail, and examinations taken before the commission, as well as to the report of the commissioners, and circumstances of suffering on the part of the individual prisoners or their families, as well as favourable facts and general character within the knowledge of the presiding Commissioner, the Chief Justice, the Attorney-general, and the Members of Council, which were advanced and considered, with a view of extending mercy to the utmost limits consistent with the public safety, and the ends of justice.

Your Lordship will, I hope, approve of the condition annexed to the pardon extended to these prisoners, that is to say, the finding bail to keep the peace and be of good behaviour.

The next class of cases to be considered is of those whom it is thought necessary simply to banish from the Province.

In the local circumstances of the colony, with an extended frontier, there seems to me to be the greatest objection to resorting to the penalty of banishment, which punishment would otherwise be economical, merciful, and convenient. But when your Lordship considers the excited and excitable state of the American population on the frontier, I am sure Her Majesty's Government will concur with me in thinking that the sending criminals guilty of a political offence into exile amongst that population would have a tendency of a most injurious character. The exiles would meet with sympathy and assistance, and their eyes would be for the future directed to the homes which they had lost, and their minds would be ever at work in devising the means of their recovery by violence. The same reason, therefore, which induces me to recommend the remission of the penalty of confiscation to those who remain in the Province, is equally applicable to the propriety of not sending desperate men into exile in a country, the proximity of which would render them nearly as dangerous as internal enemies.

With regard to the very limited number of cases to which banishment is applied, this objection does not exist: the prisoners are nearly all Americans, and are generally without property, families, or local attachments. They cannot be considered as punished by being sent into the United States, where they have a field as large as they can desire for their wandering and mischievous propensities. In truth, if their ingress could have been avoided, they should never have been invited to come into the Province at all as residents, and the sending them out of it is rather to be considered as a measure of policy than as an infliction of punish ment.

Your Lordship will find these cases enumerated in the Order in Council herewith transmitted, and they are referred to in class and number as they stand in the commissioners' report.

The next class of cases is like the foregoing, with this difference, that the offenders have been guilty of some petty outrages or spoliations in the course of the revolt, which makes them proper objects of punishment. Your Lordship will accordingly find in their cases, in the same Order in Council, confinement in the Penitentiary added to banishment.

Those who remain are prisoners of more importance—persons deeply implicated in treason, and crimes attending on it, the pardoning of whom, in the firm opinion of the Council, would be neither just nor safe. They are generally men of some property and influence, and of decidedly disaffected principles. To let

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them loose upon a community which has suffered so much at their hands, and which was threatened by them with so much more, would not be attributed to merciful motives, but to fear of their friends in the country, and of American sympathisers, and they would only be released again to fall into the ranks of the enemy or to lead others astray.

It has been, indeed, an embarrassing question to discover what to do with them: confinement in the Province would only promote attempts at rescue, and would not in the end rid society of them. Simple banishment, for reasons explained above, would be worse than useless: to extend the punishment of death much further was to be avoided; in short, after much consideration, it was determined that the only way left effectually to rid the country of these men was by commuting their punishment into transportation to one of Her Majesty's penal colonies.

The sentence of transportation has been passed upon these criminals, not merely for the sake of just punishment of crime, and for the deterring others from following a pernicious example, although in that point of view severe punishment is requisite, but in a more than ordinary degree in justice to the loyal and innocent, with whose security and peace the retaining the prisoners in the colony, or leaving them so near as to work it evil, are inconsistent.

I most earnestly hope, therefore, that, however inconvenient it may be found to carry the punishment awarded into effect, your Lordship will see the necessity which has compelled this Government to adopt the only alternative to extensive sanguinary punishment, which seemed open under the circumstances of so difficult and em barrassing a case.

The convicts tried and convicted of high treason have been respited, and they of course remain in custody awaiting the signification of Her Majesty's pleasure.

In these cases I have, with the advice of the Council, ventured to recommend to Her Majesty the commutation of sentence which appeared the most advisable in each case.

In the Gore and London districts the prisoners were not so numerous or so important as in the home district, and the most guilty leaders succeeded in making their escape. In these districts, the duties discharged by the commission in the home district were performed by the ordinary justices. From the necessity of the case, many of the prisoners were bailed, and the same course was pursued in staying proceedings against them as was directed in the case of the home district.

Not having the advantage of a commission of inquiry in these districts, I required the Solicitor-general to report upon the cases of the petitioners, as he could collect them from the informations taken. The Solicitor-general had an opportunity of ascertaining most of the circumstances relating to the respective cases, and besides his reports, I had the advantage of that officer's attendance in Council.

Having, as far as possible, assimilated the proceedings against prisoners in the London and Gore districts with those which previously took place in the home district, and having proceeded on the same principles throughout, it is unnecessary for me to recapitulate the course which has been pursued in dealing with the cases in the London and Gore districts.

The cases which have arisen in the midland district are not yet reported, but they are, happily, very few and unimportant, and need not delay the commu nication; I shall therefore make them the subject of a supplementary despatch.

Your Lordship will form some idea of the state of feeling in this community, with reference to the proceedings arising out of the rebellion, by perusing such of the addresses presented since my arrival as have been collected, and of the view I have taken, by my answers. My anxieties and difficulties have been great, and so have been the support and encouragement I have received from all quarters of the Province.

I beg, in conclusion, to add that the state of this Province requires that I should be honoured with your Lordship's commands upon the important subject of this despatch with the least possible delay, until which period the prisoners under sentence of transportation will remain in custody in this Province.

P. S. In order that your Lordship may instantly refer to the proposed disposal of the prisoners, a summary is annexed, in which every case is set forth.—*G. A.*

— No. 6. —

No. 6.
Sir G. Arthur to Lord Glenelg, 1 June 1838.

(No. 23.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 1 June 1838.

THROUGHOUT the month of May vague reports have reached me of preparations going on; still, respectable persons who visited the frontier towns assured me that they did not believe that there was any very serious intention of invasion, but that such rumours were circulated for the sake of giving us annoyance, keeping up our military force, and creating expense.

Within the last few days, however, the statements have become far more serious.

On my return on the 26th ultimo from inspecting the troops and garrison at Kingston, where on my arrival it was represented to me that considerable apprehension existed that some attempt would be made by the "patriots" to plunder and destroy the town of Brockville, and, if successful, to renew the attack upon Kingston which was made last winter, I found considerable alarm had prevailed at Toronto during my absence of only three days, various statements having been received from different parts of the American coast, all confirmatory of the intimations that very serious attacks were to be made upon this Province at several places, within a very short period, by a numerous body of patriots and disaffected persons who had left it.

The circumstance which I now, with deep regret, report to your Lordship, removes every doubt, and is an earnest of the hostile intentions of a large body of persons who have banded together to invade this Province.

On the morning of the 30th ultimo the steam-vessel Sir Robert Peel ran alongside the wharf at Wells (or Wellesley's) Island (belonging to the Americans, in the River St. Lawrence), and while lying peaceably there, was treacherously attacked by a body of armed ruffians from the American shore, set fire to, and burnt; the passengers, amongst whom were defenceless females, wantonly and brutally insulted, and a large amount of money and other property on board was either plundered or destroyed.

There are some little variations as to the expressions used by this banditti, as given by the several witnesses whose evidence has been taken; but in all the main particulars the statements are precisely the same; and I have the honour to enclose two affidavits for your Lordship's perusal, made by passengers who were on board the Sir Robert Peel.

Although disguised, the passengers all agree in their statements that many of the banditti, from their manner and language, were evidently persons of education.

I also beg to enclose the deposition of Timothy Reardon, who, although not engaged in this enterprise, has undoubtedly been for some time associated with the patriots under the command of "General M'Leod" at French Creek. It appears by his statement that the first intention of the banditti was to have plundered and set fire to the town of Brockville, but on finding that it was too late for that enterprise they made their savage attack upon the Sir Robert Peel.

Your Lordship may readily conceive the indignation and excitement which has been generally called forth amongst all classes of Her Majesty's subjects by this lawless outrage; and, apprehensive that retaliations would quickly follow, I lost not a moment in issuing the proclamation, of which I have the honour to enclose a copy, earnestly calling upon all Her Majesty's subjects on no account to retaliate upon any American vessels within our ports, but with dignified forbearance to leave to their Government that claim for redress which this unprovoked outrage imperatively demands; and I am this moment despatching a messenger, one of the passengers in the Sir Robert Peel, with a despatch to Mr. Fox on the subject.

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to Lord Glenelg,
1 June 1838.

Encl. 1, in No. 6.

Enclosures in No. 6.

(No. 1.)

Upper Canada, Home District, to wit. } John S. Macdonell, of Toronto, gentleman, Lieutenant in the Queen's Light Infantry Regiment of Militia, being duly sworn, deposeth and saith, that about nine o'clock on Tuesday evening, the 29th instant, the steam-boat Sir Robert Peel left Brockville with about 20 cabin passengers, and between 50 and 60 deck passengers, and stopped for the purpose of taking in wood about 12 o'clock at an island, which deponent has understood to be an American island, called Well's Island. That whilst engaged in taking in wood, the passengers having all retired to rest, the boat was boarded by a party of armed men, about 30 in number, their faces painted and disguised, and many of them with their coats turned, who immediately secured the entrance to the gentlemen's cabin, and commenced clearing the decks of the crew and passengers found there. That the ladies' cabin was broken into, and the ladies ordered immediately to leave the boat, and in consequence of the violence and threats used they were obliged to make their escape, some of them as they had risen from their beds, without shoes or stockings, and without time being allowed them to make any preparations whatever. That one of the female deck passengers made her way into the gentlemen's cabin and gave the alarm, and on their attempting to ascend to the deck it was found that the door was locked, but the lower panels of the door were broken out; the sky-lights were then broken in with the buts of the muskets, and the lamps which were still burning, with the exception of one, broken and extinguished. That immediately after the skylights were broken a cry was raised "Set fire to the boat; blow them up;" and the most violent threats were used to put the passengers to death. That after a short time the cabin passengers were ordered to come up on deck, and were obliged to do so by making their way through the broken panels of the cabin door, and some of them were severely kicked and beaten in getting through, and in making their way to the shore. That the cabin passengers were not allowed time to put on their clothing or to secure their baggage, with the exception of this deponent and another, and were told that unless they escaped on shore in five minutes their lives would be endangered. That during the whole course of the violence the general cry was, that it was in retaliation for the burning of the Caroline, and the persons engaged called themselves patriots. That when the passengers were driven ashore the boat was loosened from the wharf, and drifted with the current about a quarter of a mile, when she struck the ground, and about three-quarters of an hour after she was cast off from the wharf, the flames were observed breaking out from every part at the same time, and three boats containing the pirates were seen making their way to the American main land. That the boat and nearly all the baggage of the passengers, and as deponent verily believes, very considerable sums of money belonging to or in charge of individuals, were burnt or carried away by the pirates, some of whom were armed with American muskets and bayonets, and some with pikes of a description, as deponent has understood, similar to pikes seen in possession of a force assembled at French Creek during the last winter.

That this deponent has no doubt whatever that the persons by whom the outrage was committed were American citizens, and that immediately after the outrage they returned to French Creek, or some place in that direction; that the mate of the steam-boat, having, as deponent believes, been asleep when the boat was cast loose, did not make his escape till after the boat was set on fire, and was severely burnt and obliged to jump overboard to save himself. And this deponent further saith, that from their manner of speaking he is satisfied that some of the leaders were persons of education above the lower orders of society, and that during the outrage one of them told this deponent that their object was not to plunder, but to have some little revenge for the burning of the Caroline.

(signed) *J. S. Macdonell.*

Sworn and subscribed before me, at Toronto, this 31st day of May 1838,

(signed) *Archibald M'Lean,*
One of the Judges of the Court of King's Bench,
Upper Canada.

Home District, to wit. } Robert Bullock, of Cornwall, in the Eastern District, master of the steam-boat, Neptune, on lake Saint Francis, maketh oath and saith, that he was a passenger on board the steam-boat Sir Robert Peel, when that boat was taken and destroyed on the morning of the 30th instant; and that the circumstances stated in the foregoing affidavit of John S. Macdonell, are in all respects true.

(signed) *R. Bullock.*

Sworn and subscribed before me, at Toronto, this 31st day of May 1838,

(signed) *Archibald M'Lean,*
One of the Judges of the Court of King's Bench,
Upper Canada.

(No. 2.)

No. 6.
Sir G. Arthur to Lord Glenelg, 1 June 1838.

PROCLAMATION.

Upper Canada.

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. Encl. 2, in No. 6.

Whereas information has this day been received, that on the 30th day of May instant, the British steam-boat Sir Robert Peel, while lying peaceably at an American island, was treacherously attacked by a body of armed ruffians from the American shore, set fire to and burned; the passengers, amongst whom were defenceless females, wantonly and brutally insulted; and a large amount of money and other property on board the said boat was either plundered or destroyed: and whereas the said robbery and outrage cannot fail to excite feelings of the utmost indignation in the minds of Her Majesty's subjects, who may be induced thereby to resort to acts of retaliation for the redress of injury, without properly considering that it belongs to the Government of Her Majesty to claim that redress, and to the Government of the United States to see that it be promptly rendered.

The steam-boat Sir Robert Peel, with the persons and property on board, lay at a wharf on the shore of a friendly power, in the confidence of that security which every civilized nation extends over the subjects and property of foreigners, within its territory, in times of peace and free commercial intercourse.

The Government of the United States, it may be confidently expected, will vindicate the national honour, and feel deeply the insult which this act of savage and cowardly violence, committed in the dead of night, has inflicted upon their nation. They will not, and cannot, with any regard to national character, delay to bring the criminals to punishment, or to render to the injured subjects of Her Majesty, redress—though it be too late, in this instance, to offer them protection.

The demeanour and conduct of the population of this Province has been that of a people resting securely upon the sanctity of law, and the regular exercise of the power of the great empire of which they form a part; and accordingly, even during rebellion and foreign invasion, this country has not been disgraced by any scenes of individual violence or revenge on the part of its loyal inhabitants. The character which has thus been gained to this Province has commanded the admiration of the British people, demonstrated the proud superiority of British institutions, and is too valuable to be sacrificed in its smallest part for the sudden gratification of indignant feelings, however justly they may have been aroused.

I therefore express to Her Majesty's faithful and loyal subjects my entire confidence in their dignified forbearance, and that the British flag, which has been so nobly defended by them, will not now be stained by having outrage or insult offered to the persons or property of foreigners within its territory and under its protection.

It need not be said to men who understand the character and institutions of England, that injury offered to one British subject is felt by all, and that the mutual ties of duty and affection which bind a free and loyal people and their sovereign together, give the strength of the whole empire to an injured individual. This consideration is all that is necessary to restrain a loyal community within becoming bounds, and to insure their leaving to their Government that claim for redress which this unprovoked outrage imperatively demands.

Until the American Government shall have taken such measures as will ensure the lives and property of British subjects within the territory of the United States from spoliation and violence, the utmost guard and caution is required on the part of masters of steam-boats and other vessels, in entering American harbours, as it is but too plain that at present the subjects of Her Majesty may be sometimes placed in the power of a lawless banditti, when they imagine themselves within the protection and authority of a friendly Government.

Given under my hand and seal at arms, at Toronto, this 31st day of May, in the year of our Lord 1838, and of Her Majesty's reign the first.

(signed) *G. Arthur.*

By command of his Excellency.

(signed) *C. A. Hagerman,* Attorney-general.
D. Cameron, Secretary.

(No. 3.)

Upper Canada, City of Toronto. } Robert Bullock, master of the steam-boat Neptune, and passenger on board the steam-boat Sir Robert Peel, at the time of her destruction, being duly sworn, deposeth and saith as follows: that is to say, at the time the steam-boat was burning, I saw a considerable number of persons on the American shore, looking on quietly Encl. 3, in No. 6

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quietly at the destruction of the boat. I have no doubt but that the intention to attack the vessel was known to great numbers on the American shore, who might have given warning to the master of the intention to do mischief if they had pleased. The hostile disposition of the people on the frontier is quite apparent. I was informed by the master of the Oneida steam-boat, which brought the passengers from Well's Island, that I might expect to hear of the loss of another steam-boat as I proceeded up the lake. I have had great opportunity of observing the spirit and disposition of the frontier inhabitants, and I believe that it is hostile along the whole frontier.

(signed) *R. Bullock.*

Sworn at the city of Toronto this 31st of May 1838, before me,
(signed) *R. B. Sullivan.*

— No. 7. —

(No. 26.)

No. 7.
Sir G. Arthur
to Lord Glenelg,
7 June 1838.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Upper Canada, Toronto, 7 June 1838.

I AM again desirous to recur to the subject of my despatches of the 14th April (No. 4.), and of the 30th May (No. 22).

In the former despatch, I stated my opinion that the punishment of transportation should be resorted to, both as a deterring penalty, and as a means of ridding the country of the worst and most dangerous traitors; and I mentioned that to others I wished to grant a free and unconditional pardon.

I also at the same time intimated that views somewhat different from my own appeared to be entertained by others.

In the latter despatch, I represented to your Lordship the expediency (as it appeared to me) of investing the Lieutenant-governor with the power of extending the Royal clemency, by granting amnesty, more or less comprehensive, according to circumstances, contemporaneous with the actual pardon.

In despatch No. 22, I informed your Lordship of the result of a review of the cases of prisoners ordered for transportation.

It was my opinion when I recommended the punishment of transportation, and, indeed, from the time of my arrival in the Province, that it was not necessary to make many examples, either in the way of capital punishment or otherwise, in proceedings against criminals, where large numbers are, in the nature of the offence, necessarily concerned. The ends of justice, I think, are best advanced by the punishment of a few, with comparative severity, sufficient to mark the sense entertained by Government of the heinousness of the offence, and by mercy and complete indemnity towards all others.

The doctrine, I am fully aware, cannot be properly applied to offences of ordinary occurrence, in which one, or at most a few individuals are implicated in each offence, in which certainty of punishment may be said to be of more avail than severity; but it is of value as applied to crimes like riot, mutiny, or revolt, which involve the criminality of one considerable portion of a community, and the safety of the remainder, and which, therefore, do not admit either of light, or extensive infliction of penalty.

This opinion has been entertained by many individuals who are entitled to respect and confidence, and it has had the effect of modifying to a very great degree the nature of the proceedings against persons charged with treason; but there were obstacles in the way which prevented its being acted upon as fully as I desired.

The first was found in the limitation of the power of pardon by the Lieutenant-governor in cases of treason.

The second was in public opinion, which, of course, was made up of the notions of individuals, each of whom had in his view particular cases arising under his own eye or in his own neighbourhood.

Thus, while loyal men refrained from desiring sanguinary punishment, and were satisfied that it should be commuted, they could not perceive the force of severe

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severe example in a few instances upon the disaffected generally, or contemplate with patience the impunity of individuals, whose exertions in the way of political agitation, and whose armed adherence to rebellion had disturbed the peace, and endangered the safety of their own immediate neighbourhood.

The third obstacle in the way of reducing the number of prisoners for transportation has been the difficulty of selection of those for punishment from amongst a number equally guilty. This has been felt by the Council; and the apprehension of any appearance of caprice or favour in the selection made the task one of extreme difficulty, and no doubt prevented the further reduction of the number of convicts for transportation.

I did not myself see the difficulty in so strong a light; for, however much selection may be desirable, distinctions cannot be found or created which do not, in fact, exist; and I do not very strongly see the necessity of seeking mere shadows of distinction, or where the punishment of a few will answer the ends of justice, of punishing many, because they are equally guilty.

I am not surprised, however, that the Council did not altogether concur with me in the limitation of the number of prisoners for transportation to a greater extent than they have done. The expressed views of the Legislature could not be altogether overlooked, and there was no punishment open to be awarded but transportation towards the class of persons sentenced to that penalty; and I did not, in fact, press my own opinion on the Council so fully as I should have done if I had considered the door of mercy closed, and the decision arrived at irrevocable.

I think, however, that a time will shortly come when mercy may be further extended without risk of remonstrance or discontent, and that the number of persons to undergo punishment may yet be materially lessened.

As amongst those who have been liberated some have acted well and becomingly, while others have behaved with ingratitude; so amongst those selected for punishment are found some respecting whom favourable circumstances are gradually developed; and sympathy is excited towards them, to which I should be sorry not to be able to give effect, so long as the prisoners remain within my reach.

If this should take place upon representations by individuals or their friends to Her Majesty's Government, it will inevitably have the appearance of an appeal from the justice of this Government; and a reversal of the decisions arrived at will scarcely be a gracious return for the pains and anxiety with which a most dispassioned and humane investigation has been conducted by the Council.

I hope I may therefore be allowed to suggest, that if Her Majesty should graciously approve of the proceedings in Council, that the power of pardon may be conferred upon me, so that I may still relieve some from the sentence of transportation before their departure, and others from the inferior penalties of banishment, imprisonment or confiscation; not upon the principle of reversing wrong decisions, but upon the assumption that circumstances may come to light, or may occur, which would render some of the prisoners proper objects of mercy, or that the restoration of perfect quiet and tranquillity may render the further extension of mercy possible, without public injury.

— No. 8. —

No. 8.
Sir G. Arthur to Lord Glenelg, 9 June 1838.

(No. 27.)

Extract of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Upper Canada, Toronto, 9 June 1838.

In my Despatch, No. 23, of the 1st instant, I did myself the honour to report to your Lordship the destruction of the "Sir Robert Peel," and enclosed copy of the proclamation which I issued on the 31st May, to prevent, if possible, any retaliation.

I had hoped that, in consequence, such precautions would have been taken as would have prevented any act that had even the appearance of retaliation, but in this I have been disappointed.

On the 2d June the American steamer "Telegraph," not having answered when hailed on approaching the port at Brockville, was fired into by two sentries, militia soldiers.

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Happily no injury was done, and the officer in command promptly took a very prudent step to provide against misrepresentation.

The sentries were placed in confinement by the civil power, and the American authorities of St. Lawrence County were invited to be present at the investigation, and, subsequently, they furnished the certificate, of which the enclosed is a copy, to the effect that the affair was quite unauthorized.

This circumstance was reported to me on the 4th instant, and the general militia order, of which the enclosed is a copy, was forthwith promulgated and circulated all along our frontier.

The proclamation of the 31st May, on the plunder and destruction of the "Sir Robert Peel," and general order of the 4th instant, respecting the affair at Brockville, which have been cordially received by this community, were intended not only to prevent retaliation, but to work upon the feelings of the better class of American subjects, and to excite them and the American authorities to take an active part in putting an end to the disgraceful proceedings of the citizen patriots, and Canadian rebels, whose evident object it is to bring on a national war.

My intention in this respect has been partially answered, and the proclamation and order having been much approved, have been republished in the frontier American towns, and largely circulated.

But the American authorities seem to be powerless in controlling the people. The patriot cause has been, up to this time, progressing; and during the night of Thursday last a body of about 300 of this banditti suddenly arrived at Lewiston from the interior of the country, with the intention of crossing into Canada, where they expected to be joined by a numerous party of disaffected partisans.

This enterprise had been conducted with great secrecy; and, indeed, for many weeks past, it would seem there has been some person of superior intelligence regulating the movements of the brigands; but the officer commanding on the Canadian frontier received an intimation of this meditated attack a few hours before it was to take place, and a small body of troops being directly brought to the point where the passage was to be attempted, the patriot and rebel force had not the courage to face them, and after a good deal of vapouring they dispersed.

This, and other circumstances, incline me to think that, although the loyal people of this country may continue to be harassed by predatory excursions at various points along the coast for some time, the patriot force, willing and capable of action, has been magnified.

There is, unquestionably, an ungovernable mass of frontier borderers, who will become more and more troublesome as they become more numerous every year, and especially during the winter months, when they are thrown out of employment, and we must always be on our guard, and watchful of their movements; but, still, at least during the summer, I cannot now believe that they will attempt to cross in large bodies.

The forbearance and mercy with which this Government has acted towards persons accused and convicted of treason, although it may have received an ungrateful return from a few, have operated, I am led to believe, beneficially upon the public mind generally; and although the extent of disaffection is certainly great, I do hope it is being narrowed every day, and that the disposition to co-operate with any invading force is gradually abating.

The nest of pirates, under the direction of Johnson and M'Leod, and Scanlan, were pursued after destroying the Sir Robert Peel by the American authorities. Nine of them have been apprehended, eight of whom prove to be rebels who escaped from Canada; but I have no expectation, from their apprehension, of any beneficial result; for Scanlan, who was one of the leaders of the gang, and had a large share of the booty, was immediately liberated on giving bail to the extent of 350 dollars.

Johnson and M'Leod, with a force imperfectly known, and variously described, from 50 to 150 men, had stationed themselves on the islands at the mouth of the St. Lawrence, and during the week some of their party made a descent on Amherst Island, robbed a respectable inhabitant, and severely wounded him and his sons.

No. 8.
Sir G. Arthur to Lord Glenelg, 9 June 1838.

Enclosures in No. 8.

(No. 1.)

Encl. 1, in No. 8.

We certify that we have attended at Brockville the examination instituted there, relative to two sentries named Angus M'Lallen and Michael Ryon, having fired upon the American steamboat Telegraph; and having heard the testimony of Captain Cameron and others, we are fully satisfied that M'Lallen and Ryon fired at or over the boat without orders from any officer. The orders and precautions of Captain Cameron seem to have been proper and discreet.

(signed) *Bishop Perkins*, District Attorney of St. Lawrence County.
Smith Stilwell, Collector of Oswegatchie.

2 June 1838.

(No. 2.)

Militia General Order.

Adjutant General's Office, Toronto, 4 June 1838.

It has been reported to his Excellency the Lieutenant Governor that two sentries, stationed at Brockville, lately fired into the American steamboat Telegraph, whilst passing up the River St. Lawrence. Encl. 2, in No. 8.

The officer commanding, very properly caused the subject to be strictly investigated, in the presence of Mr. Perkins, district attorney of St. Lawrence county, and Mr. Stilwell, collector of Oswegatchie; and it has afforded the Lieutenant Governor the greatest satisfaction to peruse the certificate of those gentlemen, in which they declare their conviction, that the circumstance was purely accidental.

Sir George Arthur, however, cannot refrain from expressing his disappointment at finding that greater precautions were not taken to avoid the possibility of such an accident. It is not enough for a non-commissioned officer to give an order to a sentry, it behoves him to satisfy himself that the order is fully understood by the sentry.

The Lieutenant Governor, in his proclamation of the 31st ultimo, has expressed his conviction that the utmost justice will be done by the American Government towards the subjects of Her Majesty who have suffered from the atrocious outrage committed by a body of ruffians from the American shore, in the destruction of the Sir Robert Peel, and the plunder and ill-treatment of the passengers. It was an unprovoked act of wickedness, revolting to human nature, and in that light must be regarded, not only by the Government, but by the respectable body of the people of America, who cannot suffer their shores to be disgraced by the perpetration of deeds so foul, without pursuing the offenders with the utmost vigilance and rigour.

Information has already been received, that the outrage upon the Sir Robert Peel was committed by some rebels who fled from Canada, conjointly with their wicked associates, who, under the name of patriots, have banded themselves together to perpetrate deeds of violence, robbery and piracy.

Characters thus exposed, always meet their due reward in every civilized nation at the hands of the ordinary ministers of justice. Whilst, therefore, the Lieutenant Governor undoubtedly expects that the militia of the country will continue to perform their duties, as they have hitherto done, with the same zeal and vigilance as Her Majesty's regular troops; and whilst every energy must be applied to apprehend and secure the pirates and robbers who are infesting the islands in the lakes of the Upper Province, his Excellency at the same time most strictly enjoins, that no act of retaliation or violence be committed towards the peaceable citizens of the United States, or any interruption given to them whilst engaged in the transaction of commercial intercourse, either within the waters or at the ports of Upper Canada.

This order will be read at the head of every corps, or detachment, of the embodied militia, at two successive parades.

By command,
Richard Bullock,
Adjutant General, Militia, Upper Canada.

No. 9.
Sir G. Arthur to Lord Glenelg, 19 June 1838.

— No. 9. —

(No. 28.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

Upper Canada,
Toronto, 19 June 1838.

My Lord,

SINCE I had the honour of addressing you my last despatch (No. 27,) I have had the pleasure of a visit from his Excellency the Lieutenant-General commanding the forces, who, after inspecting the posts at Kingston and Niagara, spent a couple of days with me at this city.

In conferring with Sir John Colborne, I have the satisfaction of stating to your Lordship, that our opinions harmonised respecting the measures and arrangements necessary for the protection of the Province.

The accounts which I continue to receive from Amherstburg and Sandwich, represent the inhabitants of the western frontier as still greatly apprehending predatory incursions from the States of Michigan and Ohio, where it is said that assemblages of brigands are heard of from time to time at various points along the border, or at a short distance in the interior.

A public meeting was called a few days ago at Sandwich, by several magistrates of the western district, for the purpose chiefly of discussing the proceedings of the Government with respect to the persons captured in the schooner Ann at Amherstburg, and on the island of Point Pélée. A strong feeling has been produced in that quarter by the delay which it has been considered proper to direct in bringing some of those culprits to trial, and by the suspension or mitigation of the punishment which has been allowed with respect to others who have been tried and convicted; the whole of which cases have been reported to your Lordship. This feeling has been fully embodied in a set of resolutions which have been adopted and published by the meeting, of which a copy is enclosed.

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The magistrates have also transmitted me a memorial, representing the alarm and anxiety which has been caused on the western frontier by the proposed withdrawal of the regular troops from that station. In replying to this memorial, I have informed the magistrates that further arrangements were in progress for the protection and defence of the Province, and that they might fully rely on the care of the Government. With a view to allay the feeling which existed respecting the treatment of the prisoners, I also communicated to them such particulars on that subject, as will, I trust, satisfy them that the course adopted was, under all the circumstances, the only proper one to be pursued.

From London the Reports of Colonel Maitland tend to support the apprehension entertained on the western frontier, of an attack from Michigan and Ohio.

From the Niagara frontier, the officer in command reports, that rebels or American vagabonds have recently crossed the river from the United States, and proceeded into the country in rear of Chippewa and Drummondville, where there are many swamps affording convenient places for traitorous assemblages, and where, I regret to say, that the population is represented as very disaffected. The many rumours of such meetings have created much alarm among the well-disposed inhabitants at Allanburgh, St. Catherine's, and other places along the Welland Canal, and in its vicinity.

Home District.

In this part of the Province I hear of nothing likely to disturb the reigning tranquillity.

Respecting the gang of brigands under Johnson, whose place of rendezvous is said to be a rock among the Thousand Islands in the St. Lawrence, I have had no intelligence within the last few days. Apprehensions of predatory attacks from that party continue, however, to exist at the eastern extremity of Lake Ontario; and I learn that the inspectors of the Provincial Penitentiary have taken the precaution of doubling the nightly guard of that institution, whose proximity

proximity to the water, exposes it to the attempts of such desperadoes as Johnson and his band.

No. 9.
Sir G. Arthur to Lord Glenelg, 19 June 1838.

I deem it expedient to exercise the utmost vigilance in ascertaining the movements and designs of the ill-disposed, and though there may not be a force at my disposal sufficient to prevent a rising at any particular point, I am quite satisfied that I can effectually and instantly put down any armed party of rebels and their American allies wherever it may appear, or repel any invasion from the American shore.

I have, &c.

(signed) *George Arthur.*

Enclosures in No. 9.

(No. 1.)

Resolutions adopted at a Public Meeting of the Inhabitants of the Western District, held at the Court House in Sandwich, on the 9th June 1838.

Encl. 1, in No. 9.

Resolved, That this district has ever maintained a truly loyal and conservative character, and that while other districts teemed with rebels and traitors, the Western District held its character for loyalty and devotion to its sovereign and the mother country, and to the British constitution, inviolate, notwithstanding the machinations of emissaries from the disaffected in the Lower Province, and the necessarily continued daily intercourse kept up by the inhabitants of its frontier with the neighbouring State of Michigan.

Resolved, That in the month of December last, this frontier was suddenly and unexpectedly threatened with an invasion by traitors and fugitives from justice from other districts, aided by American citizens; and the magistrates and leading characters in the district thereupon immediately convened a meeting of the inhabitants, and promptly called out and organised the militia and a large body of volunteers; and, under the pressing, urgent and necessitous circumstances of the case, became responsible for the clothing, food and lodging of the troops, and the merchants, tavern-keepers and others, nobly and liberally came forward and contributed with heart and hand to the fullest extent of their means, towards placing this frontier in the best possible state of defence, and supporting the honour and dignity of the British Crown in this fertile though remote part of Her Majesty's dominions.

Resolved, That in the months of January, February and March, this district was actually invaded at three several and distinct points by large bodies of American citizens and others, from Michigan and the adjoining State of Ohio, who were armed with cannon, muskets, rifles, swords, ammunition, and other abundant munitions of war, the town and people of Amherstburgh were fired upon for several hours, the islands called Bois Blanc, Fighting Island and Point au Pélée were taken possession of, the inhabitants (all good and loyal subjects of Her Majesty) were imprisoned and robbed of all their property, and several of Her Majesty's subjects murdered and severely wounded by these brigand invaders, and that all this happened without any aggression or provocation on the part of the inhabitants of this district, in the very face and under the very eyes of the States of Ohio and Michigan, (countries professedly at peace and in amity with this Province and Great Britain,) and without any direct or positive interference on their part towards arresting and punishing the invaders, who were their own citizens.

Resolved, That these invaders were gallantly met at Amherstburgh in the first instance by the militia and volunteers of this district and others, and after an engagement, were beaten, and their armed schooner, called "The Ann of Detroit," captured, together with their brigadier-general Theller, and upwards of 20 other piratical officers and men, besides three cannon and a large quantity of arms, ammunition, and military stores; and that instead of inflicting summary punishment upon the prisoners, (as they might have done,) the conquerors treated them with mercy, and even tenderness; and after healing their wounds, handed them over to the civil authorities to be dealt with according to law: that at Fighting Island, the militia and volunteers were foremost to assist in attacking and repulsing the invaders, and there captured a cannon and other firearms: and that at Point au Pélée Island, they again assisted in repulsing the invaders, and captured no less than 12 prisoners, and that on the following day one of the inhabitants of this district, (who, though a lieutenant-colonel of militia, volunteered to go to Point au Pélée Island under Colonel Maitland, and acted as a private soldier, as did several other militia officers,) succeeded in circumventing and capturing the brigand chief, Sutherland, and his aid-de-camp, Spencer, both officers of what was miscalled "The Patriot Army," and both of whom held commands at Navy Island, and the former of whom had from the beginning of the invasion ranked foremost of the invading brigand American chiefs.

Resolved, That these exertions and services have (judging by the results) been passed over in comparative silence and neglect by the government, thereby adding another proof to the many already existing, of the singular indifference with which this important frontier -district has heretofore been, and still continues to be, treated.

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Sir G. Arthur to Lord Glenelg, 19 June 1838.

Encl. 1, in No. 9.

Resolved, That the loyal and gallant inhabitants of this district, generally, cannot but feel, and deeply feel, that their applications to government for permission to raise an incorporated battalion within the district, for its defence, as well as for permission even to sustain and continue the few brave companies of volunteers, who, in the time of need, and at a most peculiar and dangerous crisis, stood forth in defence of this frontier, and bore the brunt, toil and hardship of the contest, have been treated by the Executive Government with indifference and neglect. And they especially feel the taunts and insults offered to many by Her Majesty's commissariat officers, who professed to come among them for the purpose of settling their just demands, but who, by their words and actions, seemed to feel a pleasure in annoying and disgusting them, and delaying the payment of their just accounts, by which a vast number of merchants, innkeepers, teamsters, farmers, and other highly respectable, honest, loyal, and deserving persons, who in the early period of the invasion sacrificed their money, property, skill, time and labour, both by day and night, to the public service, (and some even at the risk of their lives,) still remain unpaid, unrequited, and even unnoticed.

Resolved, That notwithstanding the inhabitants all along this frontier endured hardships and privations in the months of December and January last, both by day and night, which can scarcely be described, and perhaps never were surpassed, and spared no trouble, pains and expense in bringing to a trial and conviction the brigand leaders, Theller and Sutherland, they have the mortification to learn that both those bucaniers are respited, or, at all events, are hitherto exempt from the execution of the sentences which they so richly merited; and the inhabitants of this district have been still more deeply mortified at learning that the murderers, brigands and robbers captured at Point au Pélée Island, are not to be tried as such, but are detained as "prisoners of war."

Resolved, That in the opinion of this meeting it is an outrage upon the laws, upon the due administration of justice, and upon common sense, to hold these lawless brigands in the light of "prisoners of war;" and that they are no more entitled to be so treated and considered than a gang of ruffians would be, who, having conspired and sallied forth to rob a park, or burn a house, or to commit any other outrage, were overpowered and captured, and then handed over to the civil authorities to be dealt by as the law might direct.

Resolved, That this meeting has heard with deep regret and surprise of the discharge of Spencer from gaol, by order of the Executive, and that they are credibly informed, by an eye-witness to the fact, that that man is now actively employed at Lockport, in the State of New York, with many others, in organising a company to assist in another threatened invasion of this Province.

Resolved, That in the opinion of this meeting, the course adopted by the Government of this Province in all the above cases is unwise and impolitic; and towards the public in general, and more especially towards the inhabitants of this frontier, (who have suffered so deeply by the aggressions committed, who are moreover still daily and nightly threatened with further and similar aggressions,) extremely unjust; and this meeting expressly marking in the boldest and most unqualified manner its entire disapprobation of the course pursued by the Government, in directing the trial of the Point au Pélée Island prisoners not to be proceeded with, at the last assizes for this district, and in prohibiting even an inquiry into the matter by the grand jury, which course they declare to be a violation of British law, of their constitutional rights and privileges, and of the 44th article of Magna Charta, (the boasted, and justly boasted, bulwark of our liberties,) which declares that right and justice shall neither be denied nor delayed to any, and which course, if recognized or admitted to be lawful, might lead to consequences the most despotic, and to measures utterly destructive of the liberties, and even of the lives of the people.

Resolved, That this meeting deeply deprecates and deplores the unwise hesitation of the Executive Government in carrying into effect the last sentence of the law on Theller, and the transportation to a penal settlement of Sutherland, as well as in delaying the trial of the murderers on Point au Pélée Island; and that they regard the course adopted with respect to these lawless ruffians, as calculated not only to defeat the ends of justice, but to lower and degrade the British nation in the estimation of the world, and especially in the opinion of the United States; many of whose ignorant inhabitants already ascribe this unwillingness to execute the laws to our not "daring" to hang an American citizen, under any circumstances; and that instead of having the intended effect of conciliating parties, it will, unquestionably, have an opposite effect, and will induce our enemies to commit fresh outrages upon us, as the recent destruction of the steamboat "Sir Robert Peel," and the plunder of her cargo, and the gross insults inflicted upon ladies and others who were her passengers, abundantly testify.

Resolved, That claiming for ourselves, as freemen, the fullest right of discussing all political subjects which involve our interests, and of expressing our opinions of the policy and conduct of the Government, and of the men and measures which rule our destinies, with just the same freedom of speech and action as we should be at liberty to do in England, the native land of many of us, and from which we have emigrated to this our adopted country with the fullest and most sacred assurance of protection, and of having our lives and liberties, and properties, guarded by our Sovereign with the same jealous eye as they would have been watched over at home, we cannot but deeply lament that Her Majesty's Government should have so long delayed demanding from the United States ample reparation for the insults and injuries committed upon our fellow-subjects in this district; and we equally lament that

Her

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Her Majesty's representative here should have so long delayed making a formal demand upon the governor of the State of Ohio, for the purpose of having them delivered over into the hands of justice, of one Bradley, of Sandusky or Portand, who was the ringleader of the brigands and bucaniers who invaded Point au Pélée Island, and also of one Clemens, of the Peninsula, in that State, who was a principal promoter of the outrages committed, and a receiver of the property stolen from Her Majesty's subjects who resided on the island; with all of which subjects the Executive has long since been made acquainted.

Resolved, That from positive information, communicated by individuals in whose veracity we can place the fullest confidence, we do not hesitate to say that we are actually in danger of being invaded by a numerous gang of marauders and banditti, and that owing to the manner in which all our just demands for the raising and incorporating of a local corps in the Western District, for the defence of this frontier, have constantly been slighted by the Executive Provincial Government, we find ourselves in a most defenceless state; without arms or munitions of war; and continue exposed, notwithstanding the few volunteers stationed here, to the daily and nightly attacks of foreign robbers and assassins. That under these circumstances, unless the Government think fit to increase our forces along this frontier, and allow us arms to defend our lives and properties, we may be under the necessity of abandoning our homes and habitations.

Resolved, That the above enumerated grievances serve to prove that the value of this important frontier district is altogether underrated, and its claims equally disregarded by those in power; and that unless a different policy towards it be adopted, its inhabitants cannot but henceforward feel that their lives and properties are not protected as they have a right, as British subjects, to expect; and that in any future warfare for the protection of our lives and properties, a thirst for sanguinary retributive vengeance may take place of that exemplary and gallant, yet forbearing temper, which has hitherto happily distinguished their conduct towards even a lawless predatory foe.

Resolved, That these proceedings be published once in the "Western Herald," and that a copy be sent to the editor of every newspaper in this Province, as well as to the editors of the Quebec and Montreal papers.

Resolved, That the thanks of the country are due to John Prince, esq., one of our worthy representatives in the Provincial Parliament, for his exertions in endeavouring to bring to trial at our recent assizes, the Point au Pélée Island prisoners, and for the straightforward, manly and independent course pursued by him on that occasion: and that we entirely concur in all he addressed to the judge, and in the feelings and sentiments expressed by him in court on that subject.

The Sheriff having left the chair, it was

Resolved, That the thanks of this meeting be given to Colonel Robert Lachlan, sheriff of the Western District, for his able, impartial and independent conduct in the chair.

(No. 2.)

Encl. 2, in No. 9.

To His Excellency Major-General Sir George Arthur, K.C.H., Lieut.-Governor of the Province of Upper Canada, &c. &c. &c.

The humble Petition of the Magistrates of Sandwich and Amherstburg, in the Western District,

Humbly sheweth,

That your petitioners have witnessed, with the deepest anxiety, alarm, and astonishment, the removal of Her Majesty's troops and artillery from the garrison of Amherstburg, and that important post again left destitute of regular forces. Your petitioners beg leave most respectfully to state, that Her Majesty's dutiful and loyal subjects of the Western District have pre-eminently distinguished themselves by their unshaken loyalty to their Sovereign, and by their attachment to the constitution under which they have the happiness to live, and that the standard of revolt never dared to show itself in this Western District.

Your petitioners would respectfully beg leave to remind your Excellency, that this neighbourhood has suffered invasion at three several points, and has been the object of the hostile aggressions and attacks of the American pirates beyond any other part of the province, and that Amherstburg was the place to which they directed their efforts, considering it as the key to the Upper Province, which opinion coincides with the judgment and experience of persons of military skill both here and in the United States.

That portion of your Excellency's petitioners who reside in Amherstburg and its immediate vicinity, must feel the deepest anxiety and alarm from the post being given up, when they think of the trials to which they were lately exposed, tending generally to lessen public confidence in the paternal care and protection of the Government (to which all Her Majesty's faithful subjects have an equal claim), and inducing a too general belief that the abandonment of the defence of this frontier is intended, thereby destroying the confidence of the inhabitants in general, and raising that of the brigands, by whom there is every reason to expect, from recent information received, attacks will ere long be again made upon this frontier.

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Sir G. Arthur to Lord Glenelg, 19 June 1838.

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Your petitioners confidently rely upon receiving the utmost support of their Sovereign and of the British nation, and beg leave to assure your Excellency that this protection is best secured to them by maintaining the garrison which has been so many years established at Malden.

All which is respectfully submitted, and your Excellency's petitioners, as in duty bound, will ever pray.

(signed) John Prince, J.P.W.D. — Robert Mercer, J.P.W.D.
J. Woods, J.P.W.D. — J. A. Wilkinson, J.P.W.D.
James Dougall, J.P.W.D. — Robt. Reynolds, J.P.W.D.
F. Baby, J.P.W.D. — Charles Fortur, J.P.W.D.
Wm. Anderton, J.P.W.D. — Wm. Duff, J.P.W.D.

14 June 1838.

(No. 3.)

Government House, Toronto,
19 June 1838.

Gentlemen,

Encl. 3, in No. 9.

I AM directed by the Lieut.-Governor to acknowledge the receipt of your petition, dated the 14th instant, in which you mention the deep anxiety and alarm with which you regard the removal of Her Majesty's regular troops from the garrison of Amherstburg, and represent the necessity of maintaining a sufficient force on the western frontier, in order to protect it from a renewal of those predatory incursions by armed brigands from the American territory to which it has recently been exposed.

His Excellency desires me to assure you that he greatly regrets the existence of that feeling of insecurity which you describe as prevalent in your vicinity; and that you must entertain very erroneous impressions of his views and intentions, if you can imagine him indifferent to the protection of so important a part of the province as that in which you reside.

His Excellency trusts that as the Government of the United States has openly professed its disposition to discourage and restrain the evil designs of its border citizens, it will yet effectually put forth its powers, and prevent the further organization within its territory of hostile expeditions against this part of Her Majesty's dominions.

From the great extent of the frontier, it may be impracticable to protect the country at every point against predatory outrages. Nevertheless the Lieut.-Governor is confident that as soon as his Excellency the commander of the forces shall have adjusted his arrangements for the military establishment to be maintained in Upper Canada, the loyal and gallant inhabitants of the Western District will find that no cause will remain for questioning the intentions of the Government, with respect to their protection and defence.

In the meanwhile I am commanded to inform you that his Excellency has sanctioned an extension of the period of service for which the militia force has been embodied on the frontier, until the end of next month.

I am further directed, with reference to certain proceedings reported in the newspapers, as having taken place at a public meeting recently held at Sandwich, to transmit you a copy of the report of the Attorney-general upon the course pursued in the cases of the brigands taken on board the schooner Ann, and at Point Pélée, which will supply the means of forming a just estimate of the principles on which the Government has acted.

The only case not particularly adverted to in the Attorney-general's report, is that of Spencer, who was captured with Sutherland.

Of this person it is to be remarked, that as he had given information with the understanding that he should be pardoned, his Excellency, on a full consideration of the circumstances, deemed it expedient to give effect to the promise made him by Sir Francis Head.

I have, &c.
(signed) *John Macaulay.*

John Prince, esq., J.P.
And other Magistrates of the Western District.

(No. 4.)

Attorney-General's Office, Toronto,
7 June 1838.

Encl. 4, in No. 9.

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

May it please Your Excellency,

MY attention has recently been drawn to complaints publicly made by individuals against the Government, of an apparent neglect of duty in not prosecuting the foreign brigands, taken on board the schooner Ann, and at Point Pélée, in their attempt to invade the western district of the Province; and I am informed that the grand jury of that district, at the last assizes, expressed dissatisfaction at the instructions I was directed to give the Queen's Counsel, not to proceed against the prisoners captured at the latter place.

It is, perhaps, not surprising that a community that has most severely suffered from the outrages committed by the criminals referred to, should feel a strong desire to see merited punishment

punishment inflicted upon them; but I am well persuaded that the loyal and intelligent subjects of Her Majesty, in every part of the Province, will be found ever ready to acquiesce in measures adopted for the impartial, equitable, and legal administration of the laws; and whatever feelings of resentment may be naturally and justly felt against individuals, who, without the slightest provocation, have so deeply injured them, they will never desire to see those feelings gratified, at the expense of the hitherto unsuspected purity and integrity of institutions, which they have, at the hazard of their lives and properties, proved their resolution to maintain.

It has, however, occurred to me, that your Excellency may desire that some explanation should be given to the public, of the course pursued by the Government with respect to the offenders alluded to, and the causes which have retarded their final punishment for the crimes alleged against them; and, under this impression, I have the honour to submit the following observations:—

1st. With reference to the brigands taken on board the schooner "Ann:" such of them as were British subjects, were indicted for the crime of high treason, and were declared guilty, either upon their own confession, or the verdict of a jury. It was never thought desirable that all the offenders should suffer the extreme penalty of the law, as it was reasonable to suppose some were less criminal than others; but there undoubtedly was a strong feeling entertained that the leaders should not escape just and necessary punishment; and, accordingly, Theller, who was represented as the chief among those taken, and was ascertained to be a natural born British subject, was tried, convicted, and sentenced to be executed. It is sufficient, however, to satisfy all reasonable men, that the execution of this sentence was properly delayed, not revoked, in consequence of a question having been raised, which could not be satisfactorily determined without a reference to England. The other convicts, subjects of Her Majesty, whose guilt was regarded in a less heinous light, have all been ordered for transportation to one of the penal colonies. With respect to the associates of those guilty men who are foreigners by birth, they, by the laws of the country, could not be prosecuted as traitors, since they owed no allegiance to the British Crown. It is true they might have been put to death by their captors at the moment they were taken, as outlaws, who had forfeited all claim to the protection of the laws of every civilized nation; but their lives having been generously and humanely spared by those they came to destroy, the most flagrantly guilty have been reserved for such punishment as, in the discretion of our Sovereign, may be inflicted upon them.

2d. Connected with the case of these offenders, that of the brigand Sutherland may properly be mentioned. This prominent criminal was tried by a court martial, pursuant to an Act of this Province, passed during the last Session of the Provincial Legislature, and was condemned to transportation for life. This judgment, pronounced by a constitutional tribunal of the country, is binding upon all parties, and should be, as I believe it has been, respectfully acquiesced in and approved.

3d. With reference to the brigands taken at Point Pélée Island, it is unnecessary to say that your Excellency, and every officer of the Provincial Government, feel as strongly as the people of the Western District, who have so severely suffered from the effects of their unparalleled outrages, can feel, the necessity of their just punishment; but for the purpose of dispelling any dissatisfaction that may have been caused by the delay which has occurred in bringing them to condign and merited punishment for the murders, robberies, and other atrocious crimes they have committed, it is, I am sure, sufficient to state, that it arises solely from a doubt entertained, as to the legal character of their crimes, as well as to the proper tribunal before which to place them upon their trial. This question being settled by the constitutional advisers of the Queen, to whom it has been referred, stern justice will, without doubt, be awarded according to those sacred and immutable rules, by which the laws of England are administered throughout the dominions of our gracious Sovereign.

Should your Excellency deem it advisable to make the substance of this statement known to the magistrates of the Western District, I trust it will have the effect of convincing them and the public, that the delays which have occurred in appropriately punishing the foreign brigands alluded to, proceed from no other cause than a determination to preserve without stain the character of British justice; and to prove that no provocation whatever can ever induce those who are charged with the deeply responsible and sacred trust of administering our laws, to swerve in the slighest degree from that purity of motive, and rigid adherence to legal right, for which the British Government has ever stood, and, I trust, will ever stand pre-eminent among the civilized nations of the world.

All which is respectfully submitted.

(signed) *C. A. Hagerman,*
Attorney-General.

— No. 10. —

(No. 32.)

No. 10.
Sir G. Arthur to Lord Glenelg, 30 June 1838.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg* ; dated Upper Canada, Toronto, 30 June 1838.

SINCE the date of my despatch, No. 28, in which I informed your Lordship of the feeling which had been excited among the inhabitants of the Western District by the course adopted with respect to the Americans captured at Point Pélée Island, and in the schooner "Anne," off the township of Malden, and the apprehensions of danger from renewed invasion which were entertained in that quarter, I have been closely occupied with the repression of an insurrectionary attempt made in the Niagara district by some Canadian refugees and their American associates, who, having crossed the Niagara river secretly, in small detached parties, had collected in the township of Pelham, and, in conjunction with the disaffected inhabitants in that neighbourhood, had commenced their defiance of The Queen's authority, by pillaging some respectable individuals, and by assailing and overpowering a small but gallant detachment of a colonial troop of horse called The Queen's Lancers.

For an account of the measures which I adopted on this emergency, and the complete success which attended the movement of the forces employed for the restoration of order in the disaffected part of the district, I have the honour to refer your Lordship to the accompanying copy of my despatch, No. 5, to his Excellency the Governor-General, who has expressed an anxious desire to be informed of all that transpires on the frontier; from a perusal of which your Lordship will not fail to gather that I was well sustained by the loyal inhabitants whom I had occasion to summon around me.

I have within a few hours past received intelligence of an attack of a very serious character from the westward, where it is, I fear, too apparent that an invasion of the province is set on foot from Ohio and Michigan, better organized and more formidable in point of numerical force than any which has yet insulted the honour of the British Crown, along the frontier, from the commencement of the Canadian disturbances.

The documents which I transmit have convinced me, that from Cleveland in Ohio, to Fort Gratiot in Michigan, a general plan of invading the western part of the province, has been for some time past maturing, and that violence would be used about the time for celebrating the great anniversary of the American Union. It appears by the accounts which have just reached me, that the hostile force has made its first movement a little sooner than I was led to anticipate, and that a party of about 300 men, well armed, and with abundance of ammunition, actually crossed the River St. Clair, at a place called Nugent's Inn, on the 27th instant, and planted the pole of liberty on the Canadian soil, where it is not improbable many disaffected persons already in the province will be found to swell their array.

The statements I receive lead me to apprehend that the loyal part of the population may be somewhat disheartened by the want of those ample supplies of arms and ammunition which the emergency would appear to require. Nevertheless, I depend much on their tried loyalty and gallantry for such a resistance to the invaders of their country as will afford me time to send some reinforcements to the troops of the line, on whom the defence of the Western District has hitherto devolved.

I shall avail myself of the earliest opportunity to furnish your Lordship with further intelligence.

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Enclosures in No. 10.

Encl. 1, in No. 10.

(No. 1.)

(Extract.)

My Lord, Government-house, Toronto, 27 June 1838.

(No. 5.)

I COMMUNICATED to your Lordship in my last Despatch (No. 4), the events which had occurred upon the frontier up to the 22d instant, including the intimation conveyed by General Brady of the nature of the attacks which were contemplated by the brigands along the borders of the lakes, and the circumstance of a party of the lancers having been overpowered at one of our out-posts.

On the evening of the 22d instant the accounts which reached me from the Niagara frontier were of so serious a nature that I felt it necessary to take very active and decisive steps. With the advice of the Council the proclamation was issued, of which I have the honour to enclose your Lordship a copy, and having determined forthwith to call out part of the sedentary militia, I proceeded early the next morning to Hamilton, taking with me Colonel Chichester, one of the officers lately sent from England, whom I intended to place in charge of the movements in that quarter.

No. 2.

Sir Allan MacNab, the senior militia colonel in that district, most promptly responded to my call upon him for a militia force; and in a very few hours the sedentary militia throughout the Gore district was in motion.

In one of the statements which came under my review, I observed that a part of the plan of the brigands was to prevail upon the Indians situated on the Grand River to join them.

To counteract this, orders were immediately sent off to put the Indians in motion, and they were ordered down the Grand River as far as Wainfleet, occupying with the militia the three bridges over it, viz. one at Paris, the second at Brantford, and the third at Cayuga.

As soon as all the necessary instructions were issued, I proceeded on to Niagara, and on my arrival there on Saturday night, I found the greatest alarm and excitement prevailing throughout the district in consequence of the reported number of refugees and American "patriots" who were represented to have landed, and been joined at the Short Hills, in the township of Pelham, by many of the disaffected inhabitants of that neighbourhood.

From one of the prisoners who had been taken the preceding day by the cavalry, information was obtained that the banditti were headed by an American calling himself Colonel Morrow, who had issued a proclamation, of which a copy is enclosed.

No. 3.

On receiving this intelligence I immediately offered a reward of 500*l.* for Morrow's apprehension; and in my proclamation (Enclosure, No. 4), warned all the people of the country who, whether from ignorance or disaffection, might harbour, conceal or assist him, or any of his followers, in escaping from justice, of the penalties to which they would thereby expose themselves.

No. 4.

I found, from the report of Colonel Townsend, 24th regiment, commanding on the Niagara frontier, that, according to the best information which he had been able to collect, at least 1,000 American associates had crossed the Niagara river in the night time within the last ten days, and that they were hourly gaining accessions to their strength in the very disaffected part of the district in which they had taken up their station. But Colonel Townsend added, that the representations made to him were so contradictory that he did not rely upon any of them.

A gentleman from the state of New York arrived at Niagara whilst I was there in conference with Colonel Townsend, being the bearer of a certificate from the governor of that state, to the effect, that he was a person in whom great confidence was placed, and that he had been employed by the governor to proceed all along the coast in order to obtain information of the movements of the patriot force.

He represented the result of his inquiries to be, that the disaffected persons who had fled across the St. Lawrence from Kingston and its vicinity had found their way through the American territory, until they had united with their friends on the Niagara river, where they had again crossed into Canada.

It was believed, he said, that there were from 3,000 to 4,000 men engaged in this enterprise; and he was of opinion that at least 1,200 had already crossed; that they had secreted themselves in the woods, where they had taken up a strong position, and were supposed to have with them two pieces of cannon.

He also stated, that those persons had been so wicked as to induce a number of Indians from the American territory to join them, and that some of them were already on Grand Island, ready to assist in the invasion of this country.

He believed that there was also a considerable body of men under the command of Macleod also ready to join, and that there were some American citizens who liberally assisted them with means.

Seeing the state of excitement in the district, the fact of the attack having been made upon the lancers, and the building in which they were quartered set fire to, two respectable wealthy men, of loyal characters, having had their houses forcibly entered by night and

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plundered, the various representations of the strength of this banditti in the interior, especially that of the American agent, and General Brady, it certainly appeared impossible longer to doubt that something serious was intended; and taking, therefore, with me a small party of The Queen's lancers, I proceeded on Sunday morning into the said to be disaffected sections of the district of Niagara, so that the waverers might have as little time as possible to hesitate about the side which they would take.

The project fully answered my expectation; and in the course of the afternoon the country was filled with parties, and the most suspected characters appeared the most officious in looking after rebels.

In the course of three days between 30 and 40 have been captured, including Morrow, an American leader; Waite, a Canadian, the second in command, bearing the flag of liberty; Doctor Wilson, a traitor, who escaped during the winter; in fact, all the leaders; and those that remain are dispersed, and are comparatively insignificant persons.

According to the confessions made by the prisoners, the numbers who crossed the Niagara river had been most highly exaggerated; it seemed, however, that they really expected that if they had succeeded in planting themselves firmly in the province, their strength would have been very rapidly augmented by auxiliaries from the States, and disaffected persons in the province; but so far as I could ascertain when I left Niagara, not 100 persons had actually invaded the province; and that on discovering, at an early period, the hopelessness of the expedition, many of those must have returned to the American shore, before the instruction for cutting off all intercourse had issued.

Some of these wretched people have probably made their way into the London district, where Dr. Wilson was closely pursued and apprehended; but I incline to hope that neither Macleod, nor any other party who may have prepared to enter Canada, will just now venture upon making the attempt.

One of the miseries of a civil war is, that it is impossible to know the extent of mischief to be provided against; it is certainly possible that the numbers represented to have crossed over may have landed, and are secreted; but it seems to me, if not impossible, at least highly incredible; a few days, however, will develope the truth.

In the mean time your Lordship need not be uneasy; it is truly painful and most distressing to the loyal inhabitants of this province (and I will venture to say that a finer race of people never adorned any country), that their families should be exposed to such a continued state of alarm and anxiety; but I have abundance of means to resist the invasion of any rabble, and to put down any insurrection.

Whilst I was at Niagara, I made it a point to request an interview with Major Young, who commanded the regular American force stationed between Buffalo and Fort Niagara. He was so obliging as to come to me, accompanied by General Burt, of the New York Militia, and we had a conference for three hours upon the state of the frontier, and frontier American towns; and I believe that Major Young is an honorable and respectable officer, and has sincerely made every effort to prevent the lawless proceedings that have taken place since his arrival on the station; but he complains sadly of the want of troops, and the consequent impossibility of controlling the people.

I was glad to find that General Burt did not hesitate to express the opinion that his Government had too long thought lightly of the disturbances on the frontier, until at length they had become so very formidable that the civil authorities could not effectually check them; both assured me, however, that all the respectable part of the American citizens highly disapproved of and condemned the conduct of the patriots, as they call themselves; and they thought, decidedly, that the cause was far less warmly espoused by the lower class than it had been, and that better order would soon be restored on their frontier. They admitted at the same time, with the greatest regret, that the country near the Lakes was over-run by an ungovernable mass of the lowest class of people.

Major Young has authority for employing one or two steamers on the Lakes, to enforce obedience to the American laws, and I think from his whole manner, that his intention is to use them with activity; and I have employed an armed steamer to cruise off Amherstburg and Sandwich, until Captain Sandom's force appears in those waters.

The interview with Major Young was altogether very satisfactory, and I was glad to see that General Burt felt the force of the arguments used in the second clause of my Proclamation of the 23d instant.

In the communications which I have recently had the honour to address to your Lordship, I have adverted to the anxiety which I should necessarily feel in dealing with such prisoners as might fall into our hands, under such circumstances as have just transpired.

Amongst the loyal portion of this community, a burning indignation appears to be felt at the wicked conduct of the parties who have kept up the excitement for months, and have now again endeavoured to disturb the peace of the inhabitants and the security of their families; not only for the avowed purpose of subverting the Government, but in reality, as they have shown, to plunder and commit every conceivable enormity upon the loyal inhabitants of this province; and I believe a very general expectation exists that all the prisoners will be immediately put upon their trial before the military tribunal provided for by the Act of the Provincial Parliament that was passed last session, of which I beg to enclose a copy.

I cannot

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I cannot forbear from expressing my firm conviction, that punishment of the most exemplary kind is necessary to be inflicted on some of these offending persons. I cannot for a moment think that justice, or policy, or mercy, requires the patient suffering of continued aggression; or that while the subjects of Her Majesty are held strictly accountable to the laws, vagabond foreigners, who have so much greater facilities of committing crime, should be held in any manner excused from the consequences of their outrageous and piratical conduct. The American authorities might justly reflect upon us, whilst we are calling upon them to prevent these enormities, if we do not deter the perpetrators of them by exemplary punishment when we have the power to do so.

I was happy to perceive that your Lordship, in your proclamation of the second instant, expressed a determination so concurrent with the public sentiments of the loyalists of both colonies. "Justice to the guilty" is the only means of preventing crime, and the circumstances of the colony offer too much prospect of a recurrence of crime to admit the possibility of this determination being lost sight of in the policy of this Government.

It seems to me that the least objectionable mode of proceeding will be the indictment of those who clearly owe allegiance to the Crown, and who, by levying war, have rendered themselves guilty of high treason, for that crime, and the indictment for felony under the third clause of the Provincial Act, of the foreigners, of whose guilt of the crime of high treason the difference of opinion seems to exist.

I have accordingly ordered a special commission of oyer and terminer to issue into the district of Niagara, and have directed preparations to be made for the trials.

The chief embarrassment I feel is, how to meet entirely the views of Her Majesty's Government. A humane and benevolent feeling to avoid altogether, if possible, capital punishment, seems to be Lord Glenelg's anxious desire, which is entirely opposed to the feelings of the people of this Province.

No. 8.

Your Lordship will perceive by Lieutenant Magrath's Report (a copy of which is enclosed) what the feelings of the militia are with regard to the prisoners, and it has, I believe, required uncommon firmness on the part of the officers to prevent the militia from putting many of these atrocious banditti to death upon the spot in place of bringing them in as prisoners.

I wish to withdraw from no responsibility which properly devolves upon me individually, whilst in the administration of the affairs of this Province; and I should, under other circumstances, pursue my course with deliberation and firmness, with the advice of the Executive Council and the opinion of the judges, regardless of consequences, and looking to a fair support from Her Majesty's Government. But when I reflect that your Lordship has come to North America, armed with extraordinary powers for the purpose of carrying into effect measures of the highest importance to the nation; that upon the restoration of tranquillity and good feeling (which, however paradoxical it may appear, this outrage is likely to hasten and cement,) the success of your Lordship's mission must, in a great degree, depend; that your Lordship, independent of the high authority of your own judgment and ability, must be able to judge far better than I can possibly do, what is likely to be the mind of Her Majesty's Ministers under such circumstances; I feel that it is not a mean shrinking from responsibility, but a just and proper sense of duty, and deference to submit this important point for your Lordship's advice and counsel. To what extent ought capital punishment in such a case to be carried? * * * * * * * * *

His Excellency the Right hon. the
Earl of Durham, &c.

I have, &c.
(signed) *Geo. Arthur.*

(No. 2.)

PROCLAMATION.—Upper Canada.

Encl. 2, in No. 10.

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.

Whereas on the morning of the 21st of this present month of June, a large body of armed men assembled in the township of Pelham, in the Niagara district, and attacked and plundered a house in that neighbourhood of a large sum of money, and other property, and fired upon and overpowered a small detachment of the embodied militia there stationed.

And whereas information has been received by me, that certain evil-disposed persons, connected with the brigands who have of late molested and disturbed the peace of the American and British frontiers, have crossed the Niagara river, and that they lurk and secret themselves in parts of the district of Niagara, with the knowledge and connivance of some of the disaffected resident inhabitants.

And whereas it is necessary for the peace and security of the district of Niagara, that the ingress and egress of idle and evil-minded persons should be restrained and prevented, and that the perpetrators of the above outrage, and their abettors, should be brought to condign punishment.

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I do therefore strictly order and command all officers, magistrates, and others whom it may concern, that no person be permitted to land upon or leave the shore, on the British side of the Niagara river, coming from or going to the United States territory, unless he shall give a full and reasonable account of himself, and show that he is coming or going in the prosecution of his lawful affairs and business, which person shall be furnished with a passport, to secure him from further hinderance or molestation.

And I do hereby earnestly call upon all magistrates, officers, and other loyal subjects of The Queen, for their best united exertions in restoring the peace and tranquillity of the Province, in the prevention of crime and disorder, and in the apprehension of the guilty; and I assure them of every support and assistance which may be required for these purposes, to the utmost extent of the civil and military powers which Her Majesty has been pleased to place in my hands.

Given under my hand and seal at arms, at Toronto, this 22d day of June, in the year of our Lord 1838, and of Her Majesty's Reign the Second.

(signed) *Geo. Arthur.*

By Command of His Excellency.

C. A. Hagerman, Attorney-General.

D. Cameron, Secretary.

(No. 3.)

PROCLAMATION.

Encl. 3, in No. 10.

State of Upper Canada, Niagara Frontier,
Fort George, 7 June 1838.

Canadians,

We have at last been successful in planting the standard of liberty in one part of our oppressed country, Fort George and Fort Massassanga are now in our possession.

Canadians! Come to our assistance; as you prize property, happiness and life, come to our assistance. Canadians! This is the hour of your redemption; rally to the standard of the free, and the tyranny of England shall cease to exist in our land.

We pledge safety of property and life to all who do not oppose us; but resistance shall be met by men who are determined to conquer or die.

By order of the Commander in Chief,

James Morrow.

(No. 4.)

PROCLAMATION.—Upper Canada.

Encl. 4, in No. 10.

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.

Whereas the body of armed rebels under the command of one James Morrow, who, on the morning of the 21st of this present month, attacked a small advanced post of the Queen's Lancers, by whom they were most gallantly resisted, have already fled from the militia forces sent in pursuit of them, and are seeking to escape the consequences of disturbing the peace and tranquillity of this province, and of their infatuated and futile attempt to subvert our institutions.

And whereas these parties have held out expectations of aid and reinforcements from the inhabitants of the United States, not reflecting that there are thousands of British born subjects, who, though emigrants to that country, preserve their attachment to their native land, and to their sovereign, and who are ready, should occasion require them, to rush forward to support the Government, and put down any insurrection here.

And whereas some of these insurgents have already been taken, and from the arrangements now made, and from the spirit and zeal displayed in their pursuit by the loyal inhabitants of the country, their escape is rendered almost impossible.

And whereas there is reason to fear that some persons through ignorance, and others from disaffection, may harbour, conceal, or assist these fugitives in their endeavours to escape from justice.

Now I do hereby offer a reward of 500 *l.* to any person or persons who shall apprehend the said James Morrow, and cause him to be brought to justice; and a free pardon will be given to any of his followers, not being ringleaders, or having committed any murder, who shall arrest and deliver up the said James Morrow.

And I do caution all persons not to harbour, conceal, or in any manner to assist these rebels and fugitives, since by so doing they will commit a high crime, involving consequences of the most severe and penal character.

And

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And I do further express my warmest thanks and acknowledgments to Her Majesty's loyal and faithful subjects, whose exertions against these criminals have rendered their efforts vain, and have compelled them to flight and dispersion, hereby assuring them that I am using every power at my command for their safeguard and protection, and for the bringing to immediate justice the invaders of their country.

Given under my hand and seal at arms at Drummondville, this 23d day of June, in the year of our Lord 1838, and of Her Majesty's reign the second.

(signed) *George Arthur.*

By his Excellency's command,

W. H. Draper, Solicitor General.

(No. 8.)

Battle-ground Inn, Eleven o'clock, P. M.,
21 June 1838.

Sir,

Encl. 8, in No. 10.

According to your order, received this morning at five o'clock, A. M. (after communicating to you the report I received of our detachment at St. John's being attacked by the rebels), I proceeded with one cornet, one serjeant, one trumpeter, and eleven men, all that were off duty, to St. John's, where I arrived at half-past six o'clock, when I found the report too true. My men were attacked, between two and three o'clock, A. M., by nearly 180 well-armed men. After the sentry fired, they overpowered the guard and fired several vollies into the house, which is completely riddled, and every window broken to pieces. My men, who were in an upper room, returned the fire briskly from the window and top of the stairs. One of the men, Gilbert Adam, was shot behind the ear, the ball passing by Serjeant Bailey's face, who was firing out of the window, the men behind loading and handing him the pistols; Adams fired twice after being wounded. The rebels then fired up through the floor from the room below, and still my men refusing to surrender they set fire to the house; and my men, not wishing to have the landlord injured, at last surrendered. The rebels then took nine horses, and all the accoutrements, arms, cloaks, and saddles. There was very little ammunition, having nearly fired it all away. The rebels had one man killed, and three badly wounded; they took all the men, except Adams and John Wilson, prisoners. The rebels had a doctor, but they would not let him dress Adams. After bringing my men about a mile they released them, first wanting my men to take an oath not to serve the Queen, or fight against the patriots; and if they caught them fighting again, they would hang every one of them.

The rebels said they fought for liberty, and would never lay down their arms; and frequently called out for the officer to be delivered up. Corporal Thomas Dandy is missing, and I fear killed, as there is no account of him yet.

On getting the ball extracted from Adams's head, and writing you a report of what had happened, I pushed forward in the direction of Rice's farm, in Pelham, with some of the St. John's detachment, who pressed horses, but unarmed, searching all the houses as I went along. I was accompanied and ably assisted by Mr. John Kelee, of St. John's, who was of the greatest use to me, owing to his accurate knowledge of the country and people; he was taken prisoner by the rebels in the morning (and can identify most of them), but was released. I particularly recommend Mr. Kelee to your notice, as a loyal man, who stuck by me the whole day. The rebels took 400 dollars from Mr. Arhholt, and 1,000 dollars from his father, and said if they mentioned anything of it their house would be in ashes before three days.

I found all the beds in Rice's Tavern had been slept on the night before. I then got information of two of the rebels passing about seven o'clock, mounted on our horses, with our lances, &c. going towards Jeuniss; to which place I immediately proceeded, and found that they had passed on. I afterwards received information, about three miles farther on, that Jeuniss's son was one of them. I returned, and arrested his father and brother, and brought them back to Rice's, where I staid to feed the horses, and get my men some refreshment. I then received your letter (brought by one of my men from St. John's), ordering me to return to Drummondville; but having received information of where the two wounded rebels were, at Luce's, I determined to take them; and mounting Serjeant Roberts and three of the men on fresh horses, I went there to bring the men; and Captain M'Micking and part of his troop having just arrived, I requested him to assist my own, which he did most willingly; and having learned that the head-quarters of the rebels was at Kempt's, in a tamarack swamp, I determined to attack them, and marched by a different road the remainder of my men, joined by some volunteers, who had arrived from Niagara and St. Catharine's. On arriving at Kempt's tannery, which is situated amongst a set of hills, one of the worst places I ever saw for an attacking party to enter, as the hills are very high on each side of the road and thickly wooded, my vidette pointed out a man

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running along the valley; I sent Mr. Heath (whose gallant and brave conduct is above all praise) with two men to intercept him, whilst I searched Kempt's house. I then, in a few minutes, followed, when I saw Mr. Heath's horse had got into the swamp; but Mr. Heath leaping off, and leaving his horse, followed the man on foot, who was calling all the time to his friends in the wood, not 20 yards off (stated to be about 200), to come to his assistance; he was armed with a rifle, when Mr. Heath rushed in on him and threw him down, when he proved to be the notorious Chandler, colonel and commissary-general to the rebels, who had arrived the night before from the States, fulfilling the saying of his family, to whom he wrote stating that he would "arrive with Lord Durham, when they would have everything their own way." Unfortunately Mr. Heath lost both his pistols (and one of his scales) where his horse swamped, else I would not have had the trouble of bringing him in a prisoner to you. I was just over, when Mr. Heath was about 50 yards from the rebels (who never fired a shot), when I heard a shot, and on galloping back I found that my vidette, John Mills, whom I left on the road, had shot one of the rebels running across the valley on our right, and as the wood could not be entered by horses I did not wish to dismount, as we had not our rifles with us; and not wishing to expose my men further, being unsupported by infantry, I retired to Rice's, it raining heavily till we got there, and took the prisoner Brown on my return, when I found my serjeant had the two wounded prisoners, Kent and Warner. I then put all the prisoners into a waggon and returned to St. John's, accompanied by M'Micking's troop and part of Major Dickson's, who had just arrived, where I found Colonel Roreback, whom I requested, with Captain M'Micking, to remain at St. John's, as your orders were to bring all my men back. I received the prisoner Hillman, at Allensburgh, from Colonel Robinson.

It may seem invidious in my mentioning the gallant, brave, and steady conduct of some of my men, where all conducted themselves gallantly; but I would be doing an injustice if I did not call your attention to the conduct of Serjeant Bailey, officer in command, who, it is reported to me, fired six shots through a window, which I saw knocked to pieces; his escape was miraculous. Also corporal Thomas Dandy (missing, supposed to be killed), and Gilbert Adam, wounded; also John Searson, one of the guard, for conveying the intelligence so quickly to me (being of the St. John's detachment); and Serjeant Roberts, John Mills, and all the men I brought from Drummondville. I send a list of each detachment.

There is a circumstance I beg leave to call your particular attention to. It was with great difficulty I could restrain my men (naturally enraged at the cowardly attack upon their comrades) from shooting or hanging the prisoners; and it was not till I gave my solemn word and honour that, if found guilty (of which there can be no doubt), they would all be hung, that my men gave up stating that they should die; which I hope you will please represent to his Excellency the Lieutenant-Governor.

The rebels had only left St. John's about an hour before my arrival; but not knowing which way they went, I had to stop to get information, else I could have come up with the whole of them. We were about 18 hours on horseback, and only stopped once at Rice's.

The prisoner Chandler said, if he had got the officer and Mr. Dain they would not have taken anything else, as it was determined to hang them; this can be proved by four of my men, who heard him say it; and also said, he regretted not shooting Mr. Heath when he was running up to him. The rebels, on taking some of the caps, threw them down, and said they would not wear the damned things with the Lion. Chandler said he would shoot every one of the men, after taking them prisoners, in the serjeant's hearing.

I hope you will excuse the hurried manner in which this is written, and errors, as I am very much fatigued.

I have, &c.

To Colonel Townsend,
&c. &c. &c.

(signed) *James Magrath*,
Lieut. Queen's Lancers, comms Detachment.

— No. 11. —

No. 11.
Sir Geo. Arthur to Lord Glenelg, 1 July 1838.

(No. 33.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Upper Canada, Toronto, 1 July, Half-past 11 o'clock, P.M. 1838.

IN my despatch, No. 32, which I yesterday had the honour of addressing to your Lordship, I mentioned the recent occurrences in the Niagara district, and adverted to the intelligence which had just reached me of threatened invasion from the States of Ohio and Michigan, and of the actual landing of about 300 men at a place called Nugent's Inn, on the River St. Clair, in the western district.

I am now enabled to transmit to your Lordship copies of the depositions of Messrs. Barnett and Patrick, relating to the hostile preparations which were secretly in progress upon the American territory, from Cleveland to Fort Gratiot, together with the reports I have up to the present moment received from Colonel Maitland.

Maitland, the officer commanding in the western parts of the Province, who is stationed at London with his regiment, (the 32d,) and who will undoubtedly be supported by such of the loyal inhabitants as happen to be in possession of serviceable arms.

No. 11. Sir Geo. Arthur to Lord Glenelg, 1 July 1838.

From the letter of Mr. Whitehead, of Burford (of the 29th June), your Lordship will find that one Dr. Wilson, of Yarmouth, a person noted for disaffection, who had been arrested by the civil authorities on treasonable charges, was daringly rescued a few days since by a party of armed men from Norwich, who shot the horses of the sheriff's officers, and assisted the prisoner to effect his escape.

The 34th regiment proceeded from this place this morning to reinforce the troops under Colonel Maitland, and after completing some other military arrangements, I shall myself repair to the London district to-morrow.

— No. 12. —

(No. 37.)

No. 12. Sir Geo. Arthur to Lord Glenelg, 10 July 1838.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Toronto, 10 July 1838.

I HAD the honour of communicating to your Lordship in my Despatch, No. 33, all the information which up to the 1st instant had reached me from the western part of the Province, respecting the prospects of an immediate attack from the American territory, and I intimated my intention of proceeding to the London district to superintend any operations which circumstances might render necessary.

The accounts which I received soon after I closed that despatch, having satisfied me that the danger of invasion in the London and Western districts had been singularly magnified, it became unnecessary that I should leave the seat of Government.

A series of reports from Lieutenant-colonel Maitland, reaching to the 6th instant, have confirmed me in the belief that the numbers who crossed the River St. Clair, on the occasion noticed in my Despatch No. 33, instead of 300, did not now actually exceed 100; and, of those, it is certain that some were discouraged, and forthwith returned to the American bank of the river.

The expectation that a great number of Canadians would rise and co-operate with these invaders throughout the Western and London districts, in furtherance of their plans of aggression, was disappointed. One loyal and respectable subject of Her Majesty has died of the wounds he received from the brigands, by whom also two or three serious robberies were committed on other peaceable inhabitants.

No return has yet been sent to the Government, showing the number of persons who have been taken into custody; but, I believe, that about 20 have been committed to gaol. Among these prisoners is Doctor Wilson, whose rescue from the hands of the sheriff's officers was noticed in my Despatch No. 33, and whose recapture was effected at some place in the Western district. I propose that this man shall be immediately put upon his trial before the special commission which I have directed to be issued for the trial of the parties concerned in the recent disturbances in the Niagara district.

Of the brigands who crossed the River St. Clair, and were concerned in the pillaging of Mr. Govin's store, it is reported that 12 or 13 of them have been arrested by the American authorities; and, as soon as I am in possession of sufficient information, it is my intention to demand from the Governor of Michigan their surrender for trial in this country. If the Governor should refuse to give them up to justice, I shall transmit all the particulars of the case to the Governor-general, in order that his Lordship may communicate them, if he should see fit, to Her Majesty's minister at Washington, in pursuance of the policy which his Lordship has already adopted.

It is unnecessary that I should trouble your Lordship with the various statements which I have received from the western parts of the Province, but I am desirous of inviting your attention to the correspondence between the American General Brady, and Colonel Read of Her Majesty's 32d regiment, the officer in command on our western frontier, respecting an alleged violation of the United States sovereignty by some of our people, who were in pursuit of a vagrant party of the self-styled patriot invaders of Upper Canada.

No. 12.
Sir Geo. Arthur to Lord Glenelg, 10 July 1838.

This correspondence has been very properly dropped by Colonel Read, in furtherance of my wish that no controversy should be entered upon which could be avoided.

The recent excitement upon the western frontier has been very great; more so, I must say, than there was any positive occasion for; and the magistrates took upon themselves to issue a proclamation interdicting all intercourse with the American frontier, except under certain restrictions at the regular ferries. This was, of course, an assumption of power which they did not possess, and I could not approve of it. Great allowances, however, must be made for persons acting under so much excitement.

I have enclosed the Earl of Durham the only printed copy of the magistrates' proclamation which has reached me, together with a letter from the leading magistrate, and the communication which I caused to be addressed to him on the subject; and for your Lordship's information I now enclose copies of the same documents.

Down to the latest period, General Brady has warned the officers upon our frontier that further attacks may be expected, as he has reason to believe that numbers of the brigands who shelter themselves within the United States territory are still in arms; but I am perfectly convinced that the general disposition of the disaffected persons in the London and Western districts, to rise simultaneously about the 4th of this month has been completely defeated by the sudden turn-out of the militia; and that there is nothing to be now apprehended from invasion, since the foreign brigands can no longer entertain any hope of effective co-operation from any considerable number of persons resident in the Province.

In the winter months, when so many thousands will be thrown out of employment in the American states, and when the ice affords a ready means of passing into Canada, some further disturbances may be looked for; but my impression is, that the patriots and refugees from Canada, who are meditating aggressions, must now be thoroughly convinced of the hopelessness of such undertakings. And when the prisoners in custody shall have been brought to trial, and dealt with according to law, it may be very questionable how far their partizans will again venture to follow in their steps. Having seen all the strength of the disaffected ineffectually put forth, I think the Province may reasonably hope to enjoy some tranquillity and repose.

I am persuaded, that the measures of the last six months will gradually restore a degree of strength and confidence, which Canada has not known for many years. Indeed, I can already perceive a most beneficial change, since the arrival of the Earl of Durham within the Province; and Colonel Grey's late mission to Washington has had an admirable effect on the proceedings without.

Enclosures in No. 12.

(No. 1.)

Encl. 1, in No. 12.

COPY of a LETTER to General *Brady*, in reply to his of 29 June, forwarded with my Despatch of 30 June 1838.

Sir, Amherstburgh, 30 June 1838.

I HAVE the honour to acknowledge the receipt of your communication of yesterday, respecting the intended movements of the pirates said to be scattered along the St. Clair frontier, and to thank you for your attention in giving me such information as you could collect.

I shall be extremely sorry to learn that any acts of Her Britannic Majesty's subjects on this frontier are construed into an infraction of the sovereignty of the United States; but I beg of you to bear in mind, that the pirates who plundered Govin's store were partly American citizens; and having assembled and armed themselves within the territory of the United States, have by her laws subjected themselves to heavy fine and imprisonment, even had not the crime of robbery been added to their other lawless movements and conduct; and as it does not appear that, either in this or in any other similar case that has occurred on this frontier, your laws have been put in force, is it to be wondered at that the peaceable inhabitants of our shores should do their utmost to recover their plundered property?

In my opinion, nothing can show the respect of the inhabitants of this frontier for the laws of the United States more than that, even in a moment of excitement, they were prevented from coming in collision with the robbers who plundered them, by a single citizen of the United States coming forward to assure them that their property would be restored to them. I therefore think, on the present occasion there is no reason to complain of an infraction of your sovereignty.

I beg

No. 12.
Sir Geo. Arthur to Lord Glenelg, 10 July 1838.

I beg leave to assure you that it is my anxious wish, supported by the instructions I have received from Her Majesty's Government, to prevent a collision between it and that of the United States, by any act of the inhabitants of this frontier, and to do all that lies in my power to restore a good feeling between the inhabitants of our shores.

I trust that the Executive Government of Michigan will not be backward in lending its aid towards accomplishing so desirable an end. I would also beg the favour of your informing me what co-operative assistance I may look for from you to prevent the aggression said to be in contemplation on Her Majesty's territory.

Encl. 1, in No. 12.

I have, &c.

(signed) *H. Reid,*
Captain and Major 32d Regt., and Col. commanding.

Brig.-General Brady, United States of America,
Commanding at Detroit.

(No. 2.)

Sir, Head Quarters, 7 Mil. Dept., Detroit, 2 July 1838.

Your communication of the 30th ult., acknowledging the receipt of my letter of the preceding day, was handed to me yesterday. Encl. 2, in No. 12.

In reply to your assertion, that the desperadoes who committed the robbery of Govin's store were partly Americans, and had assembled and armed themselves within the territory of the United States, I beg leave to state, that from the best advices I have received, both before and since the robbery was committed, you have been misinformed; only one or two were citizens of the United States, and the party equipped themselves and made ready for the expedition at some point near Beldoon, on the Thames river.

Although the capture of the plunderers by the Canadian militia, within the British territory, would have afforded me much gratification, yet, I assure you, I am equally happy that Colonel Clark's interference prevented the issue that was about to be tried; happy, not only because our soil was thereby preserved from violation and insult, but because such an act would have increased, very much, the excitement which already so unhappily exists in a certain part of the community on this border, relative to the existing state of things in Canada.

There is no doubt that there are a number of desperate men on this frontier who would willingly join the class of individuals in Canada that are endeavouring to free themselves from British dominion, and only seek for an excuse of the kind above mentioned to lead them to do so, who, without some such provocation, will remain quiet, and take no part in the contest.

I have to express my unqualified dissent to the allegation contained in your letter, of dereliction of duty on the part of the officers of the United States Government. The charge is unfounded; on the contrary, the United States officers on this frontier, both civil and military, have not omitted a single opportunity of arresting and bringing to trial every individual against whom a reasonable charge was alleged, of taking part with the Canadian rebels, in violation of the neutral obligations of the United States towards Great Britain; and at this moment there are either deputy marshals or inspectors of the revenue stationed at every important point on this frontier, from the mouth of the Detroit River to Fort Gratiot, with instructions to keep an eye on the movements of these disturbers of the quiet which heretofore so happily prevailed on both sides of the national boundary line, and in case anything occurred of a tangible nature, to arrest the offenders.

And not only so; but an armed steam-boat which I despatched on Friday last to reconnoitre the St. Clair River, and lend such aid to the civil officers as they might need in the discharge of their duties, returned last night with certain individuals on board as prisoners, said to have been engaged in the robbery heretofore alluded to, and who are now undergoing a trial, or rather examination, for that offence.

An armed boat will again leave this city for the same purposes either to-night or to-morrow morning, which, in connexion with the garrison at Fort Gratiot, the strength of which I shall have it in my power to increase in a few days, I trust will put a check to the operations of these troublesome men, nine-tenths of whom are Canadian refugees, and show them the utter folly of expecting to set our laws at defiance with impunity.

Now, sir, with the candour that is due from one soldier to another, I have replied to your letter, and I trust the same candour will lead you to disabuse those under your command of the opinions which I have no doubt they entertain, in common with their commander, derogatory to the character and honour of the United States officers on this frontier.

I am, &c.

(signed) *H. Brady,*
Brig.-Gen. commanding.

Colonel H. Reid,
H. B. M. 32d Regiment, commanding Western Frontier.

No. 12.
Sir Geo. Arthur to Lord Glenelg, 10 July 1838.

(No. 3.)

(Extract.)

Sir, The Park Farm, Sandwich, 3 July 1838.

Encl. 3, in No. 12. THE disturbances on this frontier are, I lament to say, increasing. One of our most loyal men on Bear Creek has been murdered, and property and persons plundered to a vast extent. I drew out and submitted to the magistrates (whom I yesterday convened for the purpose) a proclamation which, in the absence of one from the Lieutenant-governor, they approved of and signed. I enclose a copy of it for his Excellency's information. I have had 200 copies struck off, and sent in all directions along this frontier, as well as to the mayor of Detroit. We have collected all the boats, scows, and canoes along the coast, and placed them under a militia guard at Sandwich and Amherstburg.

We have received positive information that the invaders are about 800 (some say 1,500) strong, and that they meditate an attack here to-night, or early to-morrow morning.

I remain, &c.

The Hon. John Macaulay. (signed) *John Prince.*

(No. 4.)

PROCLAMATION.—Upper Canada.

Encl. 4, in No. 12. WHEREAS atrocious outrages and aggressions have recently been made by brigands from the State of Michigan upon persons and property on the river St. Clair within this Province; and whereas further and other attacks are apprehended from similar hordes of brigands at various points on this frontier; and whereas it is necessary for the peace and security of the Western district, and of the Province generally, that the ingress and egress of suspicious-looking persons should be restrained and prevented, and that the perpetrators of the above outrages, and their abettors, should be brought to condign punishment.

Now, therefore, we do hereby order all ferrymen, peace officers, and also all good subjects of Her Majesty, and all others whom it may concern, to see that no person be permitted to land upon or leave the shore on the British side of the Detroit River, or the St. Clair River, or the waters of the Western district, coming from or going to the United States territory, unless he shall give a full, satisfactory, and reasonable account of himself, and show that he is coming or going in the prosecution of his lawful affairs and business, which person shall be furnished with a passport, if demanded, to secure him from further hindrance or molestation, such passport to be signed by a magistrate, militia commissioned officer, or a peace officer.

And we do further order and require all peace officers, and the good and loyal subjects of Her Majesty, on all parts of the coast of the Western district, to seize and bring to the towns of Sandwich or Amherstburg all boats, scows, canoes, and other craft found therein, (except ferry-boats regularly and lawfully established,) so that the same may be secured, collected, and placed under military or militia guards, (the intercourse between the United States and this Province being now entirely limited to the regular ferries,) and no person is either to pass or re-pass without undergoing a strict examination.

And we do further order that this proclamation shall continue in force from this day, and until the pleasure of his Excellency the Lieutenant-governor be known thereon.

Given under our hands, at Sandwich, this 2d day of July, in the year of our Lord 1838, and in the second year of Her Majesty's reign.

(signed) *John Prince*, J. P. W. D. — *James Dougall*, J. P. W. D.
Prideaux Girty, J. P. W. D. — *F. Baby*, J. P. W. D.
J. Woods, J. P. W. D. — *Robert Mercer*, J. P. W. D.
C. Eliot, J. P. W. D. — *John A. Wilkinson*, J. P. W. D.
Wm. Anderton, J. P. W. D. — *M. Elliot*, J. P. W. D.

(No. 5.)

Sir, Government House, Toronto, 9 July 1838.

Encl. 5, in No. 12. I HAVE laid before his Excellency the Lieutenant-governor your letter of the 3d instant, and the proclamation of the magistrates of the Western district which accompanied it.

His Excellency has been pleased to express his deep sense of the zeal and activity of yourself and fellow-justices in your efforts to defend that portion of the Province from hostile incursions, and to apprehend such persons as have invaded the country, and committed acts of violence and aggression therein.

I am further directed to inform you, that measures are now in progress for bringing to summary justice such of these parties as have been taken, and also for ascertaining how those of them who have fled to the United States may be claimed, and brought back here to answer for their crimes.

These

No. 12.
Sir Geo. Arthur to Lord Glenelg, 10 July 1838.

Encl. 5, in No. 12.

These measures, added to the precautionary and defensive arrangements already adopted by the employment of an armed steamer in addition to the Thames, and of two or three gun-boats, on Lake Erie, render it unnecessary, in the opinion of his Excellency, to carry into operation the proclamation of the magistrates, excepting so far as taking every means to prevent the escape of any of these marauders who are still in the country, or of apprehending such individuals who may be reasonably suspected of designs dangerous to the public peace. These matters are entirely in the discretion of the justices, in the exercise of which his Excellency desires to express the fullest confidence in those gentlemen.

Should circumstances unhappily render a check upon the intercourse with the United States more pressingly necessary, his Excellency will, in the exercise of the authority entrusted to him, take the proper measure for effecting it, as this is a matter clearly beyond the authority of the local magistrates, and resting only in the hands of the Executive Government of the Province.

I have, &c.

John Prince, Esq., &c. &c. &c. (signed) *John Macaulay.*

— No. 13. —

(No. 40.)

No. 13.
Sir Geo. Arthur to Lord Glenelg, 15 July 1838.

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

My Lord, Government House, Toronto, 15 July 1838.

I HAVE the honour to acknowledge your Lordship's despatch No. 86, mentioning that the minister at Washington had communicated to Her Majesty's Government the circumstances under which Mr. Aaron Vail had been despatched to Canada, to inquire, on the part of the government of the United States, into the cases of any American citizens who might be confined in this country on charges of political offences.

It is with great pleasure that I learn, by a communication from Mr. Fox, that Mr. Vail, on his return to Washington, has unequivocally expressed his satisfaction with the treatment experienced by the American prisoners in custody here, and also with the attention and facilities which he himself everywhere received, in the course of his mission to these Provinces.

The frankness and candour of this gentleman have, it appears, led him to do justice to the authorities in Canada, who have endeavoured to sustain the dignity of the national character, by their courtesy towards him as a functionary of the United States' government, no less than by their humane care of the prisoners, to inquire into whose cases was the object of his mission; and it will be gratifying indeed, if, by their course of conduct on this occasion, they have been instrumental in strengthening those amicable feelings towards each other, which should ever be cherished by the people of Great Britain and the United States.

I have, &c.

(signed) *George Arthur.*

— No. 14. —

(No. 42.)

No. 14.
Sir G. Arthur to Lord Glenelg, 25 July 1838.

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

Government House, Toronto,

My Lord, 25 July 1838.

I HAVE the honour to transmit to your Lordship the petition of the United Synod of the Presbyterian Church of Upper Canada to Her Majesty, which your Lordship will be pleased to lay at the foot of the Throne.

This petition, though dated on the 1st May, was not presented to me for transmission to your Lordship until the 5th June, and I should have despatched it at an earlier period had not matters of greater urgency engrossed my time.

2. I cannot

No. 14.
Sir G. Arthur to Lord Glenelg, 25 July 1838.

I cannot omit this occasion of recording the highly favourable opinion which I have been led to form of the character and general sentiments of the religious society from whom this petition to the Queen has emanated.

I have reason to believe that this denomination of Presbyterians have been distinguished for their good conduct and loyalty on all occasions, as well as for their great and praiseworthy moderation during the discussions respecting the clergy reserves, by which the province has been for several years more or less agitated.

Your Lordship will observe that while this society renews the application which it appears to have made on more than one former occasion for a participation in the benefits arising from the clergy lands, reserved under the Quebec Act, it at present contents itself with a request that, pending the discussion of the questions relating to the disposal of the lands reserved for the clergy, it may be allowed an augmentation of the Royal bounty granted to its ministers in the year 1833.

31 Geo. 3, c. 31.

The claims of a communion so highly respectable will, I am satisfied, receive from Her Majesty's Government the fullest consideration.

I cannot, indeed, express myself too highly as to the true Christian spirit by which the United Synod of the Presbyterian Church of Upper Canada appear to be influenced. Their ministers seem to shrink from contending about the status or the temporalities of the church, but go peacefully forward preaching the Gospel. I must, however, acknowledge to your Lordship my impression that nothing can be conveniently done towards satisfying their reasonable desires, until the measure relating to the settlement of the questions of the clergy reserves, which I design to prepare, shall have been submitted and matured at the next session of the Provincial Legislature.

I have, &c.

(signed) *Geo. Arthur.*

Enclosure in No. 14.

Encl. in No. 14.

TO Her Most Gracious Majesty, VICTORIA, Queen of Great Britain and Ireland, &c. &c. &c.

The Petition of the United Synod of the Presbyterian Church of Upper Canada most humbly showeth,

THAT we, your Majesty's loyal and dutiful subjects, were the first organized Presbyterian body in Canada, and among the very first collegiately educated ministers who manifested a disinterested spirit, by leaving our native homes, breaking up our early and tender associations, encountering the unspeakable difficulties of a new country, and carrying from house to house, and from place to place, "peace and good will, and the pure word of life," to the people of this colony. When we entered upon the moral culture of the wide desolated field of Upper Canada, there were but very few ministers of the Church of England, and only one of the Church of Scotland, and he was soon called to his everlasting home. We are all British-born subjects, and have occupied the field for upwards of 30 years.

Your Majesty's petitioners do not only affirm our devoted and Christian loyalty to the British throne and British constitution, but all ranks and classes of men in the province can, and would bear ample testimony to the well-known fact, was it deemed necessary. Perhaps the "clergy reserve question" tended more than any other question ever agitated in this province to annoy the Government, to excite angry feelings, and produce dissatisfaction in the minds of the people. We confidently aver to your Majesty that we never attempted to annoy the Government upon that all-exciting question, or any other subject. The late governors, as well as the Parliament, can testify to the fact; and as the Reverend and Venerable Dr. Strachan, Archdeacon of Toronto, has testified to it in his last address to the clergy of the diocese, we take the liberty to quote his words. He says, "in passing from the petitions against the rectories by the clergy and members of the Scotch Church, I may be allowed, as an act of justice, to contrast their anxiety for the destruction of our Church in the colony with the mildness which characterizes the petition of the United Synod of the Presbyterian Church in Upper Canada, not in connexion with the Church of Scotland. In urging their claim to share in the reserves, this respectable body truly states that

No. 14.
Sir G. Arthur to Lord Glenelg, 25 July 1838.

Encl. in No. 14.

that they were the first organized Presbyterian institution in the province; that they have suffered as many privations as any of their fellow Christian labourers, and yield not, in loyalty to the Queen and attachment to the British constitution, to any body of professing Christians in the colony; and in conclusion pray that, in any distribution of the reserves, they may be included as well as the Church of Scotland."

As an evidence of this our firm attachment to the institutions of our early home, and now to this our adopted country, and deeply sensible of the favours and rational liberties which we have ever enjoyed under the British Government, whilst we deeply sympathize with Your Royal Majesty on account of the altogether uncalled-for, wicked, and unnatural rebellion which lately broke out, at an unexpected moment, in Canada, against Your Majesty's Government, and so shortly after Your Royal Majesty's ascension to the Throne of England; we have this lasting consolation, which, no doubt, will be pleasing to Your Royal Majesty's feelings, that we are not aware that any one connected with our congregations, scattered as they are over the whole province, was found in arms against Your Majesty, or brought under the charge of sedition or high treason. This proves that we have not refrained to inculcate upon the people, "fear God and honour the King." With these principles, we assure Your Majesty that our people were among the very first, in the depths of a Canadian winter, to leave their homes and families, to rush to the posts of danger, and will be among the last to desert them; and, therefore, equal in danger, in taxation, and loyalty, and ever ready to uphold British supremacy against republican institutions, we justly claim from Your Royal Majesty equal favours and equal liberties. It gladdens our hearts that God in his kind Providence has placed an august personage on the Throne of England, and in that personage Your Royal Majesty has proclaimed to the empire, from that ever-illustrious Throne, that Your Majesty's subjects shall enjoy equal rights and equal liberties, and we are confident that the stain of deception shall never rest there.

We beg to state to Your Majesty, that before we received the Royal grant of 700*l.*, in the year 1833, we refused assistance from missionary societies and other resources in the United States of America, and could still receive such aid from the same quarter; but on account of the political influence it not only might, but has produced, in the minds of some people; as it is a well known fact, that in some parts of the province, where congregations have received such aid, there has been every thing but a display of attachment to the Government and person of Your Majesty, and on this account we have not availed ourselves of the generous offer.

We would also beg leave most humbly to impress upon Your Majesty's most favourable consideration, that seven of our brethren, who joined the Synod since we received the Royal grant, receive no Government allowance. Sir John Colborne, before leaving this province, assured us that we would receive an augmentation, and recommended us to apply for it; and Sir Francis Bond Head informed us personally, that "equal justice in every respect would be done to us;" yet we have received no augmentation, although we have frequently petitioned for it. The reason, we presume, arose from the very protracted delay of the settlement of the "clergy reserves;" and as that subject is not likely to come to any final decision for some time, we therefore most humbly pray Your Royal Majesty to take your petitioners' just claims into Your Majesty's most favourable consideration, by granting such an augmentation of Royal bounty, in the meantime, as will put our brethren upon an equality with us, as it regards the Government allowance.

And may God, "by whom kings and queens reign, and princes determine justice," adorn Your Royal Majesty's mind with every Christian grace, protect your Royal person from intestine broils and foreign invasion, and at last assign Your Majesty a place upon his right hand among his kings and priests in his Royal palace, is the most ardent and faithful prayer of Your Majesty's most faithful, loyal, and dutiful subjects, and most humble petitioners.

Signed in the name, and on behalf, of the United Synod of the Presbyterian Church of Upper Canada.

(signed) *Robert Boyd*, Moderator.
Prescott, 1 May 1838. *William Smart*, Clerk of United Synod.

— No. 15. —

(No. 43.)

No. 15. Sir Geo. Arthur to Lord Glenelg, 27 July 1838.

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

My Lord, Government-House, Toronto, 27 July 1838.

THE Earl of Durham having expressed a strong desire to be made aware of all the circumstances transpiring on the frontier of this Province, I communicated to his Lordship in a despatch, No. 5, of the 27th June last, the occurrences that had taken place on the Niagara frontier, the capture of a number of the banditti, and the circumstances which weighed with me to try them before the ordinary tribunals of the country, rather than before a court-martial, under the Act of the Provincial Parliament, passed during the last session.

In my despatch, No. 32, of the 30th June, I transmitted to your Lordship a copy of that despatch.

I have now the honour to report to your Lordship that a special commission of oyer and terminer, and general gaol delivery, was opened at Niagara on the 18th instant, where several bills have been found against persons concerned in the late disturbances in the Niagara district, and in two cases which have been brought to trial, convictions have ensued. Sentence, however, has been passed in one case only, viz. in that of James Morrow, a native of Pennsylvania, who was the leader of the brigands. He was sentenced to be executed on Monday the 30th instant, and as there is no intention on the part of the Government to interfere with the course of justice, it will be carried into execution accordingly.

No. 1.
No. 2.
No. 3.
No. 4.

I enclose Mr. Justice Jones's report of the case; also a narrative of the whole proceedings of the brigands, drawn up by the solicitor-general, from the mass of evidence which he has taken of the cases, together with that officer's report, dated 22d July, upon the persons whom he had indicted, and the minute of the Executive Council.

These documents will afford Her Majesty's Government the most ample information of the nature of the crime, and of the reasons which have induced the Government not to interfere with the execution of the sentence.

Other prisoners, Morrow's associates, will be forthwith put on their trial, and I should rather have delayed reporting at all until I could have reported upon all of them; but the execution of Morrow will of course rapidly be known in England, and therefore it is not proper that your Lordship should be left in ignorance of the whole bearings of the case, even for a day.

Having lately had the opportunity of conferring with the Earl of Durham upon the cases of Morrow and his associates, it may be well for me to inform your Lordship, that Lord Durham's opinion is, that the fate of such criminals, being robbers, banded together for the worst purposes, could excite the commiseration of no one; and his Lordship's only regret appeared to be, that a more summary mode of trial had not been resorted to.

I have, &c.

(signed) *George Arthur*.

Enclosures in No. 15.

(No. 1.)

Sir, Toronto, 23 July 1838.

Encl. 1, in No. 15. I BEG to report, for the information of his Excellency the Lieutenant-governor, that the commission of oyer and terminer and general gaol delivery, for the Niagara district, was opened on Wednesday last at the town of Niagara. Several bills were found by the grand jury

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jury against foreigners, indicted under the Act of last session, intituled, "An Act to protect the Inhabitants of this Province against Lawless Aggressions from Subjects of Foreign Countries at Peace with Her Majesty;" and two convictions, by the petit jury, took place; namely, George Cooley and James Morrow. The latter was the leader of the party in the late aggressions at the Short Hills. The evidence upon which he was convicted was most clear and satisfactory; so much so, that his counsel gave up the defence upon the facts, admitting that the jury could do no otherwise than convict. Before sentence was passed, a motion was made in arrest of judgment, upon the ground that the Act under which the prisoner was tried was not constitutional, inasmuch as the Provincial Legislature had not the power to make that an offence against our municipal laws, which could only be considered an act against the laws of nations. I over-ruled the objection, which I think it necessary to report to his Excellency, and which I shall also submit to my brother judges to-morrow.

If no interference takes place, on the part of the Executive Government, the execution of the convict will take place on Monday next, the 30th instant.

Sentence was not passed upon George Cooley. The evidence upon which the jury found him guilty varies from that in the case of Morrow; and I desire the opinion of my brother judges before I pass sentence.

Many bills have also been found by the grand jury for treason; and, as a considerable time must intervene before the parties can be brought to trial, I adjourned the court to the 1st of August.

I have, &c.
(signed) *Jonas Jones.*

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

Sir, Toronto, 25 July 1838.

I HAD the honour yesterday to forward, for the information of his Excellency, a short report of the proceedings of the court of oyer and terminer and general gaol delivery for the district of Niagara. I now beg leave to report the evidence taken upon the trial of Morrow, who is sentenced to be executed on Monday next.

I have, &c.
(signed) *Jonas Jones.*

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

The Queen v. *James Morrow.*

THE defendant was indicted under the Provincial Statute passed last session, intituled "An Act to protect the Inhabitants of this Province against Lawless Aggressions from Subjects of Foreign Countries at Peace with Her Majesty."

The indictment contained two counts. The first, charging the prisoner, as a citizen of the United States, with having joined himself to certain subjects of Her Majesty, then being traitorously in arms against Her Majesty, and committing an act of hostility within this Province, that is to say, that the prisoner, with divers others, as well foreigners as subjects of Her Majesty, did levy war against Her Majesty within this Province, and did assault and attack certain of Her Majesty's forces therein. The second, charging him, in a similar manner, with joining traitors in arms, and continuing in arms, in this Province, against Her Majesty.

James Edy.—He knows the prisoner at the bar. He first saw him on the Grand River, about three miles above Drumville, on or about the 26th day of June last. Witness was on duty, with others, as a patrole. The prisoner, with two other persons, came to the inn where he was, and being strangers to him, he examined them. The prisoner said his name was Morrison; that he was a tanner and currier, living at Chatham, in the Western district, to which place he was going, having been about four weeks at Queenston, from whence he had come direct. Witness did not think the prisoner gave a satisfactory account of himself, and he took him a prisoner before Colonel Townsend, at head quarters. On the way, he was recognized as James Morrow, and to Colonel Townsend he gave his name as James Morrow. He said he was a native of Pennsylvania.

Edward Seymour.—He was born in Kingston, in this Province; lately lived in Vaughan, in the Home district. In May last, he went to his uncle's in Palmyra, in the state of New York; set off to return home in June last. Near Manchester, on the American shore, he met with four persons, armed with pistols. They asked him where he was going, he replied "To Canada." They then stated that he must go with them; and they went to Cayuga Creek, opposite Grand Island, above Chippewa. They were two other persons there, and they swore him to be true to the patriot cause, which was to take Canada. They then crossed to Buckhorn Island, and the persons with him directed him to unpile some wood, which he did, and found under it a number of arms. One of the persons with him was named Bennett, a Canadian, as he understood, and another, he thinks, Lewis. They were all strangers to him. Under another pile of wood there were a number of cartridge-boxes and more arms, in all about 60 or 70 stand of arms, and a quantity of ammunition, ball,

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cartridge, and a keg of powder. This was after the principal body had gone over to Canada. They left for Canada, and on their way stopped at Navy Island, where there were about 20 persons, who seemed to be of the same party with the persons with himself. When they landed on Navy Island, a man, called General M'Leod, asked Bennett if he had got the arms; he replied that he had found them, but did not receive them from Buckhorn Island. He asked if he had got any men; Bennett replied one (meaning witness). The general then asked if he would fight, to which Bennett replied that they would make him. He, with the four, then crossed to Canada, above Chippewa. Two men were employed to row them over, who returned with the boat. It was near daylight when they landed above Chippewa, and they went to the woods, where they remained during the day; and the following night they went to a barn about a mile south of Rice's Tavern in Pelham. A person came there whose name he did not know, and Bennett asked him if the party was still at the same place; he said not; that they had removed, and then had their camp in Winchester's Woods. They set off for the camp, and near Rice's they met a man by the name of Martin, who directed them to it. When they reached the camp, they found there about 35 persons, armed with muskets and bayonets. The prisoner was in command of the party, and styled colonel. Witness received a musket and bayonet, and a cartridge-box, with ammunition. Aaron Winchester brought provisions to the camp. He knew Winchester four years since at Pelham. He believes he is an American; he has a farm, and has lived a long time in the country. One James Campbell came to the camp; understood he joined the party. He remained but a short time; saw him there on no other occasion. One Clarke also joined them at the same time, and went away with Campbell. John Brown, Truman Brady, Alexander Brady, James Haslep, and Alexander M'Leod, were also at the camp. One Wait was of the party, in command as major, and one Beemar as a captain. Samuel Chandler was there when witness arrived at the camp; he remained there during the day, and was out at night, and brought provisions. He was called commissary. The attack upon the lancers was made about two days after witness arrived at the camp. The force was divided into three divisions; witness was in the third division. The first was commanded by Beemar, the third by one Saland, and he does not know who commanded the second. The first division left the camp about nine o'clock, the second and third together about 11 or 12, and they marched towards St. John's, where the lancers were stationed, as far as a school-house, where they halted nearly an hour, till the first division joined them. The third division marched into a hollow, and the first and second went on to the attack of the lancers. Prisoner left the third division, and went with the first and second to the attack. Before they left the camp, he heard the prisoner say, "Now, boys, if you are determined to attack the lancers, I give you this advice, touch no private property; if any one does, he shall be punished." The prisoner was armed with pistols. The school-house was a mile and a half or two miles from St. John's. While in the hollow, they heard the firing at St. John's. They then marched from the hollow to the top of the hill, where they met the other divisions. They had the lancers as prisoners, with some men wounded. A waggon was procured to remove the wounded men, and they all returned to the camp. While in the camp, Chandler was heard near it, calling out for assistance, and some of the party were sent to ascertain the occasion of it. They returned, and reported that Chandler had been made a prisoner by the lancers, and then the party prepared to retreat. The prisoner was with them, and was styled colonel. They retreated up the Camborough-road to the Narrows of the Chippewa, and from thence through the woods, went to about three miles above Smithville, where they separated. Witness, with John Grant, came to Smithville; he left his arms where he parted from the others; it was there he last saw the prisoner and Wait. This was on the 21st June. Kemp was with them on the retreat, and had his own rifle; he joined them at the camp, after their return from the attack upon the lancers, and retreated with them. He had once or twice before been at the camp. There was one Wilson, who wore spectacles, that frequently came to the camp, to give information. There was another Wilson who was of the party, a doctor; he last saw him when the party separated above Smithville. Doctor Wilson was in the third division on the night of the attack, armed with a musket.

(Cross-examined.)—Had heard of no intention of any attack upon Canada before he joined the men, as stated, near Manchester. He acted throughout by compulsion. When he separated from his party on the way to the camp, he was always watched. He would have made his escape, if he could. Orders were given, that if any one attempted to escape, he was to be shot. Witness was furnished with arms at Winchester's Woods. They kept a guard at the camp. Witness was never put on guard. He was three days in the camp, and does not recollect seeing Hart there. He first recollects seeing him after he was wounded. He never expressed himself in favour of the cause. The school-house was near a wood, where they stopped for an hour on their way to St. John's. He would have made his escape if he could. When taken at Smithville, he gave a false account of himself, to avoid trouble.

Robert Bailey.—Is a sergeant in the Queen's Lancers, and commanded the detachment at St. John's, on the morning of the 21st June, at Osterhout's house, when attacked. After considerable firing on both sides, supposing the house was set fire to, he with his party submitted, and were made prisoners. His detachment was on duty, as a part of the force called out for the defence of the country under Colonel Townsend, commanding on the Niagara frontier. Witness saw the prisoner in the street, after he was himself made a prisoner; he seemed to have command of the party, and was called Colonel; he was armed with a belt, having a brace of pistols and a rifle, with white ribbons in his hat, and an eagle.

He

He directed the men under him to take care that none of the prisoners made their escape. They were marched as prisoners, himself and six others, about two miles and a half, and then discharged.

Stephen Hart, Benjamin Wait, Edward Seymour, James Wells Doane, and one Beemar, were all of the party who took him and his men prisoners.

They were discharged by the prisoner. It was proposed, before they were discharged, that they should swear not to take up arms against them or the patriots. He understood from the party that they were making war against the British Government. Seymour was in the street with the attacking party when witness came out of the house a prisoner.

James Wells Doane.—He knows the prisoner; first saw him on the night that witness, prisoner and others crossed to Canada from Buckhorn Island. Witness was born in Upper Canada; he left the Province more than three years since. He crossed into Canada with the party more than a week before the attack was made upon the lancers.

There were between 20 and 30 crossed at that time armed, having spare arms and ammunition; 50 or 60 stand of arms altogether.

The prisoner, Benjamin Wait, Major M'Leod, Beemar, Dr. Wilson, Tell, Stephen Hart, Erastus Warner, Samuel Chandler, and others, formed the party that came to Canada with witness. Seymour was of the party making the attack upon the lancers. Witness remained with Chandler on the other side of the water, and also after they came to Canada. He knew him six or eight years since; he was then living at St. John's, in Pelham. Saw a man at the camp, by the name of Kemp, who furnished them with provisions; he was with them in the morning after the attack upon the lancers; when they retreated, he took a musket and marched with them on their retreat.

Kemp left the retreating party between the Twenty-mile Creek and the Chippewa. Beemar was one of the number who crossed into Canada with witness. He commanded a company, and was the officer in command of the whole in the attack upon the lancers. The prisoner, who was the colonel in command, was opposed to the attack, and advised their withdrawing from the country in consequence of their disappointment, in not being joined by great numbers in this country, as they had anticipated, and their small force. It was stated that a large number would join them. Prisoner went to the attack upon the lancers as a private; he was armed with a rifle and a pair of pistols. Witness was in the third division, and did not see the attack upon the lancers.

On the retreat he parted from the prisoner between the Twenty-mile Creek and the Narrows of the Chippewa. The arms were abandoned as they went along; the principal part, say 15 or 20 stand, were deposited near Bucklin's Tavern, in Grimsby. Witness first joined the party at Manchester, in the State of New York, to unite with those, who, he heard, were desirous on this side to liberate the country, by making war against the Government.

James Cummings, Esq.—He is one of the justices who took the examination of the prisoner brought before him and other justices of the peace, on the 27th instant. Witnesses were examined against him in his presence, and he had an opportunity to cross-examine them. He made the statement signed by himself, which is given in; he was cautioned against saying anything which might criminate himself. (In this examination the prisoner alleges that he is an American citizen, a native of the State of Pennsylvania.)

Witness knows Benjamin Wait; he is a Canadian; his father lives in the township of Willoughby; he also knows Samuel Chandler, has known him for eight or ten years; he has during that time been a stated resident in this Province; understood that he was an American born.

John Johnson Lefferty, esq.—Has known Benjamin Wait for six or eight years, he is a native of this Province. Solomon Kemp has been residing in this Province for several years. Aaron Winchester, he believes, is an Englishman; thinks he has voted at elections; he has fine farm. Samuel Chandler he has known for 16 years; until within about two years he was always considered a most respectable inhabitant; he held real estate in the Province, and built a house at Lundy's Lane; he voted at elections. He was naturalized under our Naturalization Law.

He also knows Christian Brown; he is father of John Brown.

James Wells Doane, recalled.—During the time his party was in the Province, they were always in arms, and up to the time the attack was made on the lancers the prisoner had the command; they were frequently paraded and drilled.

Samuel S. Parke.—He lives in the London district; knows Jacob Beemar; he is a native of this country; he lived in (Scotland) the township of Oakland.

Philo Bennett.—Witness knows Jacob Beemar, and has always understood that he was a native of Canada; he lived in the London district.

Stephen Hart.—Witness knows the prisoner at the bar, James Morrow; he commanded the party in arms at the Short Hills; he carried a rifle at the attack upon the lancers at St. John's.

Witness was one of the party, and was in arms; he is an Englishman.

Charles Morgan.—On the 21st June last he lived in Thorold, at Mr. Abraham Overholt's. A number of persons came to the house on the night upon which the attack was

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made upon the lancers, and robbed Mr. Overholt of his money; they were all armed, and were strangers to the witness. Mr. Overholt's was a mile from the place where the lancers were attacked; he saw the bags of specie taken, which Mr. Overholt said contained more than 1,000 dollars.

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Martin Overholt.—He lives in Pelham; a number of men, on the night of the 20th June last, came to his house; they were armed with muskets; they asked for arms, they robbed him of about 300 dollars in specie and clothes. They were all strangers to witness.

Charles Morgan, recalled.—He has been in the gaol, and he recognises one of the prisoners as one of those who robbed Mr. Abraham Overholt.

Charles Heath.—He was on duty as a cornet when the lancers were attacked. He commanded the detachment at St. John's, but was absent on the evening of the 20th. The lancers were embodied and on actual service.

He was present when Chandler was taken; the paper produced was found upon his person.

(It was not given in evidence.)

Verdict——Guilty.

(No. 2.)

Sir, Toronto, 25 July 1838.

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In obedience to the commands of his Excellency the Lieutenant-governor, I have drawn up the following narrative of the proceedings of the party of Americans and British subjects who entered this Province in hostile array in the month of June, and attacked the outpost of the Queen's Lancers at St. John's on the 21st of that month. I have derived the facts entirely from the depositions of witnesses, and the examinations of the accused.

A party of 28 or 39 collected on the American side, two or three miles above Fort Schlosser, on the 10th June. Among them were James Morrow, an American, who was then colonel; Benjamin Wait, a native of Upper Canada, then major; Samuel Chandler, an American by birth, who had been for many years a resident in Upper Canada, and who acted as commissary; Jacob Beamer, who was concerned in the insurrection in the London district under Dr. Duncombe; Alexander M'Leod and John J. M'Nulty, both of whom were of the Montgomery Tavern insurgents; and a Dr. Wilson, who seems to have been an active and influential partizan among them. They crossed over to Grand Island and received arms there, muskets both of British and American manufacture, with cartouch boxes filled with ball-cartridge. They continued in the woods till Monday night, and then, in the dead of the night, crossed over to the Canada side, and landed nearly opposite to the head of Navy Island, and marched immediately about three miles into the woods, carrying with them between 50 and 60 stand of arms. After remaining concealed for two days and one night, they moved still further back, and encamped in the woods in the township of Crowland. Chandler, who was well acquainted with the inhabitants, went out from time to time and brought them in provisions, both raw and cooked. Baker's bread was furnished from Chippewa; and as there seems to have been little money among the party, there is no reason to doubt that they were voluntarily furnished by those to whom Chandler applied. From Crowland the party moved to the Short Hills, and stopped near the Quaker Settlement in a barn belonging to one Lewis Wilson, who was at the time in Buffalo. Dr. Wilson, who stated himself to be distantly related to Lewis Wilson, took them there. Provisions were brought into them by some of their leaders, and by two young women, who lived in Wilson's house. While in the barn, several of the inhabitants, mostly young men, visited them; some of them promised to join, and did afterwards join them. One Eber Rice, a tavern-keeper, came there and held communication with Chandler. On the night of the 15th June they left the barn and encamped in the woods near Beckett's, where they remained two days, Chandler, as before, going out and procuring provisions from the neighbourhood.

In the mean time the parties on the American side, not having heard how the invaders were getting on, despatched a person, named Sinus Wilson Miller, to obtain information. He was an American, a student at law, and crossed in company with some others, and found the party still in Beckett's Woods. Before he could return, however, rumours of a hostile invasion had spread through that part of the country, and the frontier was so guarded, that he gave up the idea of returning, and remained with the party till they dispersed.

The invaders moved to the woods near Solomon Kemp's, and remained there till the Wednesday following (the 20th), where five or six other persons, from the American side, joined them, as well as a few of the inhabitants of the Province. Those who came from the American side crossed first from the main land to Buckhorn Island, where a good number of muskets and some boxes of ball-cartridge were ready for use. From thence they went over to Navy Island, where they found General M'Leod, and about 20 or 30 persons with him. One of the witnesses stated, that M'Leod sent word he should soon come over with 300 men.

Morrow and some of the other leaders seemed much disappointed in not being joined by larger numbers, and expressed themselves about this time in favour of retiring. Beamer and others, Dr. Wilson among them, proposed attacking a small party of the Queen's Lancers, which had been embodied and brought into actual service during the last winter; they

obtained

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obtained a majority in favour of their views; and accordingly on Wednesday night the party was separated into three divisions, the first under Beamer, and the second and third under M'Leod and Lalande. Morrow, who opposed the expedition, accompanied them and served as a private. The first division set off about nine or ten in the evening, and marched to the house of an aged man, named Overholt (upwards of 90 years old), which they entered, and inquired for arms; they pretended to be loyalists, and said, they must not leave arms in the hands of reformers. They next compelled some of the family to open a large chest, from which they took upwards of 1,000 dollars, principally in specie, and on leaving the house told the inmates, whoever should stir out before the following morning should be shot. They went on to Martin Overholt's, whom they plundered of upwards of 300 dollars and some other articles of property, leaving him with similar threats.

About 11 o'clock that same night the second and third divisions left the woods, and went to a school-house about a mile from St. John's, where they stopped for a considerable time, till the first division joined them. After some delay they moved on to Osterhout's Tavern, where the lancers were quartered. On reaching near that place, the third division was posted in a hollow near Davis's, where they supposed some of the lancers were, while the first and second moved on to the attack. On approaching the sentry he challenged them, and as they continued to advance, he fired his pistol at them and rushed up stairs to rouse his comrades. The rebels commenced a fire on the house with their muskets and rifles, which the lancers, seven in number, returned with their pistols from the windows. The building was of wood, and every shot from the assailants went through and through. One of the lancers was wounded in the back part of the head. After a considerable time the room in which the lancers were was so filled with smoke, that they imagined the house was set fire to, and desisted from firing, in order to consult together what they had better do. The assailants, supposing either that their ammunition was exhausted, or themselves were disabled, entered the house and began to ascend the stairs, when they were again fired on, and one of them was severely wounded in the face. They endeavoured to dislodge the lancers by firing up through the floor, and at last brought a quantity of straw into the room below, to which they set fire. The smoke rose so thickly as to render it impossible to remain in the upper room, and, consequently, the lancers, after near an hour's resistance, under the impression that the house was set on fire, surrendered. It was now near dawn of day. The horses, arms, and accoutrements of the lancers were taken possession of, and they were put under a guard.

From the statements of some of the assailants, who have been admitted as Crown witnesses, it would appear, that the whole number of those who joined and enrolled their names did not much exceed 40, including those who came from the United States. Other evidence, however, tends strongly to show that a large number was engaged in these nocturnal attacks, and that as daylight came on many retired. In this respect the lancers, and the persons who were at the houses of the Overholts when they were robbed, agree, and lead to the conclusion that there were at least 100 persons concerned in the attack.

It was broad daylight when the party returned towards their camp in the woods. They took their prisoners, consisting of a sergeant and six men, about two or three miles with them; they debated among themselves in what manner the prisoners should be disposed of; some proposed putting them "in a situation that they should tell no tales; a still mouth could bear no witness." Morrow was opposed to this, recommending them to use the men well, whatever they might do to the officers. It was then proposed that they should be set at liberty on taking an oath not to serve the Queen again, or to take arms against the patriots, which the prisoners one and all refused; and they were at last set at liberty, with a threat as to the consequences if they were again engaged in hostility against their captors.

In the course of the morning of the 21st the alarm spread through the country, and the militia and other forces were put in motion against the marauders. About the middle of the day Chandler, who had been out as usual for provisions and intelligence, was surprised and made prisoner. During Thursday night Morrow and the residue of his party, then about 30 in number, retreated through the woods towards the Narrows of the Chippewa; and during Friday and Saturday they dispersed into small parties, each endeavouring to make their escape through the country to the United States. Beamer and Dr. Wilson went towards the London district, where Beamer was taken, but Wilson has not been heard of. Morrow, Wait, Chandler, M'Leod and others, amounting in the whole to 31 (two of them wounded), have been made prisoners, and are in custody to answer for their offences. Five of the number are American citizens, not previously residents of the Province, nor having any connexion therewith, but who came as parties in the invasion. The residue are either British subjects by birth or naturalization, or aliens, owing a local allegiance by reason of their residence in the country.

From all the statements of the different prisoners, it appears that they were in full expectation of being joined by numbers of the inhabitants of the Province; and if they were successful in getting possession of some place on the frontier, where they could hoist the standard of liberty, they confidently anticipated great aid, both in men and munitions of war, from the American citizens. Some of them speak of cannon being ready for them on the other side the river, as soon as they could carry them across; and they appear to have had deposits of arms on Grand Island and Buckhorn Island, as well as in some houses on the main land about Lewiston, Manchester, and Fort Schlosser. On Chandler's person a proclamation, dated 7th June 1838, was taken, in which the capture of Fort George and Missisagua is announced; and the Canadians are called upon to rally round the standard of liberty.

Wait had in his possession, when made prisoner, a flag with two stars and the word

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liberty on it, and several papers; namely, muster rolls of their party; letters and maps in pencil of the country on the Niagara frontier, and the different roads through that part of the Province. No papers were found on the other prisoners; and they seem generally to have thrown away their arms in trying to make their escape. A good number of rifles and muskets have been found by the militia and volunteers in scouring the woods.

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I cannot conclude without observing, that the greatest zeal and alacrity have been displayed in the pursuit and capture of these brigands, by the militia and volunteers, by whom all the prisoners have been made, as none of the regular forces were sent out on this service.

I have, &c.

The Hon. John Macaulay.

(signed) *William H. Draper*,
Solicitor-General.

(No. 3.)

Sir,

Toronto, 22 July 1838.

Encl. 3, in No. 15.

I HAVE the honour to report to you, for the information of his Excellency the Lieutenant-governor, that I have preferred indictments against all the prisoners in custody here on charges connected with the recent invasion of this Province, and the attack on the lancers at the Short Hills, with the exceptions hereafter noted.

The whole of the indictments have been found by the grand jury, excepting as to three persons, Loren Hedger, Robert Kelly, and Abraham Clarke, all residents in the Province, and against whom the evidence was not considered sufficient. I have consented to their discharge, on giving security to keep the peace, and be of good behaviour for 12 months. This condition I have felt it my duty to exact, as I have the strongest ground for believing that each of these parties knew that the brigands were lurking in the woods some days before the attack, and had communication with one or more of them.

Of the prisoners sent down from Hamilton three, named Charles Malcolm, George Malcolm, and Neal Brown, have been discharged by proclamation. There was not the slightest evidence to implicate them in the Short Hills affair; on the contrary, there is good reason to suppose they were travelling in the States from the west at that time.

Dr. Wilson, who has been sent here from the London district, is not the Dr. Wilson who was with the brigands and traitors in this district. He is not recognized by a single Crown witness; and the description given of the individual who passed by that name, and was one of the guilty parties, does not at all correspond with the appearance of the prisoner. In consequence, however, of the statements of two individuals, whom I sent to the Attorney-general two days since, relative to the rescue of Dr. Wilson now in custody, I have directed his detention until further orders.

I was surprised to learn that Jacob Beamer, who was a captain among these people, is a prisoner in the gaol at London. I sent the information to the Attorney-general immediately; and I have to request the proper steps may be taken for his removal here. It appears in evidence that Morrow was opposed to the attack on the 21st June, as impolitic and absurd, but that he was over-ruled; and Beamer was one of the most active leaders. It was at Beamer's house in Scotland Duncombe held his head-quarters.

George Cooley and James Morrow have both been tried under the late statute and convicted. The former is a young man of very insignificant appearance; the latter was the colonel. The case against him was fully made out. His presence, as leader of the invading party, was established from the first entry into the Province, till the attack on the lancers, which he opposed, as I have already observed. He was, however, engaged in it, carrying his rifle and taking part in the attack. It appeared in evidence that the marauders formed into three divisions, one of which robbed the two Overholts that night of upwards of 300 *l.* Mr. Justice Jones has passed sentence of death on him, to be executed on Monday, the 30th instant.

From some of the evidence, I cannot help drawing a conclusion that a large body of men, and I should fear, residents in the neighbourhood, were with the rebels that night, and left them again at break of day. All the lancers concur in representing the attacking party as considerably exceeding 100; and the witnesses who proved the robbery of the Overholts concur in representing the body who came to plunder there as far more numerous than the rebel division which set out for that purpose, and which consisted only of 14 men. The elder Overholt was a man of upwards of 90 years of age, and was robbed of more than 1,000 dollars.

I have used three of the prisoners, viz. Stephen Hart, Edward Seymour, and James Wells Doan, as witnesses in the trial of Morrow. The latter I should not have made a Crown witness but for the information which I received from some of the magistrates at Hamilton, that Sir Allan M'Nab had held out inducements to him to make disclosures. He is decidedly the best witness among them.

There was a man named Erastus Warner, who was wounded, and was visited by his Excellency the Lieutenant-governor, in the hospital at Drummondville. From his communications, his Excellency seemed to think it might be proper to make him a Crown witness, and he was sent before the grand jury on one or two indictments. Since then, I have ascertained that he was one of the party who robbed the Overholts, and he is the only person yet

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yet identified, though he positively denies it. I have, therefore, not made him a witness before the petty jury, but have not indicted him, as from all that has passed it might be considered that expectations had been held out to him. I have not had any personal communication with him, nor held out any kind of expectations myself, direct or indirect, other than such as may be fairly considered involved in sending him as a witness before a grand jury.

Encl. 3, in No. 15.

The remaining prisoners (three) who were indicted for felony, as foreigners, applied to the court for time to prepare for their defence. As it was inevitable that the delay of near a fortnight should take place before the prisoners for high treason could be tried, and as it was very desirable that the jurors, 80 in number, should not be kept from their farms at this time of the year longer than could be avoided, the court deemed it proper to postpone all the remaining trials until the same time, and the court has accordingly been adjourned until Wednesday the 1st of August. I anticipate that many of those indicted for high treason will petition under the statute. As I have been spoken to by the counsel of some of them on the subject, I have taken care to express it as my opinion, that the only favour they could expect, in answer to such petitions, would be the sparing of their lives. I felt it right to do so lest any should be led to petition without being fully aware of the possible result.

I have only to add, that the jury who tried Morrow were not out five minutes, nor did his counsel dispute the facts of the case, but rested his defence entirely on an objection to the constitutionality of the law under which he was tried.

I shall be glad to receive any directions his Excellency may be pleased to give as to proceeding against Erastus Warner. He appears from his examination to be a British subject, and to have been absent from the Province during last winter, when the rebellion broke out.

I have, &c.

(signed) *Wm. Draper*, Solicitor-general.

(No. 4.)

Government House, Toronto, Thursday, 26 July 1838.

Present:—his Excellency the Lieutenant-governor, the Honourable Robert Baldwin Sullivan, the Honourable William Allan, the Honourable Augustus Baldwin, the Honourable John Elmsley, the Honourable William Henry Draper. Encl. 4, in No. 15.

His Excellency the Lieutenant-governor was pleased to lay before the Council a report from the Honourable Mr. Justice Jones, stating the trial and conviction of James Morrow under the Act of the Provincial Parliament passed last session, intituled "An Act to protect the Inhabitants of this Province against lawless Aggressions from Subjects of Foreign Countries at Peace with Her Majesty," and that the said James Morrow had received sentence of death, to be executed at Niagara on Monday next.

His Excellency was pleased further to lay before the Council an additional report of Mr. Justice Jones, with a copy of the notes of evidence taken at the trial, and also a report on the same subject from the Solicitor-general.

Mr. Justice Jones being in attendance, his Excellency was pleased to ask whether any legal objection appeared to him to exist against the proceedings or conviction, or the execution of the sentence.

Mr. Justice Jones answered, that it did not appear to him that the objection raised by the prisoner's counsel to the want of power in the Colonial Legislature to enact the law under which the prisoner was tried was valid, and that he had consulted the other judges, who concurred with him in this opinion, and that there was no other legal objection to the execution of the sentence.

Mr. Justice Jones further added, that if it were considered proper to carry the statute into effect in any instance, the one now under consideration was decidedly a proper case for capital punishment under the Act.

His Excellency in Council having taken the aforesaid documents into consideration, together with facts of public notoriety not appearing therein, but which may be understood from the statement of Her Majesty's Solicitor-general, who was directed to inquire into the same, and which statement is now before the Council, are induced to direct their attention to the following points appearing in the present case:—

1. The rebellion in the Province had been totally suppressed, and the Government had been endeavouring, with some success, to restore quiet and confidence to the public mind.

2. These endeavours had been principally thwarted by the exertions of unprincipled brigands in the United States, who, in defiance of their own laws, and to the incalculable public and private injury of the Province and its inhabitants, for several months past have kept the frontier of this colony in a state of continual alarm, and expensive and harassing preparation to repel predatory incursions.

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Encl. 4, in No. 15.

3. These aggressors had no excuse arising from political agitation or discontent, but, on the contrary, with a wicked and wanton disregard to the miseries which they were attempting to cause both to the citizens of their own country and to Her Majesty's subjects in this Province, endeavoured, by all means in their power, to bring about a state of feeling in both countries which would most probably end in a calamitous and destructive war.

4. The United States Government have never succeeded in using effectual means to prevent aggression upon the peaceable inhabitants of this Province. It is only within its boundaries the criminals have been brought to justice; beyond these boundaries they have enjoyed almost perfect impunity.

5. Lenity and forbearance have been exercised in vain, and have been ascribed to fear and weakness instead of the true motive, of producing gratitude and good feeling.

6. The danger to the Province is by no means over, and there is too much reason to apprehend that when the winter shall have given facilities of crossing the frontier waters, this Province must be liable to further outrages like those lately repelled.

7. The prisoner came into the Province as leader of a band of pirates; he and his associates had succeeded in corrupting a neighbourhood of Her Majesty's subjects, insomuch that they connived at the presence of the brigands in the Province for several days, without the knowledge of the authorities.

8. They attacked a small body of Her Majesty's troops under circumstances which showed that their first object was murder, without any prospect of ultimate benefit to any political cause. The manner of the attack, and the number of shots fired into the house occupied by the lancers, showed that the sparing of human life did not enter into their plans; and if they did not ultimately murder their captives in cold blood, the reason for forbearance appears to have been apprehension of the consequences arising from their own desperate circumstances, more than from any humane feeling.

9. The prisoner and his associates committed two robberies, to a considerable amount, from two persons against whom they could not have entertained political or any private animosity, and these outrages were all committed in the dead of night, and when the most peaceable and friendly relations subsisted between Her Majesty and the country from whence the incursion was made.

10. It appears that the Act of Parliament under which the prisoners were tried has not been formally announced as being permitted by her Majesty in Council to continue in operation, but from the despatch of Her Majesty's Secretary of State for the Colonies, of the 6th June 1838 (No. 92), with the opinion accompanying it from Her Majesty's law officers, that the Act has at least been noticed by Her Majesty's Government, and considered by the law officers to be in operation.

Upon full consideration of these facts, the Council unanimously concur in advising his Excellency that they see no good reason for merciful interference with the course of justice in the case of the prisoner, and they respectfully recommend that he be left for execution, pursuant to his sentence.

The Lieutenant-governor expressed his entire concurrence in the opinion and advice of the Council.

(signed) *R. B. Sullivan*, P. C.

— No. 16. —

No. 16.
Sir G. Arthur to Lord Glenelg, 6 August 1838.

(No. 51.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*.

My Lord, Government House, Toronto, 6 August 1838.

I HAVE the honour to inform your Lordship that on the 13th July the Earl of Durham visited this province, and took up his residence at Niagara Falls, where I had the honour to meet his Lordship, and to confer with him upon the state of this province, and to receive from his Lordship an explanation of his scheme for the future government of the North American provinces.

I had also the opportunity of conferring with his Lordship respecting the disposal of the prisoners who had been lately captured, after a vain and weak attempt to invade the province, and once more to raise the standard of rebellion.

On the 18th ultimo the Earl of Durham visited Toronto, and received an address from the inhabitants, which was in every way gratifying to his Lordship; and, on the following day, addresses were presented to his Lordship from various classes of the community, assuring his Lordship of their most cordial support in the furtherance of the great object of his mission. On the evening of the same day his Lordship proceeded to Kingston, on his return to the Lower Province.

I have, &c.
(signed) *Geo. Arthur.*

— No. 17. —

No. 17.
Sir G. Arthur to Lord Glenelg, 6 August 1838.

(No. 52.)

EXTRACT of a DESPATCH from Lieut.-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 6 August 1838.

I HAVE the honour to acknowledge your Lordship's despatches of the 1st and 12th June, respecting the reduction of the militia on the arrival of the reinforcements from England, and requesting the necessary steps may be adopted for ensuring the redelivery to the Ordnance officers of the arms and unexpended stores.

In my despatches, Nos. 32 and 37, I reported to your Lordship the disturbances that had been excited on the Niagara and western frontiers by the entrance into this province, from the opposite frontier of the United States, of armed parties bent on plunder and civil commotion, and described the very great degree of alarm which had been created throughout the country by the long continued prospect of an extensive and combined attack at various points by the refugees and patriots, and of a simultaneous rising of the disaffected.

This excitement had been kept up all along the American side of the Lakes in defiance, as it was stated, of the American authorities for several months (General Brady and other officers represented, indeed, the unlawful proceedings in progress, and the invasion threatened, but stated it was not in their power to prevent it), and the apprehension of invasion and insurrection reached its height in the last week in June and the first week in July. But in consequence of the vigorous measures which were adopted at the very instant the first invaders entered the province, which secured their immediate capture, both parties at once felt their relative strength and weakness, and an end being suddenly put to all hope of success in the patriot cause, which had long occasioned the most painful apprehension, the confidence of the Canadian people was restored.

The Solicitor-general proceeded by my direction to Niagara at the very commencement of the affair in that quarter, and assisted the magistrates in the examination of all parties apprehended for treason, so that no person was detained for trial upon mere suspicion, however strong that suspicion might appear to be. Mr. Sherwood, Queen's counsel, proceeded on the same service to the London district, and all persons were there also at once discharged against whom there was not a clear case of treason.

By these measures, which, I believe, have had the best effect in various ways, there will not be, I trust, above 40 prisoners fully committed for trial on the occasion of this audacious and vain attempt at invasion and rebellion and robbery.

Sir John Colborne came into the Upper Province on the 8th July, bringing with him the 43d regiment, which he has stationed on the Niagara frontier, and the reduction of the militia has gradually followed, and their arms and unexpended stores are directed to be delivered over to the Ordnance, under the instructions issued in the orders, of which a copy is enclosed.

His Excellency is still on the western frontier of this province, on a tour of inspection, determining what posts must necessarily still be occupied by the militia.

It is, of course, proper to guard against possible annoyances during the winter months, when so many of the labouring class are thrown wholly out of employment in America, and this Sir John Colborne will naturally have in view in his proposed arrangements. In the meantime, I have no doubt of the accuracy of the following views, which I form upon a great variety of information.

That a most desirable change has very lately taken place amongst those in the province who have been disaffected, and that this good feeling is extending itself; the principal subject of discontent just now being, that the laws are not put more rigorously into execution against the parties committed for and convicted of treason.

No. 17.
Sir G. Arthur to Lord Glenelg, 6 August 1838.

That the American government is now, and has been since Colonel Grey's embassy to Washington, sincerely engaged in discouraging attempts of their citizens to invade Canada, and that the patriots and refugees are consequently disheartened. Nevertheless, a strong feeling of sympathy is still entertained by a large class of persons in America towards the Canadians, as the citizens of the States will insist upon it that they are an oppressed people.

That the whole rebellion was originally fomented and fostered by American citizens, in connexion with Dr. Rolph, and many other disloyal, and disappointed, and selfish men in this province, and that many American citizens still feel it to be their interest to keep a bad feeling alive, and will consequently renew excitement whenever they have an opportunity of so doing.

That hundreds of persons were deluded and excited by American democrats, and Canadian republicans, and having, to a certain extent, committed themselves, fled into the States. If the loyal people in Canada can be brought to act cordially in the matter, it would be wise, as well as humane, to encourage such deluded persons, being British subjects, to return to the province; for, having seen the folly of their conduct, they are not likely again to commit themselves.

— No. 18. —

(No. 61.)

No. 18.
Sir G. Arthur to Lord Glenelg, 10 Sept. 1838.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 10 Sept. 1838.

IN my despatch, No. 58, of the 11th ult., I reported to your Lordship the proceedings of this Government up to that date respecting the convicts who had been tried for the invasion of the province and for treason. I stated that Morrow having been executed, the rest of the convicts had been pardoned on condition of transportation, with the exception of three, Chandler, Waite and M'Leod, with whose sentences the Council had deferred to interfere, until the conviction of others indicted for the same offence should afford the Council an opportunity of selecting the worst.

As your Lordship will be, I am persuaded, very anxious to be informed of the result, I have the honour to report that the cases were further considered on the 27th ult., when, after a most careful consideration, it was the unanimous opinion of the Council that Jacob Beamer's case was the worst, and they recommended that he should be left for execution, and that the rest of the prisoners should be pardoned on condition of transportation for life.

But the Governor-general, on the application of the families of Waite and Chandler, having desired that all the cases might be referred for his consideration and decision, no further execution has taken place, and all the prisoners have been respited.

I have felt it to be my duty to submit to the Earl of Durham, that the course his Lordship has pursued in this matter is, as I am advised, unconstitutional, and likely to lead to very painful results; nevertheless, I have transmitted all the papers to Quebec, and address your Lordship at present upon the subject, only because I am desirous Her Majesty's Government should know how this important question stands, and shall more fully report upon it in a few days when the papers are returned to me with the Governor-general's decision.

I have lately returned from a tour through the Eastern Districts, and have had an opportunity of hearing a good deal of the sentiments of the people throughout that part of the province. Eventually I hope there will be a change of opinion; but at present it is very evident that the lenity which has been shown to persons convicted of treason is not a popular course; very far from it.

This, and the clergy reserve question, are the all-absorbing subjects of public interest; although I hope for the best, I cannot avoid being apprehensive that we are not securely out of troubled waters.

— No. 19. —

No. 19.
Sir G. Arthur to Lord Glenelg, 22 Sept. 1838.

(No. 64.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 22 September 1838.

I HAVE the honour to enclose an address to the Queen, from the grand jury of the district of Bathurst, adopted a short time since. No. 1.

This address, which is signed by some very worthy and loyal people, has for its object to deprecate the establishment of any dominant church in this province. In order to show them what the views and intentions of the Government were on this point, I have sent them a copy of the letter which I caused to be written to the Rev. Mr. Gale on the 3d of July. No. 2.

I regret to find that the ferment created in the province by the discussion of this matter is rather increasing than otherwise; and that I am not met by the opponents of the claims of the Church of England in that temper which I sought to encourage by the letter addressed by my order to the Rev. Mr. Gale.

I, nevertheless, shall not be deterred from my endeavours to effect an adjustment of this most embarrassing affair in such a manner as to restore tranquillity at the last, if not general contentment.

Enclosures in No. 19.

(No. 1.)

TO the Queen's Most Excellent Majesty.

May it please Your Majesty,

WE, Your Majesty's most dutiful, loyal, and devoted subjects, the undersigned magistrates and others composing the grand inquest for the district of Bathurst, in Your Majesty's province of Upper Canada, for Your Majesty's Court of King's Bench, beg to approach Your Majesty with the most profound respect for Your Majesty's Royal person, and our devoted and zealous attachment to that glorious constitution which has placed Your Majesty and Your Majesty's illustrious forefathers on the throne of one of the most powerful and most enlightened empires in the world. Whilst we unite our voices of congratulation with every corner of Your Majesty's vast dominions, on Your Majesty's accession to be enthroned in the hearts of your people, we have to lament that these provinces, which, in point of extent and intrinsic value, form no inconsiderable portion of the British Empire, should have been an exception to that loud burst of joyful acclamation which hailed the commencement of Your Majesty's reign, by a rebellion the most uncalled-for and contemptible that ever disgraced any country; yet we rejoice to think that Your Majesty's loyal subjects, even without the aid of almost any military force, have proven their sincere attachment to Your Majesty and the unrivalled laws of their country, by crushing that foul and unnatural rebellion to the dust. Encl. 1, in No. 19.

Yet, whilst we rejoice that a traitor dare not raise his voice in our land, it is with extreme sorrow that we learn that an attempt is about to be made to wound the feelings, and, we dread, to alienate the affections of a great proportion of Your Majesty's truly loyal subjects, by encroachment on their most sacred liberty—the liberty of conscience, by attempting to establish the Church of England, with the same dominant powers as it possesses in England, in this province.

Far be it from us to undervalue that Church, at the altar of which our beloved Sovereign bows, and to the doctrine and discipline of which several of ourselves firmly adhere, nor do we, in this our humble address to Your Majesty, mean to advocate any particular claim that it or the Church of Scotland has to any special endowments of lands, or other public grants or emoluments. But we beg most sincerely to assure Your Majesty, that, in our opinion, it would be the most unwise and impolitic scheme that Your Majesty's advisers could possibly devise for the peace of this province, to attempt to establish any church with dominant powers within it.

It would be easy to show to Your Majesty the real proportion which the members of the Church of England bear to the rest of the population, and which, we are convinced, would at once satisfy your Majesty, that she has not a shade of a claim, in point of numbers, to any supremacy; but we trust that this will not be necessary, and that Your Majesty will

No. 19.
Sir G. Arthur to Lord Glenelg, 22 Sept. 1838.

Encl. 1, in No. 19.

be graciously pleased to take such steps as will allay the fears of your loyal and dutiful subjects, and completely prevent any true cause of envy or jealousy amongst them.

(signed)

James Wylie, Foreman.	John M'Intyre, J. P.
J. M'Kay, J. P.	Daniel Fisher, J. P.
Simon Fraser, J. P.	Wm. Thomson, G. J.
Donald Fraser, J. P.	Anthony Leslie, J. P.
Dan. O'Connor, J. P.	J. M'Naughtan, J. P.
Josias Tayler, J. P.	Geo Buchanan, J. P.
John Ferguson, J. P.	Henry Glass, J. P.
John Haggart, G. J.	Matthew Leach, J. P.
Arch. M'Nab of M'Nab, J. P.	Joshua Adams, J. P.

(No. 2.)

Sir, Government House, Toronto, 3 July 1838.

Encl. 2, in No. 19. I HAVE had the honour to receive your letter of the 22d June, which I have laid before the Lieutenant-governor, together with your former letter addressed to Mr. Joseph, in which you state that the commission of the Synod of the Presbyterian Church of Canada in connexion with the Church of Scotland have appointed certain of their members a deputation to wait upon the Lieutenant-governor for the purpose of requesting such information as it might be in his Excellency's power to give respecting the intentions of the Colonial Government of giving effect to the admissions, which you state have been so long and so frequently made by the ministers of the Crown, in regard to the rights of the Church of Scotland in this colony.

On the 11th ultimo, the Lieutenant-governor afforded the deputation the most unreserved personal explanation; and I am now to repeat to you, that it is his Excellency's intention to bring before the Legislature, at its next meeting, the question of the clergy reserves, and his determination to use his utmost endeavours to have it finally settled, with a due regard to the present condition and future welfare of the province, and in such a manner as shall be most conducive to the promotion of the best interests of all Her Majesty's subjects.

The Lieutenant-governor laid open for your perusal a copy of Sir Francis Head's despatch, transmitting the report of the Hon. and Venerable the Archdeacon of York, together with other documents which had been submitted to the law officers of the Crown, and the consideration of which had led them to form the opinion that the erection or endowment of the 57 rectories by Sir John Colborne are valid and lawful acts.

A copy of the Archdeacon's report, which the Lieutenant-governor believes has already been published, will be transmitted to you in a few days; copy of Lord Glenelg's despatch, with its enclosure, being the opinion of the law officers, which was read at the interview on
No. 20, 9 Feb. 1838. the 11th instant, I have the honour now to enclose; and with reference to the several remarks made thereupon by the deputation, I am directed to offer the following observations.

1st. The deputation expressed themselves not to be convinced of the soundness of the opinion of the law officers in favour of the legality of the endowments.

In furtherance of the kind disposition manifested by the Secretary of State, that if you should still feel it right to insist upon the further investigation of this question of law, and should be able to state any material fact, or to suggest any important argument which might hitherto have escaped notice, and would bring the same forward by petition, the Lieutenant-governor will transmit the same to the Secretary of State. Or, as his Excellency understood your desire was to have a judicial determination of the matter, he sees no legal objection to your instituting a proceeding in the Court of Chancery for the repeal of the patents of endowment, or in any other manner which you may be advised to adopt in any court in the province in which the question can be legally entertained, from the decision of which court an appeal can be had to the Judicial Committee of Her Majesty's Privy Council, to which allusion is made in the despatch of the Secretary of State for the Colonies, the 9th of February 1838, No. 20.

If the opinion of the law officers had been against the legality of the endowment, his Excellency would probably have directed such a proceeding at the suit of the Crown. But Her Majesty's Government now considering the Act legal, the burden of instituting the suit is unavoidably cast upon those who wish to avoid the patents.

His Excellency is however induced to believe that the whole question of the reserves will be satisfactorily settled without reference to judicial decision.

2d. In like manner, if it be still your desire to have a judicial determination (upon the claims the Church of Scotland can legally maintain to a participation in the lands reserved under the 31 Geo, 3, c. 31, or to the funds arising from them), that question also can, upon your petition, be submitted to the Secretary of State, with the expression of your wish that it should be referred to the Judicial Committee of the Privy Council.

The Lieutenant-governor hopes, from this ready acquiescence with the implied wish of the deputation, that he gives the sincerest proof in his power of his desire that every justice should be done to your asserted claim; and it ought at the same time to satisfy you that Her Majesty's Government have been sincere in their desire to investigate the question of your rights.

3d. With

No. 19.
Sir G. Arthur to Lord Glenelg, 22 Sept. 1838.

Encl. in No. 19.

3d. With respect to your apprehension, from the establishment of the rectories, that the Church of England will exercise some ecclesiastical authority, I am to repeat to you the Lieutenant-governor's personal observation, that in his Excellency's opinion no objection whatever can exist "to a legislative declaration that the establishment and endowment of rectories in the province shall not be construed to confer any right to exercise any ecclesiastical or spiritual power whatever, except over the members of the Church of England;" and such a Bill will be proposed under the authority of Her Majesty's Government.

His Excellency commands me to express his very deep regret that this communication has been so long delayed, but he trusts that it will yet reach you soon enough for your purposes at the approaching meeting of your Synod, and that you will be sensible o his great solicitude to inform himself fully of the nature and extent of the clains of all denominations before he finally directed an answer to be returned to your application.

I have, &c.
(signed) *John Macaulay.*

The Rev. Arthur Gale,
Moderator of the Synod of Canada.

— No. 20. —

No. 20.
Sir Geo. Arthur to Lord Glenelg, 28 Sept. 1838.

(No. 68.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

Government-House, Toronto,
28 September 1838.

My Lord,

I HAVE the honour to enclose an address to The Queen, from the ministers of the Wesleyan Methodist church in Upper Canada, which was adopted by that body at their conference held at Kingston in the month of June, and which, at their instance, I request your Lordship will have the goodness to lay before Her Majesty.

I have to remark, that in consequence of the pressure of other affairs the transmission of this address has been somewhat delayed.

I have, &c.
(signed) *Geo. Arthur.*

Enclosure in No. 20.

To the Queen's Most Excellent Majesty.

Encl. in No. 20.

Most gracious Sovereign,

WE your Majesty's dutiful and loyal subjects, the ministers of the Wesleyan Methodist church in Upper Canada, in conference assembled, beg permission to offer to your Majesty the sincere expression of our condolence on the lamented death of your illustrious uncle, and our humble and cordial congratulations on your Majesty's accession to the throne of your royal ancestors.

Firmly attached to the principles of the British Constitution as by law established, and animated with devoted loyalty to your Majesty's person and Government, there is no catastrophe we more earnestly deprecate than the dissociation of this noble Province from the British empire.

It is therefore with sentiments of devout and ardent gratitude to Almighty God, that we advert to the marked and memorable interposition of his gracious providence, by which the late unnatural attempt to subvert our civil institutions and relations, has been so happily repressed.

We regard the measures which are now in operation, under the sanction of your Majesty's authority, for laying the foundation of a future system of Government in this Province, that will equally protect the rights of all classes of your Majesty's subjects, as a most opportune and unequivocal expression of your Majesty's anxious solicitude to throw the shield of your protection over the loyal, and to meet the expectations of your subjects in this Province, so far as may consist with the maintenance of the dignity and integrity of your Majesty's empire.

As Christian ministers we cannot reflect without the highest satisfaction on the determination to maintain the religious rights of all its subjects, which has been so nobly characteristic of the House of Brunswick.

We fervently pray that the plans which your Majesty has devised for the permanent good of this and the sister Province, may effectually achieve that object; that the widely-extended realm over which your Majesty is placed by Divine Providence, may be blessed, under the auspices of your reign, with abundant peace and prosperity; that He, in whose hands are the times of the most elevated as well as the most humble, may long preserve

No. 20.
Sir Geo. Arthur
to Lord Glenelg,
28 Sept. 1838.

your Majesty to adorn the British throne, and reign in the affections of a loyal, prosperous, and happy people; and that, when full of days and of blessings, your Majesty's crown and honours shall devolve upon your legitimate successor, you may receive from the King eternal, "a crown of glory that fadeth not away."

Encl. in No. 20.

Signed by order and in behalf of the Conference of the Wesleyan Methodist church in Canada.

(signed) *W. M. Harvard*, President.
Egerton Ryerson, Secretary.

Kingston, Upper Canada,
22 June 1838.

No. 21.
Sir Geo. Arthur
to Lord Glenelg,
28 Sept. 1838.

— No. 21. —

(No. 69.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H. to Lord *Glenelg*.

My Lord, Government-House, Toronto, 28 Sept. 1838.

HAVING observed in the newspapers a report of a debate in the House of Commons, in which Mr. Hume is represented as having inquired whether it was true that a body of Indians had been employed to act in concert with the troops in this Province; and Sir George Grey is said to have replied, that he had no reason to believe that the report was true; I am induced to request your Lordship's attention to my despatch to the Earl of Durham, which forms the enclosure of the despatch No. 32, which I transmitted to your Lordship on the 30th June.

No. 5.
27 June 1838.

You will find, my Lord, in that communication to the Governor-general, a brief account of the disposition of the various forces which I had called out in the latter part of the month of June, for the purpose of putting down the insurrection which had been commenced at the Short Hills, in the district of Niagara, and which was, happily, immediately suppressed. Of these forces, the Six Nations of Indians (as they are termed), who reside on the River Ouse or Grand River, furnished a part; and it is probably this circumstance which constituted the ground of Mr. Hume's inquiry.

I have informed your Lordship, that the leaders of the insurrection had on this occasion attempted to tamper with the allegiance of the Indians; and I have reason to believe that it is not the only instance in which attempts of this nature have been made since the commencement of the political disturbances in this Province.

In more than one instance since last autumn have the Indians been called out in defence of the country. They furnished a large force to protect the Niagara frontier last winter, when it was menaced by the armed assemblage of Canadian refugees and American adventurers, who had taken possession of Navy Island, and on that occasion, as well as on others when their services were required by my predecessor, their conduct was perfectly unexceptionable.

In employing them in the month of June last, I had it for my chief object to cut off the communication between the mixed band of brigands and insurgents who were in arms at the Short Hills, and the disaffected portion of the London and Talbot districts, and to intercept all fugitives. The Indians were thus employed on a duty for which they are peculiarly well qualified; and they were, moreover, posted on their own ground, which forms one of the finest and most fertile parts of Upper Canada, and which they are as solicitous to defend and enjoy as any other portion of Her Majesty's Canadian subjects can be to maintain their possessions.

As it is not unlikely that to speak of the employment of Indians in military operations, may awaken old recollections among the people of England, I think it right to observe, that the Indians whom I recently employed are very different in habits and circumstances from the savages called into service during the wars of the last century; they are the remnants of tribes once, indeed, powerful and fierce, but now domesticated, who, having almost wholly abandoned the hunter state, reside in villages, or in small patches of cleared land in the neighbourhood, which they cultivate with considerable perseverance and success.

The warriors of these tribes, who promptly obeyed my summons, were under the guidance of humane leaders, who readily enforced my earnest injunctions for the maintenance of the strictest order, and a scrupulous observance of the merciful rules of civilized warfare, and I may venture to assert my belief, that had these Indians actually been brought into contact with the enemy, their conduct would have

No. 21.
Sir Geo. Arthur to Lord Glenelg, 28 Sept. 1838.

have been such as to sustain a comparison with that of men laying claim to a higher decree of civilization.

I have to assure your Lordship that it forms no part of my policy to bring, unnecessarily, an Indian force into the field; but I consider it inevitable, that if civil troubles should unhappily recur in this country, the scattered tribes of domesticated Indians will be ranged either on the side of the Government, or against it; and, under such circumstances, it is obviously more judicious to employ them in defence of the Crown, under the control of influential and experienced commanders, than to permit them to be arrayed in the enemy's ranks.

I have, &c.
(signed) *George Arthur.*

— No. 22. —

No. 22.
Sir Geo. Arthur to Lord Glenelg, 29 Sept. 1838.

(No. 73.)

Copy of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H. to Lord *Glenelg*.

My Lord, Government-House, Toronto, 29 Sept. 1838.

With reference to my despatch, No. 61, I have the honour to inform your Lordship that I have received the Earl of Durham's decision upon the cases of the prisoners tried on the Niagara frontier. It is his Lordship's opinion that no further executions should take place; and, accordingly, Jacob Beamer has been pardoned, with the rest of the prisoners convicted with him, on condition of being transported for life.

The Governor-general, I am quite satisfied, has acted from the best motives; but I think his Lordship has exceeded his powers in thus interfering with the ordinary course of justice in this Province; and I differ, also, entirely with the policy which his Lordship has pursued in this matter. Nevertheless, I am sure your Lordship will concur with me, that, after having officially expressed my sentiments to the Governor-general, it is far better that I should act upon his Lordship's views, than evince the least want of cordiality.

The Governor-general has also proposed that I should follow his course with regard to granting a general amnesty. The state of the two Provinces is very different, and yet I am aware the measures in both should assimilate as far as circumstances will admit.

My course has consistently been, as I have throughout in my despatches intimated to your Lordship, gradually to extend mercy as I could carry the public feeling with me; and, to an extent, I am, under all the circumstances of my position, now disposed to acquiesce in the Governor-general's suggestion; though I do not concur without considerable apprehension of the results.

The whole correspondence that has passed I shall have the honour to forward in a few days, but the papers cannot be prepared for the present opportunity—the Great Western.

I regret to inform your Lordship that much excitement is again revived in the patriot cause all along the American frontier, and as I stated in a former despatch to your Lordship, I apprehend, as the winter approaches, we shall have renewed disturbances.

I did hope that I perceived a better feeling growing up in the Province; but the loyal portion of the community are evidently not well pleased; and those who have experienced the clemency of the Crown are restless and ungrateful.

I have, &c.
(signed) *George Arthur.*

No. 23.
Sir Geo. Arthur to Lord Glenelg, 12 October 1838.

— No. 23. —

(Separate.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H. to Lord *Glenelg*.

Steamer Canada, River St. Lawrence,
12 October 1838.

My Lord,

I HAVE the honour to inform your Lordship, that the Earl of Durham having determined to proceed to England, I felt it to be my duty to have a personal interview with his Lordship previous to his embarkation, in order to confer with him upon many important subjects; more especially, with reference to a general amnesty.

I have suggested the following arrangement, of which the Earl of Durham has entirely approved:

1st. That the proclamation which is required by law should be forthwith published, preparatory to the outlawry of those persons who have fled from the Province. None of these persons are to be permitted to return to Upper Canada, except upon petition, and giving security for their future good behaviour.

2d. That the most guilty and dangerous of the traitors concerned in the rebellion in December last, and whom the Executive Council will not recommend for any further remission, about 10 in number, should be forthwith removed to England, for the purpose of being transported to New South Wales or Van Diemen's Land.

3d. That in like manner the convicts who were tried for, and convicted of, being concerned in the incursion and insurrection in the Niagara and Western Districts in the month of June last, whom the Council will not recommend for any further remission of their sentences, about 13 in number, shall also be removed to England forthwith for transportation.

And, lastly, That a general amnesty be extended to all other persons concerned in the late rebellion.

I have also had a conference with Sir John Colborne, who also entirely concurs in the propriety of these measures.

In furtherance of this decision, the prisoners under sentence will be forthwith removed to Quebec, from whence the Earl of Durham will direct their removal to England.

No other convict besides Morrow has been executed for the late incursion; all have been pardoned on condition of transportation; and whether these measures will be attended with any good effect, it is not very easy to decide.

Your Lordship will learn with great regret, that a very extensive combination is again in forwardness, and unions have been formed all along the frontier, on the American side, in which the parties have bound themselves to attempt another invasion of these Provinces.

Sir John Colborne has, with the acquiescence of the Earl of Durham, sent for the 23d regiment from Halifax, and has earnestly requested me to call out some of the militia. It is but too evident, I fear, that the course of lenity which has been pursued, has had no good effect; and as the French Canadians in the Lower Province, and the Americans in the Upper Province, consider the disallowance of the Earl of Durham's ordinance as a triumph, there is every reason to apprehend that we shall have all the work of last winter over again, and, perhaps, something worse.

As I forward this communication by an officer proceeding direct to New York, it is possible it may reach London before the Earl of Durham's despatches get home, and I, therefore, beg to inclose a copy of the Quebec Gazette, which contains Lord Durham's proclamations.

In a few days I shall have the honour to address your Lordship from Toronto.

I have, &c.

(signed) *George Arthur.*

— No. 24. —

No. 24.
Sir Geo. Arthur to Lord Glenelg, 22 October 1838.

(No. 75.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 22 October 1838.

IN my despatch marked "separate," of the 12th instant, addressed to your Lordship on my journey from Quebec, I informed your Lordship that an extensive combination was suspected to be again in forwardness, and that unions had been formed all along the frontier for the invasion of Canada.

Some intelligence of these reported proceedings appears to have reached Sir John Colborne, who addressed to me the enclosed communication, which passed me on my way to the Lower Province, where I had the advantage of a personal interview with his Excellency.

On my arrival at Kingston, a statement on oath was put into my hands, which detailed many important particulars in connexion with this infamous conspiracy.

I learned also at Kingston, by a letter from Captain de Rottenburgh that a considerable degree of alarm was felt by the magistrates at Belleville, in consequence of some movement amongst the disaffected persons in the district of Hastings. I therefore proceeded at once to that township, and, in conjunction with the magistrates, made such arrangements as were deemed best calculated to restore confidence; and a company of militia was ordered to be called out for the protection of Belleville, in accordance with Sir John Colborne's general scheme for the defence of the frontier.

On my return to Toronto, I found a despatch from Mr. Fox, informing me that very alarming intelligence had been received at Washington by the Government of an early meditated attack upon this Province.

I had despatched an intelligent officer to the frontier to obtain, if possible, during my absence, some information that could be relied on with reference to these proceedings, and his report is quite confirmatory of the tidings conveyed to me by Mr. Fox.

These papers, together with many others, bearing more or less upon the subject, I laid before the Executive Council, in order that they might take into consideration the situation of the Province, and determine upon the course advisable to be pursued.

The subject having undergone the most anxious deliberation, the Council finally decided upon the advice which they would offer on the night of Saturday last, and their report was presented to me this morning.

Your Lordship will perceive that the Council entertain the deepest alarm for the safety of the Province, and earnestly urge the necessity of calling out a large militia force.

Upon the view taken by the Council I have only to observe that, fully concurring in the opinion which the members have expressed, I shall act accordingly, with the least possible delay.

The first measure which I have deemed it prudent to adopt has been, that of sending off an officer, who is in full possession of every necessary information, to General Macomb, commanding the United States' regular forces on the frontier, earnestly requesting him to take precautions for securing the public arms from capture by these reckless brigands, and such further decided steps as he may consider will prove effectual in checking the projected invasion of our territory.

I have also determined at the same time to despatch a messenger to Mr. Fox, urging him to press the General Government into the immediate adoption of a far more vigorous and determined line of policy for putting down these outrages.

The loyal people of the Province do not at present seem inclined to come forward cheerfully, as they consider that the threatened calamity would have been averted had more severe punishment been inflicted on the traitors; and the militia have other grievances of which they complain.

I trust, nevertheless, that the common danger to which we are exposed will induce a general determination for defence, and a better state of feeling, in the course of a few days; and after beating the enemy will be the most convenient season for discussing our past policy, and investigating complaints.

No. 25.
Sir Geo. Arthur
to Lord Glenelg,
26 October 1838.

— No. 25. —

(No. 77.)

EXTRACT of a DESPATCH from Lieut.-Governor Sir *G. Arthur*, K. C. H., to Lord *Glenelg*; dated Government House, Toronto, 26 October 1838.

Vide pp. 162. 170. 211.

I HAVE the honour to transmit to your Lordship the accompanying correspondence which has passed between the Governor-general and myself.

These papers refer, in part, to certain convicts who were engaged in the rebellion in December, but principally to the cases of the prisoners who were tried for invading this province in the month of June last, and duly convicted before the ordinary tribunals.

The Earl of Durham felt it to be his duty, on the application of the families of two of these convicts, to interfere in their cases. A correspondence, somewhat controversial in its character, thereupon ensued, but I am happy to say that it terminated satisfactorily; though I must still maintain, that, being out of the province, his Excellency could not legally interfere in such a matter.

The Executive Council felt themselves bound to advise, that such interference was unconstitutional, and the members apprehended that when the Legislature met there would follow some most unpleasant discussions upon the subject of the surrender of so important a part of the constitution of the province; but I deemed it more prudent under existing circumstances, and with reference to your Lordship's circular, to yield the point.

Your Lordship will perceive that the Governor-general subsequently explained that his interference was intended to be connected with the final disposal of all the prisoners who were under sentence for political offences, with the view of recommending an amnesty.

I considered this question in the first instance in the Executive Council, and afterwards proceeded to Quebec to confer upon it personally with the Earl of Durham, and finally adopted the measure detailed to your Lordship in my despatch, marked "separate," of the 12th instant.

As your Lordship, in your despatch, No. 129, of the 22d August, and in other despatches, appears so strongly to deprecate the infliction of capital punishment, it is of course so far satisfactory to me that only Morrow has been executed. I am, however, bound to inform your Lordship, that the decision with regard to the convicts concerned in the affair of the Short Hills, and on the western frontier, only one individual having capitally suffered for those shameful atrocities, has excited the strongest feeling amongst the loyal portion of the population, who consider that the security of the inhabitants of the province depended upon the most deterring examples of punishment being made.

I understood that the Governor-general, when he first heard of these atrocious acts of piracy, and robbery and murder, expressed the opinion that courts-martial should have been immediately assembled under the Provincial Act, and the offenders tried upon the spot, and executed directly. His Lordship made the same observation to myself at my first interview with him. But I expressed then, and continue to entertain the opinion strongly, that as martial law was not in force, it was more consistent with the position of strength which I wished to display to the lawless mass calling themselves patriots, to bring the prisoners to trial before the ordinary tribunals of the province. I was convinced that the juries of the country would not fail to do their duty, in general, with fidelity and honesty, and I have not been disappointed in the confidence which I reposed in them.

In this respect your Lordship will not fail to discover a wide difference between the result of political prosecutions in the two provinces, exhibiting clearly the inapplicability of the same course of policy, in the disposal of offenders, to both; for in Lower Canada the only trial attempted failed, notwithstanding the fullest proof, while in this province scarcely an individual escaped against whom sufficient evidence of criminality was produced.

I enclose a Gazette, containing proclamations of outlawry against several persons indicted in the Home, London, Gore, and Niagara districts, for high treason,

who

No. 25.
Sir Geo. Arthur to Lord Glenelg, 26 October 1838.

who having escaped to the United States could not be apprehended and brought to trial in this country.

It also contains a proclamation of amnesty to all political offenders except such as are named in the other proclamations.

These measures terminate the decisions of this Government upon all the political cases that have been tried down to the present day. The responsible and difficult duty that has devolved upon me in deciding upon them, has been more painful than I can find language to describe.

The Executive Council has most reluctantly acquiesced in the degree of lenity that has been pursued, and the majority of the community are decidedly opposed to it; but I entirely concur with your Lordship, that so far as the mass of persons were concerned who were engaged in the outbreak in December, it was the proper course, though it is doubtful, from present appearances, whether the desired end will be gained.

Enclosure in No. 25.

PROCLAMATION.—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 all to whom these Presents shall come, greeting:

Encl. in No. 25.

WHEREAS in cases arising out of the late unhappy revolt, and in the course of the administration of justice against persons implicated therein, it has been our anxious desire to extend our Royal mercy and forgiveness to our deluded and misguided subjects, to the utmost limits compatible with the public peace, and the security of our loyal and faithful people: and whereas, in furtherance of our desire to extend our Royal clemency as above declared, we have heretofore granted our pardon to numerous offenders who have been convicted, and have also forborne to prosecute others who had rendered themselves, by their misconduct, liable to punishment; and we being resolved still further to extend our Royal clemency, and to make a final declaration of our will and pleasure with respect to all such of our subjects as are, or have been in any way implicated in the said revolt, we have this day issued our several Royal Proclamations, in pursuance of an Act of our Provincial Parliament of our said province of Upper Canada, passed in the first year of our reign, intituled, "An Act for the more speedy Attainder of Persons indicted for High Treason, who have fled from this Province, or who remain concealed therein to escape from Justice," calling upon and requiring such of our subjects as have been indicted for the crime of high treason, and who have withdrawn themselves from the province, for the causes in the said Act mentioned, to surrender themselves to justice, that their several cases may undergo legal investigation and final adjudication.

And we do now make known and declare to all our subjects who have not been indicted for any treason, misprision of treason, or treasonable offence, or who are not now in custody, charged, or liable to be charged with treason, invasion, or hostile incursion into this province, or who being charged with either of the said offences, have made their escape from any of our gaols, or other place of confinement, that they may return to their homes, and that no prosecution for or on account of any offence by them done or committed, and in any way relating to, or connected with the said revolt, shall be instituted or continued, but that all such prosecutions shall terminate and be for ever void, hereby freely offering to all those of our subjects who may have been implicated in the said revolt (excepting as aforesaid), our gracious amnesty, pardon and forbearance, for and on account of such offences (excepting as aforesaid), and our Royal assurance, that, relying on their future loyalty and good conduct, they shall be received under our protection, absolved and released from all punishment or prosecution, as herein above declared.

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 22d day of October, in the year of our Lord 1838, and in the second year of our Reign.

(signed) *Geo. Arthur.*

By command of his Excellency in Council.

C. A. Hagerman, Attorney-General.
R. A. Tucker, Secretary and Registrar.

No. 25.
Sir G. Arthur to
Lord Glenelg,
18 October 1838.

Encl. in No. 25.

(PROCLAMATION.—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 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 6th day of March, in the first year of our reign, intituled, "An Act to provide for the more speedy Attainder of Persons indicted for High Treason, who have fled from this Province, or remain concealed therein, to escape from Justice," it is enacted and provided, "that from and after the passing of the said Act, in case any indictment shall be found by a grand jury, at and before any court of competent jurisdiction in our said province, against any person or persons for high treason, misprision of treason, or treasonable practices, and when the sheriff shall make return to any warrant or capias that may issue thereupon, that such persons, or any of them, is or are not to be found in his district, it shall and may be lawful for our Governor of our said province, by and with the advice of our Executive Council, immediately upon the making of such return, to issue a Proclamation, to be published not less than six weeks in the Upper Canada Gazette, calling upon and requiring the person or persons against whom any such indictment or indictments shall have been found, to surrender himself or themselves to the custody of the sheriff of the district within which the court before whom such indictment or indictments were found was held, by a day to be within the said Proclamation named, such day not to be less than three calendar months from the first publication of such Proclamation in the said Gazette; and if such person or persons should not, by the day in such Proclamation named, surrender themselves to the custody of the said sheriff, and submit to justice, then and in such case, they and every of them, against whom such indictment or indictments should be found as aforesaid, after the day in such Proclamation named for the surrender of them and every of them as aforesaid, should stand and be adjudged attainted of the crime expressed and set forth in such indictment or indictments, and should suffer and forfeit as a person attainted of such crime by the laws of our said province ought to suffer and forfeit:" And whereas at a special session of oyer and terminer and gaol delivery, begun and holden at the city of Toronto, in the home district of our said province of Upper Canada, indictments were found by a grand jury of the said home district against John Ralph, late of the city of Toronto, in the home district, and province aforesaid, physician; William Lyon Mackenzie, late of the city of Toronto, in the home district, and province aforesaid, printer; Silas Fletcher, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; Jacob Rymell, late of the township of Barton, in the district of Gore, and province aforesaid, yeoman; Richard Graham, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; Jeremiah Graham, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; John Mantack, late of the city of Toronto, in the home district, and province aforesaid, labourer; Joseph Borden, late of the township of King, in the home district, and province aforesaid, yeoman; Joshua Winn, late of the township of King, in the home district, and province aforesaid, yeoman; David Gibson, late of the township of York, in the home district, and province aforesaid, land surveyor; Landon Wurtz, late of the township of Pickering, in the home district, and province aforesaid, labourer; James Marshall, late of the township of Whitchurch, in the home district, and province aforesaid, store-keeper; Alum Marr, late of the township of Markham, in the home district, and province aforesaid, yeoman; Joseph Clarkson, late of the township of Markham, in the home district, and province aforesaid, yeoman; Dudley Wilcox, late of the township of Markham, in the home district, and province aforesaid, yeoman; Edmond Quirk, late of the township of King, in the home district, and province aforesaid, yeoman; Thomas Brown, late of the township of King, in the home district, and province aforesaid, yeoman; Levi Parsons, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; Jesse Loyd, late of Loyd Town, in the home district, and province aforesaid, yeoman; Aaron Munshaw, late of the township of Vaughan, in the home district, and province aforesaid, yeoman, Henry Stiles, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; William Fletcher, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; Daniel Fletcher, late of the township of East Gwillimbury, in the home district, and province aforesaid, yeoman; David M'Carty, late of the township of York, in the home district and province aforesaid, yeoman; Seth M'Carty, late of the township of York, in the home district, and province aforesaid, yeoman; Nelson Gorham late of the township of York, in the home district, and province aforesaid, yeoman; Alexander M'Leod, late of the township of York, in the home district, and province aforesaid, labourer; Cornelius Willis, late of the township of York, in the home district, and province aforesaid, yeoman; and Erastus Clark, late of the township of York, in the home district, and province aforesaid, yeoman, for the crime of high treason, committed against

against us, in our said province, by them and each of them, the said court having competent jurisdiction in that behalf: And whereas our warrrants, in due form of law, were issued by our justices of our said court of oyer and terminer and gaol delivery, commanding our sheriff of the home district aforesaid, of our said province, to take the bodies of them the said John Rolph, William Lyon Mackenzie, Silas Fletcher, Jacob Rymal, Richard Graham, Jeremiah Graham, John Mantack, Joseph Borden, Joshua Winn, David Gibson, Landon Wurtz, James Marshall, Alum Marr, Joseph Clarkson, Dudley Wilcox, Edmund Quirk, Thomas Brown, Levi Parsons, Jesse Loyd, Aaron Munshaw, Henry Stiles, William Fletcher, Daniel Fletcher, David M'Carty, Seth M'Carty, Nelson Gorham, Alexander M'Leod, Cornelius Willis, and Erastus Clark, and each of them, and bring them and each of them before our said justices to answer respectively to the said indictments so found against them and each of them: And whereas our said sheriff hath returned to our said justices by whom the warrants aforesaid were in manner aforesaid issued, that the said John Rolph, William Lyon Mackenzie, Silas Fletcher, Jacob Rymal, Richard Graham, Jeremiah Graham, John Mantack, Joseph Borden, Joshua Winn, David Gibson, Landon Wurtz, James Marshall, Alum Marr, Joseph Clarkson, Dudley Wilcox, Edmond Quirk, Thomas Brown, Levi Parsons, Jesse Loyd, Aaron Munshaw, Henry Stiles, William Fletcher, Daniel Fletcher, David M'Carty, Seth M'Carty, Nelson Gorham, Alexander M'Leod, Cornelius Willis, and Erastus Clark, were not, nor was any or either of them to be found within his said district, and that he could not, as by the said warrants he was commanded, have the bodies of them the said John Rolph, William Lyon Mackenzie, Silas Fletcher, Jacob Rymal, Richard Graham, Jeremiah Graham, John Mantack, Joseph Borden, Joshua Winn, David Gibson, Landon Wurtz, James Marshall, Alum Marr, Joseph Clarkson, Dudley Wilcox, Edmond Quirk, Thomas Brown, Levi Parsons, Jesse Loyd, Aaron Munshaw, Henry Stiles, William Fletcher, Daniel Fletcher, David M'Carty, Seth M'Carty, Nelson Gorham, Alexander M'Leod, Cornelius Wills, and Erastus Clark, or any or either of them, to answer to the said indictments, as aforesaid, found against them and each of them, in manner and form aforesaid: Now know ye, the said John Rolph, William Lyon Mackenzie, Silas Fletcher, Jacob Rymal, Richard Graham, Jeremiah Graham, John Mantack, Joseph Borden, Joshua Winn, David Gibson, Landon Wurtz, James Marshall, Alum Marr, Joseph Clarkson, Dudley Wilcox, Edmond Quirk, Thomas Brown, Levi Parsons, Jesse Loyd, Aaron Munshaw, Henry Stiles, William Fletcher, Daniel Fletcher, David M'Carty, Seth M'Carty, Nelson Gorham, Alexander M'Leod, Cornelius Willis, and Erastus Clark, that by and with the advice of our Executive Council of our said province of Upper Canada, and in pursuance of the said Act of our Parliament of our said province, we do issue this our Royal Proclamation and do hereby call upon and require you the said John Rolph, William Lyon Mackenzie, Silas Fletcher, Jacob Rymal, Richard Graham, Jeremiah Graham, John Mantack, Joseph Borden, Joshua Winn, David Gibson, Landon Wurtz, James Marshall, Alum Marr, Joseph Clarkson, Dudley Wilcox, Edmond Quirk, Thomas Brown, Levi Parsons, Jesse Loyd, Aaron Munshaw, Henry Stiles, William Fletcher, Daniel Fletcher, David M'Carty, Seth M'Carty, Nelson Gorham, Alexander M'Leod, Cornelius Willis, and Erastus Clark, and each and every of you, to surrender yourselves to the custody of our sheriff of the home district of our said province, by the first day of February next ensuing the first publication of this our Proclamation in the said Upper Canada Gazette, and submit to justice, hereby declaring and making known to you and each of you that in default of your so surrendering, you and each of you shall suffer and forfeit, as persons attainted of the crime of high treason by the laws of our said province ought to suffer and forfeit.

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 22d day of October, in the year of our Lord 1838, and the second year of our reign.

(signed) *Geo. Arthur.*

By command of His Excellency in Council,

C. A. Hagerman, Attorney-General.

R. A. Tucker, Secretary and Registrar.

No. 26.
Sir Geo. Arthur to Lord Glenelg, 30 October 1838.

— No. 26. —

(No. 78.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 30 October 1838.

IN my despatch to your Lordship of the 22d instant, No. 75, enclosing various documents confirmatory of the apprehensions which, in my preceding despatch of the 12th instant, I had already expressed of very extensive preparations being in a state of active progress all along the American frontier for a fresh invasion of Her Majesty's territory, I stated to your Lordship my entire concurrence in the belief of the Executive Council as to the danger to which this Province was exposed, and that it was consequently incumbent upon me to have recourse to such measures of defence as could with propriety be adopted.

Referring to that despatch, I have now the honour to enclose copies of some further depositions, testifying generally to the extent and nature of the combination formed against us.

I enclose, for your Lordship's perusal, a further communication which I have received from the Commander of the Forces, urging me to arm upon an extensive scale for the defence of the Province; and I have annexed to it a copy of the proceedings of a Military Board, to which I referred it for consideration, by which latter document your Lordship will perceive that it is recommended to me to call out a force of 13,000 of the militia.

I have sent an officer to Major-generals Brady and Macomb of the United States regular service, with letters, urging them to secure the public arms, and to co-operate zealously with me in my endeavours to suppress the threatened invasion.

Acting on the recommendation of the Executive Council, contained in their report transmitted to your Lordship, I have already ordered four regiments of militia to be embodied; and I have directed that their services should be engaged for a continuous period of 18 months. This is a point of very great importance, and I trust that it will not fail to meet with the approval of Her Majesty's Government.

I shall proceed to follow up these measures by carrying into effect the suggestions of Sir John Colborne and the Military Board, though I much fear, from the discontent prevailing amongst many of the militia, that even the most loyal of them will feel a reluctance to come forward until the very hour of emergency, and when it may be too late to prevent a great deal of mischief.

A feeling of lukewarmness has unfortunately been created in the Province, against which it is difficult to work; but still I do not doubt that it will in the end give way, and be superseded by a better disposition.

The expenses entailed upon Her Majesty's Government by these extensive preparations for defence, though they must of necessity be very great, I shall endeavour to restrain within the narrowest possible limits compatible with the safety of the colony; but in such a state of things it would be impossible to hazard even a conjecture as to what may be required, and all that we can do is to watch events, and act accordingly.

Notwithstanding present indications, I yet trust that the whole of our loyal population will rally round me in the actual hour of need; and that I shall be allowed the opportunity of proving that their present backwardness arises less from any real change of feeling than from a momentary discontent which the common danger will dispel.

I have, in fact, no serious apprehension that the result of invasion and insurrection will be finally disastrous, however productive it may be of temporary evil.

We

We have to prepare for the worst and hope for the best; and, on maturely weighing all the evidence I have received, both written and verbal, I believe, that, although it is certain that an extensive combination has been formed against us, yet even those who imagine themselves to be the best informed upon the subject, are themselves more or less deluded. No. 26. Sir Geo. Arthur to Lord Glenelg, 30 October 1838.

Your Lordship may be assured that no effort on my part will be wanting to stimulate and to give a right direction to the zeal of the well-affected portion of the commuuity; and I am not without the hope that the timely manifestation of our being prepared for danger may happily prove the means of averting it.

— No. 27. —

No. 27. Sir Geo. Arthur to Lord Glenelg, 31 October 1838.

(No. 79.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 31 Oct. 1838.

WITH reference to my despatch, No. 78, of this date, I have the honour to enclose a general militia order, which notifies the amount of the sedentary militia force to be called out for the temporary defence of the Province. 31 October 1838.

— No. 28. —

No. 28. Sir Geo. Arthur to Lord Glenelg, 14 Nov. 1388.

(No. 88.)

EXTRACT of a DESPATCH from Lieut.-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*; dated Government House, Toronto, 14 November 1838.

OF a proclamation which I have issued, I enclose herewith a copy, and I am sure it will gratify your Lordship to learn that its effect, both within the Province and along the American frontier, is reported to me to have been very beneficial. It was published only on the day before I received the accounts of the outbreak in the Lower Province. No. 8.

Enclosure in No. 28.

PROCLAMATION.

By 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. Encl. in No. 28.

Loyal Inhabitants of Upper Canada,

UPON my arrival among you, early in the present year, bearing with me Her Majesty's commission to administer this Government, I found you just recovering from the excitement that had naturally been produced by the then recent attempts of some infatuated and desperate individuals, both within and without the Province, to involve your country in the horrors of a civil war: and to subvert those long-cherished institutions, which your conduct has proved that you prize as the first of blessings—and are ever ready to maintain, at the hazard of your lives.

The alacrity with which you came forward in defence of those institutions, and the valour with which—unaided by any military force—you overcame the united efforts of treason and of lawless aggression, have, indeed, nobly won for you the approbation of your gracious Sovereign, and the admiration of your fellow-subjects in every part of the wide-extended British empire.

In that admiration, even when far distant from you, I participated most warmly; and it was a source of high gratification to me to be selected as Her Majesty's representative among a people who had thus eminently distinguished themselves.

It is not my purpose to enter here into a review of the circumstances which, before my arrival, had disturbed your peace, and compelled you to defend, in arms, your dearest rights. It is necessary, however, that I should briefly advert to subsequent occurrences, in order to show you how unceasing my desire has been, whilst extending to the criminal authors of

No. 28.
Sir Geo. Arthur to Lord Glenelg, 14 Nov. 1838.

Encl. in No. 28.

the past disturbances the utmost lenity that prudence would permit, to tranquillize your feelings, and to provide for your security.

The insurrectionary movements in this Province having been completely quelled by your activity and energy, the object of first importance that presented itself to my consideration, on assuming the charge of the Government, was the treatment to be pursued towards those who, either on their own confession, or after the most impartial trials, had been convicted of the highest offence of which man, as a member of society, can be guilty: and in accordance both with the humane views of Her Majesty's Government, and with my own desire of tempering justice with mercy, I suffered the extreme penalty of the law to be inflicted only on two of the most prominent and guilty members of the late rebellion, trusting that such an awful example might be sufficient to impress on the crime of treason its proper stamp; and that a graduated scale of punishment, adapted as nearly as possible to the circumstances of the several cases, might safely be resorted to in other instances.

The petitions for mercy; the assurances of contrition; the promises of amendment, and the professions of revived feelings of loyalty which poured in upon me, from or on behalf of those who had yielded to false representations, and had thus incurred the forfeiture of their lives, warrant me in concluding that this manifestation of mercy, on the part of the Executive, would have been attended with all the salutary effects anticipated from it, had not the same unjustifiable interference, by a portion of the inhabitants of a neighbouring country, in your affairs, which had so culpably contributed to the former disturbances, partially re-kindled the flame that was about to expire, and engendered a delusive expectation that, by means of co-operation from without, a more successful effort might be made by the traitorous and disloyal, to shake off their allegiance to their Sovereign.

In pursuance of their nefarious designs, a fresh invasion of your soil was attempted by a few worthless refugees in conjunction with a lawless banditti, whose immediate object was the plunder and devastation of the Province, whilst their ulterior hope was to rend for ever the tie which binds it to the parent state.

Thus called on again to arm in defence of every thing dear to you, your success in repelling this second act of aggression was not less signal than it had been in your quick suppression of the previous insurrection: nor were your gallantry, your loyalty and your humanity, less conspicuously displayed, than they had already been on that memorable occasion.

In the disposal of the prisoners taken at this period, circumstances presented themselves which rendered it my duty to persevere in the lenient course which Her Majesty's advisers had before prescribed: and on an occasion calling as loudly for some example of rigour, as any that has probably ever occurred in the annals of mankind, capital punishment was inflicted in one solitary instance only.

It might reasonably have been expected, after the repeated failure of the attempts of the confederates to effect their revolutionary objects—after the continued clemency of the Executive—and after your praiseworthy forbearance from acts of vengeance or retaliation, that not only all thought of further hostility against you would have been abandoned in hopeless despair, but that a better tone of feeling would have succeeded.

The comparative state of tranquillity, which followed the last abortive attempt at invasion, did in fact encourage me to hope that peace, with general harmony and good feeling, would soon be restored to the Province. To my deep disappointment, however, I have learnt from various sources, more or less authentic, that, regardless of the friendly relations subsisting between Her Majesty's Government and that of the United States, and stimulated by the worst passions and motives, a number of American citizens, along our frontier, have formed a secret combination for another invasion of these Provinces, and that preparations on an extensive scale, for carrying this unprincipled enterprize into execution are, at this moment, in active progress.

It is further stated, that the members of this unholy union communicate by certain mystic signs—that they are possessed of considerable resources—that they have amongst them some individuals of influence; and are one and all bound by an unlawful oath to plunder you of your property—to destroy your institutions—and to sever your connexion with the mother country.

Though large allowances are to be made for exaggerated or interested statements; and though it is known that the traitorous within, and their partisans without, are mutually deceiving each other, and are falsely using the names of individuals of station and respectability, in order to give some colouring to their wicked conspiracy—yet I deem it proper to promulgate, that such information has reached me, as calls for the adoption of precautionary measures, for averting, if possible, an impending mischief, or for promptly defeating it, should it actually occur.

Relying on the amity and good faith of the American Government, I have made to it, through the medium of Her Majesty's Minister at Washington, such representations as will, I trust, ensure its immediate and decisive interference, in suppressing these outrageous proceedings of its border citizens.

I have likewise written to the officers of the United States' army, commanding on the frontier, whose honourable profession and personal characters claim our confidence, urging them vigorously to second the efforts of their government, by the employment of every means that may be at their disposal.

It is but reasonable also, when the base design of unprovoked aggression shall become more generally known throughout the Union, that I should look with full confidence to the great body of its respectable citizens, to rescue their country from the lasting discredit that would be entailed on it by the actual commission of the hostile acts contemplated by a licentious portion of its population, and the proceedings incident to which tend so fatally to interrupt that good understanding between the inhabitants of the two countries, which their mutual interests, cemented by the endearing bond of a common origin, should lead them strictly to maintain.

But, after all, it is less to the interposition of others than to ourselves, supported as we are by a just cause, and protected, as we may still confidently hope to be, by a righteous Providence, that we must look for safety.

With this view I have directed, in addition to the regular force already in the Province, that several regiments of your gallant militia shall be again embodied; and that their services shall be engaged for a continuous period of 18 months. I have further authorized the assembling, for a shorter period, of other corps of militia in various palces; and it is with much satisfaction that I am enabled to add, that many of these brave men have already promptly enrolled themselves.

On the magistracy, and other influential classes, I implicitly depend for that important aid which it is so much in their power, and which they have always shown themselves so ready to afford. I exhort them to direct their attention to the channels through which information respecting the designs of our enemies may be derived, to guard against delusive statements, and to act with calmness, judgment, and decision, in the preservation of the public peace. I call also upon those who have so recently experienced the lenity of the executive, to evince their gratitude for the large measure of mercy extended to them, and to prove the sincerity of their professions of repentance for the irformer errors.

Nor can I let pass this opportunity of earnestly cautioning you against the hasty adoption of opinions injurious to your confidence in the sincere intentions of the Government on the all-important subject of religious instruction. While I am most anxious to secure to you and your children this inestimable blessing, it is not my wish to see a dominant church established over you, or the members of one religious community either rendered subject to the spiritual jurisdiction, or called upon to contribute to the temporal support, of another. And I trust that any misapprehension on this subject will be removed when I declare to you my conviction that no such result can or will flow from any measure of church appropriation which has been hitherto made, and still less from the course of policy which it is my intention to recommend in this matter.

Apparent as it must be to every one, that our security will chiefly depend on the preservation of perfect harmony and concord among ourselves, I cannot refrain, on an occasion like the present, from offering a few observations on this all-important subject. In every community, differences, resulting from opposition of interests, diversity of taste, and conscientious scruples in matters of religion, will necessarily exist; and these, when restrained within those bounds which the principles of Christianity enjoin, may exist in times of peace and tranquillity, without much prejudice to the general interests of society. It is even possible that they may, in some instances, tend indirectly to promote them. But when the plunder of our property and the total overtrow of our venerable constitution have become the "latest dream at night, and the earliest vision of the morning," with a few desperate traitors, leagued with a numerous banditti on our frontier, it is the part of prudence, no less than of duty, to lay aside all differences on minor matters, and to unite hand and heart in the defence of everything that is dear to us. I do therefore most earnestly and most affectionately advise and recommend you to bury as much as possible those recollections of past events which may tend to keep alive angry feelings towards those of your fellow-subjects, who, having once strayed from the path of duty, may now be sincerely desirous of returning to it; to avoid all irritating discussions, and to drown all differences in a common regard for the public safety. Let the only contest between us henceforth be, who shall show himself the best man, and the most loyal subject.

Inhabitants of Upper Canada!—It is not to rouse your patriotism and loyalty, since they, I know, require no stimulant, but rather to allay any undue apprehension, or excessive excitement, which rumour may have produced, that I now address you; and in requiring you to be prepared to repel, with steady heart and ready hand, the first aggression on the part of the lawless brigands who threaten your security, I can confidently assure you that there are ample means at my disposal for your protection.

Given under my hand and seal at arms, at Toronto, this 5th day of November, in the year of our Lord 1838, and of Her Majesty's reign the second.

(signed) *George Arthur.*

By his Excellency's command,

(signed) *C. A. Hagerman*, Attorney-general.
R. A. Tucker, Secretary.

God save the Queen.

No. 29.
Sir G. Arthur to Lord Glenelg, 15 Nov. 1838.

— No. 29. —

(No. 89.)

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 15 November 1838.

AFTER closing my Despatch, No. 88, addressed yesterday to your Lordship, I received information of a hostile invasion of this province having been effected within the limits of the district of Johnstown, by an armed force from the State of New York.

Before the revolt actually broke out in the Lower Province, I directed, at the request of the Commander of the Forces, that a body of the militia of this province should be held in readiness to co-operate, in the event of their services being required in that quarter.

As soon, therefore, as operations commenced in Lower Canada, a strong corps of our militia proceeded down the St. Lawrence, and at once entered the district of Beauharnois, where they have already rendered most efficient service.

The frontier brigands, considering this to be a favourable moment for commencing their predatory movements, 400 of them embarked at Millin's Bay, in a large steamer, called "The United States," and two schooners, and effected a landing on Her Majesty's territory, at the town of Prescott, on the River St. Lawrence.

They were followed by Captain Sandom of the Royal navy, who, unfortunately, did not come up with them until after they had made their descent, and taken up a very strong position.

An arrangement for attacking these pirates was, however, immediately concerted between Captain Sandom and Colonel Young, who was commanding at Prescott, where the few militia troops were assembling under the general instruction for the protection of the frontier; and at daylight of the following morning, Colonel Young, with a very inferior force, marched upon the invaders.

These ruffians stood better than might have been expected from men engaged in a wicked enterprise, and we have, in consequence, to mourn the loss of some gallant spirits, but the brigands were of course vanquished. Many of them made good their retreat into the territory of the United States; 28 were taken prisoners, and a body of them sought refuge in a strong stone-built mill, from whence they could not be dislodged until some cannon should be brought against them.

That measure was immediately resorted to, and though no report of the result has yet reached me, I have no doubt but the remainder of the vagabonds have ere this surrendered.

No. 1.

I enclose Captain Sandom's report of this affair.

I expect that the descent on Prescott will be followed by various attacks on other parts of the province, and I hope that elsewhere, as there, we shall be found equally well prepared successfully to repel them.

Enclosures in No. 29.

(No. 1.)

Her Majesty's Ship "Niagara," Kingston,
Sir, 14 November 1838.

Encl. 1, in No. 29.

As I deem it of the greatest importance that your Excellency should be acquainted with the passing events in the neighbourhood of Prescott, I hasten to despatch a steam-vessel at the moment of my arrival here from that town.

On Sunday we received positive information at Kingston, through the medium of an individual who came over from the neighbourhood of Sackett's Harbour, as to the intentions of large bodies of the rebels. This information being corroborative of that which had been received the day before, gave it the stamp of veracity; I therefore decided on acting upon it.

The

No. 29.
Sir G. Arthur to Lord Glenelg, 15 Nov. 1838.

Encl. 1, in No. 29.

The individual on Sunday stated that two schooners, loaded with cannon balls, some guns, and other munitions of war, were laying at a small port between Sackett's Harbour and French Creek, waiting for the "United States" steam-vessel to tow them either up the lake above Oswego, for the purpose of assisting in an attack upon Toronto, or proceeding somewhere down the river with hostile intentions; I therefore instantly armed and dispatched the "Cobourg" steamer to Sackett's Harbour, with a letter to Colonel Worth, stating the information we had received, and calling upon him to act to prevent evil, going myself in another armed steam-vessel, to prevent the escape of these schooners down the river.

On my arrival in the morning off the port, Colonel Worth, in the American steam-vessel "Telegraph," having on board 200 men, entered the harbour, and on my communicating with Colonel Worth, I found that he had received the same information I had, and had come to the port for the purpose of arresting the parties, having on board the Marshal, and other civil authorities, to authorize the act: they had, however, been towed out a few hours before by the "United States" steam-vessel down the river. Colonel Worth immediately proceeded in pursuit of them, whilst I crossed over to Gannanoqui, where I heard that Prescott was attacked by the rebels. I instantly proceeded thither, and communicated with Colonel Young at midnight on Monday. He informed me that the rebels, with their partisans from the opposite shore, had landed, and taken up a position on a point of land, about a mile and a half below Prescott, where they were stated to be throwing up breastworks; that they were supposed to be about 300 or 400 in number, having two field-pieces; that there were about three or four strong stone houses in their rear, and a large strongly built stone mill on the projecting point of land, the walls of which were about three or four feet thick. At the foot of the mill the two field-pieces were supposed to be placed, for the purpose of enfilading the road, which lay along the side of the water leading from Prescott, and also as a water defence. Colonel Young stated, that his force was not well organized and armed, but that if I co-operated with him he would make an attack on them at daylight. I immediately placed at his disposal the marines and detachment of 40 of the 83d regiment, which had been sent on board the "Cobourg" by Colonel Dundass; this enabled him to move to the attack shortly after daylight on Tuesday morning, himself leading one column of 150 or 200 men, headed by the detachment of the 83d regiment, by a circuitous route, while Colonel Fraser led the other column along the water-road, having at the head the marines; myself moving with three armed steam-vessels to cut off the communication with the American shore, and attack them on the side of the water. I was informed that the rebels, when attacked by Colonel Young and Colonel Fraser, were drawn up in force about 300 or 400 strong; that they fired with considerable accuracy, but soon fled in different directions; some, however, taking up a position in a large stone building, and other 40 or 50 in the mill, from the windows of which they kept up an annoying fire upon our troops, so as to render it necessary for them to seek the shelter of some stone walls in the front, in which position they continued during the forenoon without being able to dislodge the rebels, not having a piece of ordnance of any kind. During this time several bodies of men in boats, trying to pass over from the American shore to the point, were driven back by the steam-vessels under my orders, as were other boats, endeavouring to cross the river from the British shore.

Colonel Young communicating with me, decided on retaining a force around the rebels in their position, until the arrival of some ordnance, which would enable him to dislodge them.

In the evening, as Colonel Young considered he had sufficient force without the aid of the marines and the detachment of the 83d, I embarked them, and arrived here this morning.

The news of the attack on Prescott having reached Colonel Dundas, induced him to proceed thither with four companies of his regiment and a demi-brigade of guns, under Major M'Bean, and I met him at Brockville, at two o'clock this morning, on his way down, having heard the position in which I had left the rebels; but being so near, he thought it proper to proceed down to Prescott, intending to return this evening to Kingston, if, as was expected, the rebels should have quitted their position.

I have brought up with me, and lodged in the fort, 28 prisoners, some of which were taken by the forces on shore, and others by the vessels under my orders, while attempting to escape from the position held by the rebels.

I have left a steam-boat and another armed vessel to assist Colonel Young's operations, and intend to dispatch, this afternoon, another steamer, as soon as the guns and ammunition are provided.

From the statement of some of the prisoners (the whole of whom, with two or three exceptions, are believed to be Americans), it would appear that most of their comrades now sought only an opportunity of escaping.

I regret to inform your Excellency that we have suffered severely, and have the honour to enclose a list of the killed and wounded, as far as I had the means of ascertaining when I came away.

No. 29.
Sir G. Arthur to Lord Glenelg, 15 Nov. 1838.

The loss among the militia is, I believe, also considerable.

I have much pleasure in informing your Excellency, that prior to my arrival Her Majesty's small steam-vessel "Experiment," under the command of Lieutenant W. N. Fowell, stationed before Prescott, had thrice driven the American steam-vessel "United States" back into the port of Ogdensburg, when endeavouring to force her way with a body of 400 or 500 men into Prescott, and also a schooner with men having the same intention; on board of the latter a great many men are stated to have been killed.

Encl. 1, in No. 29.

The universal admiration bestowed by those who witnessed the exertions of the "Experiment," and the firmness of her commander on this difficult and trying occasion, merits the public notice I now make to your Excellency of his praiseworthy conduct.

I must apologize for entering so largely into detail; but I feel, even now, that I have not communicated many essential points which I am confident your Excellency ought to be acquainted with, and which I am alone prevented from bringing to your Excellency's notice by the necessity I feel of my personal exertions being used in order to ensure the conveyance of stores and artillery, and proper protection to this important part of our frontier.

I have, &c.

His Excellency Major-General
Sir George Arthur, K. C. H., Lieutenant-Governor,
&c. &c. &c.

(signed) *William Sandom,*
Captain.

Kingston, 14 November 1838.

Return of the killed and wounded:—

Royal Marines.

Killed	1	Private.
Wounded	1	Lieutenant.
Ditto	2	Corporals.
Ditto	10	Privates.

Detachment of the 83d Regiment.

Killed	1	Lieutenant.
Wounded	1	Corporal.
Ditto	2	Privates.
Total	18	

(signed) *W. Sandom.*

(No. 2.)

UPPER CANADA GAZETTE EXTRAORDINARY.

By Authority.—Toronto, Friday, November 16, 1838.

Government House, Toronto, 15 November 1838.

Encl. 2, in No. 29.

THE Lieutenant-governor loses no time in communicating to Her Majesty's faithful subjects the important and cheering intelligence just received.

It appears that the steam-boat "United States" has been engaged by the lawless brigands on the American frontier, and towed two schooners full of men, and laden with artillery and munitions of war, down the St. Lawrence to Ogdensburg, for the purpose of attacking this province.

The rebels and sympathizers crossed over on Sunday night, between three and four hundred men, with two pieces of cannon, and took up a strong position about a mile and a half below Prescott, having in their rear three or four stone houses, and a very strong stone mill, the walls of which were several feet in thickness.

Captain Sandom, on the first news of the "United States" towing these schooners down the river, had hastened in an armed steamer, with a detachment of 40 men of the 83d, and a party of the marines, in pursuit, and put himself in communication with Colonel Young,

Young, who was in command, and had assembled a force of our gallant militia at Prescott, in preparation for an attack upon the enemy. He immediately landed the detachment and the marines, and two columns, amounting to about 200 men, were formed for the attack; one of them (the detachment of the 83d leading), under Colonel Young, took a circuitous route, while Colonel Fraser led another column, at the head of which were the marines, along the road by the river. A sharp fire was kept up on the assailants as they advanced, but the rebels quickly dispersed and fled, some of them taking shelter in a stone house, and about 40 or 50 retreating into the stone mill, from the windows of which they kept up a galling fire, being covered from danger, as our force had not a single piece of ordnance on the ground. In consequence of this, Colonel Young disposed of his men under shelter, so as to prevent the brigands from escaping, and awaited the arrival of artillery, which was hourly expected from Kingston. Nothing could exceed the ardour and gallantry with which the troops of the line and loyal militia acted, the former sustaining their oft-tried character, and the latter displaying the same gallantry and devotion which have heretofore procured for them the thanks of their Sovereign and the admiration of their fellow subjects.

During this attack several boat-loads of men attempted to cross from the American shore, but Captain Sandom, who was assisting in the attack with three armed steamers, drove them back. Some boats also put off from the British side, but were either captured or compelled to return.

Early on Wednesday morning, the 14th instant, Colonel Dundas, with a sufficient force of the 83d, and artillery, reached Brockville, and proceeded thence to Prescott. Long ere this, therefore, the banditti, who have dared to invade the province, are taken or slain.

The little steamer "Experiment" thrice drove the "United States" back into Ogdensburgh, while endeavouring to force her way into Prescott with four or five hundred men, and a schooner, in making a similar attempt, was repulsed. A great number of men are reported to have been killed on board her. The gallantry of Lieutenant Fowell and his crew was most conspicuous in this affair.

The Lieutenant-governor regrets that this service has not been performed without a loss, which he deeply deplores. A lieutenant of the 83d, a marine, and several of the respectable inhabitants of the country, have been killed, and a number, both regulars and militia, wounded. The extent of the enemy's loss has not been ascertained, but it is sincerely to be hoped that not one of them will return unpunished to the United States. Twenty-eight prisoners have been brought up to Kingston, and a court-martial will forthwith be directed to assemble to try them for their lawless and unprovoked aggression, and for the murder of Her Majesty's faithful subjects.

While the militia of the Johnstown District have thus nobly exerted themselves for the defence of the country, their fellows of the Eastern District have displayed equal zeal and activity. Upwards of 700 volunteers have marched to put down treason and rebellion in Lower Canada, and their efforts have met with the happiest results. On the 10th instant, a column of them, with some other forces, and a party of the Indians from St. Regis, advanced to attack the rebels, with bagpipes playing, and British cheers mingling with the war-whoop. Struck with terror, the rebels abandoned a strong position, and fled down the Chateauguay River, in the direction of another column of our forces, who were proceeding to attack them. The Huntingford (Lower Canada) Volunteers had also attacked and defeated a party of Americans, who were bringing in cannon, arms, and provisions to the aid of the rebels. Two pieces of artillery, a large quanity of provisions, and a great many stand of arms, were captured in this affair.

The example thus shown in the east, calls for renewed exertions in every part of the province, that what they have so nobly fought and bled for, many of them yielding their lives in the struggle, may not be put in hazard in other parts of the country for want of similar devotion and bravery. The Lieutenant-governor is convinced that the people of every other section of the province will in like manner rush to arms wherever an enemy appears. It is a matter of the most heartfelt satisfaction to the Lieutenant-governor that none of the inhabitants of the province have been seduced to join this band of unhallowed invaders; and he derives from these recent events fresh confidence in the unflinching courage and loyalty of the people of Upper Canada, and their determination to preserve their constitution and allegiance, or to die in their defence.

The Lieutenant-governor will lose no time in communicating these particulars to Her Majesty's Minister at Washington, in order that he may once more appeal to the government of the United States to vindicate their national character; and he earnestly exhorts the people of the province to confide to their Government the conduct of the necessary measures for obtaining redress and indemnity, and to pursue that dignified course of for bearance from retaliation, which cannot fail to give strength to their just complaints, in the assurance that the British people will not view these reiterated aggressions without peremp torily demanding the punishment of the offenders, and national reparation for the injury.

— No. 30. —

(No. 92.)

No. 30.
Sir G. Arthur to Lord Glenelg, 24 Nov. 1838.

EXTRACT of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 24 November 1838.

IN continuation of the narrative of events recorded in my despatch to your Lordship (No. 89), of the 15th instant, I have now the honour to report such additional particulars as have since transpired.

In that despatch I informed your Lordship that a body of the foreign brigands, who had made a descent on Prescott, had sought refuge after their defeat in a strong stone-built mill, where they were closely blockaded by the troops, and from whence they were expected to be speedily dislodged by means of the heavy cannon that had been brought against them.

The result has been as I anticipated; the whole of the remaining brigands, after a further brief resistance, having surrendered at discretion to our troops, whose forbearance under circumstances of such extreme provocation exceeds all praise.

15Nov.1838. No.1.
18Nov.1838. No.2.
14Nov.1838. No.3.
19Nov.1838. No.4.
18Nov.1838. No.5.

With reference to this, and to the preceding affair, I enclose for your Lordship's perusal copies of two reports which I have received from Colonel Dundas, Commandant at Kingston, who had proceeded to Prescott with several companies of the 83d Regiment; of a report from Colonel Young, commanding the militia force engaged; of an after district general order which I directed to be issued; and of a further report from Captain Sandom.

From these collective documents your Lordship will derive every information in connection with the subject to which they relate, which it is at present in my power to furnish.

20 Nov. 1838.

I likewise transmit some copies of a Gazette Extraordinary, containing a succinct account of the progress of events in the Lower Province, where, your Lordship will rejoice to learn, the insurrection has for the present been summarily suppressed.

The prisoners in our possession, taken in the affair at Prescott, amount, as your Lordship will perceive by the reports, to about 160. The whole of them have been conveyed to Kingston, to be there tried before a general court-martial under the provisions of the Local Act, intituled "An Act to Protect the Inhabitants of this Province against Lawless Aggressions from Subjects of Foreign Countries at Peace with Her Majesty."

No further attacks have been reported to have been made during the past week; but, as the brigands are in full activity all along the opposite frontier, I am hourly expecting to hear of a descent having been made or attempted on some part of our territory.

16 Nov. 1838. No. 7.

A most daring outrage, however, has been perpetrated on board a British trading schooner whilst lying in the American waters, for the particulars of which I beg to refer your Lordship to the enclosed deposition of William Jeckell, one of her passengers. All comment on it is unnecessary, the facts speaking sufficiently for themselves, and indicating the existence of a state of feeling on the part of the border citizens of the Union, which if long persisted in cannot fail to lead to the most calamitous results.

Your Lordship will, I hope, allow me to express my earnest wish that at this crisis the conduct of Colonel the Honourable Henry Dundas (83d regiment) should be especially noticed. As commandant at Kingston, he has, throughout our troubles, been quite indefatigable in his exertions, as well in civil as military affairs, in the eastern military district, and on the occasion of the affair at Prescott he laboured

laboured incessantly to bring it to a speedy and successful close. To his determined resolution, indeed, it is to be ascribed that the militia of the country gave any quarter to the brigands; nothing, I believe, but the presence of the regular troops having saved any of them from being cut to pieces. No. 30. Sir G. Arthur to Lord Glenelg, 24 Nov. 1838.

Major Young (particular service) deserves the highest praise. With but a few volunteers he first repulsed the attempt of the brigands to land at Prescott, and afterwards led on the troops to attack them in the most spirited manner. He has been actively engaged in preparing the militia, and I think his promotion would give general satisfaction.

Captain Sandom of the royal navy, commanding on the Lakes, has displayed the greatest zeal and activity in Her Majesty's service, and was most ably supported, as well by Lieutenant Fowell, in the Experiment, as by Lieutenant Parker and the royal marines, who suffered very severely while acting on shore with the militia.

It is not possible for me, my Lord, to express myself in terms of too strong approbation of the bravery of all the troops engaged, which is, indeed, but too well attested by the severe loss they have sustained in killed and wounded.

I would further beg to bring under your Lordship's notice the prompt and zealous manner in which Major Carmichael (particular service) assembled and led the Glengarry men into the Lower Province, in consequence of the events which had transpired at Beauharnois; and it would, I am persuaded, be highly gratifying to those gallant Highlanders to see honourable mention made of their commander.

P. S. The accompanying correspondence which has passed between the Honourable Colonel Dundas and Colonel Worth, and which I have received only since this despatch was written, I consider as very important, from the admissions it contains of the deep injuries that are acknowledged to have been inflicted upon the people of Canada. It has struck me, indeed, as being so important, that I have caused it to be published for circulation in the United States, since it may be useful that other citizens should be made aware of the sentiments of these citizens of Oswego, and especially of those entertained by Colonel Worth. No. 8.

From the abstract statement of the prisoners in custody, your Lordship will perceive that the mass of persons engaged in this invasion were native Americans, and that four Upper Canadians only, refugees from their native land, are found to have joined their ranks. No. 9.

Enclosures in No. 30.

(No. 1.)

Sir, Kingston, 15 November 1838.

I HAVE the honour to inform you, that in pursuance of my intentions, communicated to you in my letter to the Assistant Adjutant-general of the 13th instant, I proceeded to Prescott with four companies of the 83d and two field-pieces. On my arrival at Brockville I found that Captain Sandom, R.N., had passed down to Prescott the previous night, and learnt that Colonel Young had that morning attacked the rebels, Captain Sandom having landed the marines and the detachment of the 83d regiment which he took with him, to aid the militia force which had collected at Prescott, Captain Sandom co-operating with the steam-boats in the river. The rebels were strongly posted, occupying a circular, well-built stone windmill, and other buildings. They were necessarily driven from the post they occupied, but succeeded in shutting themselves up in the windmill, against which the artillery from the boats made no impression whatever; and, finding all attempts to get possession of it vain, Colonel Young withdrew to the town unmolested. Encl. 1, in No. 30.

The partial success that was gained was not acquired without considerable loss on our side, and I have to regret the loss of Lieutenant Johnson, a most efficient officer, who commanded the detachment of the 83d regiment, who was killed gallantly leading on his men. Four rank and file are wounded; Lieutenant Parker and 15 rank and file, I believe, of the Royal Marines, are also wounded, some of whom are since dead. I reached Prescott that night, and yesterday morning proceeded in company with Major M'Bean, who commanded the artillery to examine the ground; and feeling perfectly confident that the field-pieces could

No. 30.
Sir G. Arthur to Lord Glenelg, 24 Nov. 1838.

Encl. 1, in No. 30.

not make any impression on the mill, the walls of which at the base are four feet thick, and that any attempt to carry it without first effecting a breach, even if successful, could not be effected without a great loss of life, which I did not feel I should have been justified in risking, and in which opinion the superior officers all concurred, I returned here last evening with the intention of returning to Prescott as soon as some heavy guns can be prepared, and which I am in hopes they will be to night. Captain Sandom is also equipping two heavy guns, 24-pounders, and will also return to night, when I trust our joint efforts to drive the rebels from the position will be successful.

The United States steam-boat "United States," and the schooner used by the rebels in transporting their guns, men, ammunition, &c., have been taken possession of by the marshal, and passed up the river on the night of the 13th, for Sackett's Harbour, I believe. I forward the accompanying letter from Colonel Young, to whom I must refer your Excellency for the more particular details of his attack on the brigands. I take the liberty of mentioning, that when we have succeeded in getting possession of the windmill, I should strongly recommend that it be either put in a state of defence and occupied, or entirely demolished, as it is in a most commanding position.

There is another at the village of Maitland of precisely the same description, both of which mills might be converted into Martello towers.

I have, &c.
(signed) *H. Dundas,*
Lieut.-Col. 83d Regt., Commandant.

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

(No 2.)

Sir,

Kingston, 18 November 1838.

Encl. 2, in No 30.

I HAVE the honour to acquaint you, for the information of his Excellency Major-General Sir George Arthur, that the heavy artillery having been prepared and equipped in the course of the 15th, and which I stated in my last despatch I had returned here to obtain, I proceeded that night to Prescott, with four companies of the 83d regiment and two 18-pounders and a howitzer, under command of Major M'Bean, Royal Artillery. The weather being very unfavourable and the night so exceedingly dark, our passage down the river was much delayed, and it was noon on the 16th before we reached Prescott. The troops immediately disembarked, and the guns were mounted with as much expedition as possible. With every exertion that could be made, it was late in the day before I arrived in position, which I took up on a rising ground about 400 yards from the houses and mill occupied by the brigands. They did not venture out of the buildings to oppose us, and Major M'Bean having placed one gun to batter the house in front of the mill, and the other further to the left and more in advance to act against the mill, opened his fire against the mill with good effect, nearly every shot perforating the building.

The masonry of the windmill was so strong, that but little impression was made against that building.

Captain Sandom, R. N., with two gun-boats and a steam-boat, took up a position on the river below the mill, which he commanded from the 18-pounders, but could not succeed in effecting a breach in the building. It being now late, and daylight wearing away, I moved closer to the buildings, the militia acting on both flanks, and so posted as to prevent the escape of the brigands, and supported by a company of the 93d regiment, under Major Arthur, who joined just as we were taking up our position, on march from Cornwall. A fire of musketry was opened from the house, which was quickly replied to, and the howitzer being moved forward on the left, opened on the building, which the brigands, under cover of the darkness, evacuated, and concealed themselves in the brushwood on the bank behind the mill, where they were subsequently captured by the militia, among whom was one of their leaders, a Pole, named Van Schulty. The buildings to the left of the mill having been gained with little opposition, were set fire to, and a white flag having been displayed from the mill from which there had been no firing, and darkness having set in, I deemed it best to accept an unconditional surrender. Eighty-seven prisoners were marched out of the mill, and 16 more wounded subsequently carried out. A large quantity of powder and several stand of arms were found in the mill, together with three pieces of artillery, which had been placed in a battery in front of the door, constructed of loose stones, but were not discharged during the day.

All the buildings which had been occupied by the brigands were set on fire, with the exception of the mill, which was occupied that night by a company of militia. I am happy to say that the capture of these men has been effected, on this occasion, with the loss only of one man of the 83d regiment. I have great pleasure in bearing testimony to the steadiness and forbearance of the troops, whether regular force or militia, and I beg to call to the attention of his Excellency, the loyalty and zeal displayed by the volunteer force, by whose activity and exertion all escape inland has been prevented, and the position of the brigands constantly watched since the affair of the 13th instant, between which date and the 16th,

several

No. 30.
Sir G. Arthur, to Lord Glenelg, 24 Nov. 1838.

several prisoners made, the total number now in our hands, including those captured on the 13th, amounting to about 160. Notwithstanding, however, every precaution, a communication with the brigands was made in the dark night of the 15th, by the United States steamboat Paul Pry, and seven of the number, according to report, carried off.

I have, &c.

Colonel Foster,
Assistant Adjutant-general, Toronto.

(signed) *H. Dundas*,
Lieut.-Colonel 83d Regt. and Commandant.

Encl. 2, in No. 30.

(No. 3.)

Sir, Prescott, 14 November 1838.

With reference to my letter of the 12th instant, I beg to report, for the information of the Major-general commanding, that Captain Sandom, commanding the royal navy in Upper Canada, having arrived from Kingston, at two o'clock yesterday morning, in the armed steamer Victoria, accompanied by the Cobourg, a combined attack on the enemy's position was decided upon. I accordingly moved off in two columns at a quarter before seven, A. M. The left, destined to turn the enemy's right, was led by Colonel D. Fraser, and was composed of 30 men of the royal marines; Captain G. M'Donell's company of L. G. Highlanders, Captains Jones and Fraser's companies of the 2d regiment Grenville militia, and 100 men of Colonel Markle's regiment of Stormont militia. The right column was led by Lieutenant-colonel Gowan of the Queen's Borderers, and was composed of 44 men of the 83d regiment, 150 of the Queen's Borderers, and 100 of Colonel Markle's regiment. The enemy was strongly posted behind stone walls on rising ground; but the intrepidity of the troops overcame those obstacles, and in an hour they were driven into a windmill and stone-house adjacent; the former is particularly strong, and finding, after a constant fire of some hours from the armed steamer and of musketry, that no impression could be made on the building, I considered it more prudent, in order to avoid a further risk of life, to draw off the greater part of the troops at three, P. M., leaving strong piquets to prevent the escape of those in the buildings, until the assistance of heavy guns could be procured. In this affair the officers and men of the regular troops, as well as those of the militia, evinced the characteristic firmness of British soldiers. The rifle fire of the enemy was particularly true and steady. I have not yet received the return of killed and wounded, but I regret to say, that our loss was severe; Lieutenant Johnson of the 83d regiment, a most gallant officer, was killed, and Lieutenant Parker of the royal marines, a young officer of great promise, was shot through the arm; Lieutenant Dulmage, of the 1st regiment Grenville militia, was killed with the advance of the left column; and Lieutenant Parlow of the 2d Dundas, and Ensign M'Donnell of the L. G. Highlanders, were wounded. The killed and wounded of all ranks are computed at 45; few of the former are, however, in the number, and many of the latter are not in danger; the loss of the enemy, especially in officers of note was great; Generals Brown and Philips were killed, and 32 prisoners were taken.

Encl. 3, in No. 30.

It is most gratifying to me to have it in my power to report the zeal with which the militia of the district rallied, on the first sound of invasion, round the standard of their country, as well as their perseverance in the performance of the various duties required from them.

I feel much indebted to Captain Sandom, R. N., for his zealous and efficient co-operation. On Monday Lieut. Fowle, in command of the armed steam-boat Experiment, particularly distinguished himself by his exertions to destroy, in front of this town, a large steam vessel and two schooners in possession of the Patriots.

I have, &c.
(signed) *Plomer Young*,
Colonel Part. Service.

P. S. I do not imagine the buildings will be tenable long, after the guns are placed in position.

Colonel Halkett, Ass^{g} Military Secretary.

(No. 4.)

After District General Order.

Toronto, 19 November 1838.

His Excellency Major-general Sir George Arthur feels the greatest gratification in announcing to the Queen's regular troops, and to Her Majesty's militia of the Province, now so happily engaged hand-in-hand in the defence of their country, against internal disaffection, and against the most cruel and unjust aggression from abroad, that their united efforts have proved decidedly effectual in overcoming a gang of desperadoes, who lately had the temerity to make a descent, from the United States, on the Canadian shore of the St. Lawrence, between Prescott and Johnstown.

Encl. 4, in No. 30.

No. 30.
Sir G. Arthur to Lord Glenelg, 24 Nov. 1838.

Encl. 4, in No. 30.

The pirates, on landing, took possession of some stone houses and a stone mill, of extraordinary strength of masonry, about one-and-a-half miles below the former place; of these they held possession for some time, closely blockaded by the loyal militia under Colonel Plomer Young, "particular service," until reinforced by Colonel the honourable Henry Dundas with a demi-field battery of the Royal Artillery, and some companies of the 83d Regiment from Kingston. Against such a force, when supplied with heavy artillery, it was impossible for the enemy long to hold out; and, after the stone houses had been destroyed, a white flag was hoisted at the mill, and its occupiers were permitted to surrender at discretion.

The fruits of these gallant proceedings consisted of about 167 prisoners, exclusively of about 16 wounded.

It is reported that not less than 56 of the enemy were killed during the operations.

Colonel the honourable Henry Dundas, Colonel Plomer Young, and Captain Sandom, Royal Navy, commanding the naval flotilla, speak in the very highest terms of the gallantry, good conduct, and extraordinary forbearance of the whole of the seamen and marines, the regular force, the militia and the volunteers, employed on the occasion.

The British loss consists of Lieutenant Johnston, 83d Regiment, Lieutenant Dulmage, of the Granville Militia, killed; and Lieutenant Parker, Royal Marines, and Lieutenant Parslow, of the militia, wounded; with about 45 rank and file killed and wounded.

The loss of the brigands was particularly severe in officers, among whom were the self-styled generals Brown and Phillips.

His Excellency Major-general Sir George Arthur cannot sufficiently applaud the alacrity and firmness with which Colonel Plomer Young attacked the brigands, with a very inferior force, on their first appearance on the Canada shore; and the gallantry with which the detachments of the 83d Regiment and Royal Marines, with the militia under his command, drove them to seek a temporary security in the mill and houses, in which, however, they found it totally impracticable long to maintain themselves against British valour and persevering intrepidity.

The Major-general also offers his warmest thanks to Colonel Dundas for the able disposition of his force, and his indefatigable exertions, to Colonel M'Bean, R. A., to Colonel R. Duncan Fraser, to Lieutenant-colonel Gowan, and Captain George Macdonald, and to all the officers of the militia and volunteers, whose names he is alone prevented from particularising by the casual absence of the despatch from Colonel Young, which enumerated them; and His Excellency is confident that the gallant example now shown will be followed with equal loyalty and spirit by all the militia of the Province should their services be called for.

To Captain Sandom, commanding the Royal Navy, likewise, are His Excellency's thanks most fully due for his vigilance and able co-operation; and to Lieutenant Fowell, Royal Navy, who so gallantly commanded Her Majesty's steamer Experiment, which, although so inferior in point of size and power, obliged the enemy's steamer, United States, to seek refuge in an American port.

His Excellency the Lieutenant-governor likewise, has much pleasure in congratulating Colonel Carmichael, particular service, and the loyal and gallant Glengarry militia regiments, under Colonels M'Donell, Fraser, Chisholm, and M'Donell, whose ready aid in moving into the Lower Province mainly contributed to the re-capture of the "Henry Brougham," and has earned for them the high approbation of his Excellency the Commaner of the Forces.

(By command.)

C. Foster, Colonel,
Assistant Adjutant-General.

(No. 5.)

Her Majesty's Ship Niagara, Kingston,
18 November 1838.

Sir,

Encl. 5, in No. 30.

I HAVE the honour to acquaint your Excellency, in continuation of the report I made on Wednesday, the 14th instant, that the heavy battering guns from a part of the flotilla under my command being brought into a position, at 3 P. M. on Friday the 16th instant, within 400 yards of the rebels' strong hold, opened their fire with such effect as to induce the persons in the mill to hold out a flag of truce, which I disregarded as long as daylight lasted; but, fearing our friends might by accident suffer from our fire, I landed at dark, and, in conjunction with Colonel Dundas, sent Lieutenant Leary, R. N., with a flag of truce, who immediately returned accompanied by 50 or 60 of the rebels, their chief presenting to us their unconditional surrender.

I have the greatest reason to be satisfied with the officers commanding the vessels and boats stationed to prevent communication with the American shores, which was as effectually done as the situation of the place would admit. Previous to opening the fire from the gun vessels I had an interview with Colonel Worth and the American authorities on board their steam vessel, who gave me the strongest assurance of their determination to use every exertion to prevent communication from their shores, and in every manner to aid

in

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in putting an end to the species of warfare heretofore aided so much by their citizens. I feel so fully convinced of the sincerity of these professions, and that their exertions were during the last four days most effectual, that, in justice to those officers, I must beg to withdraw the conclusion I came to, and which I had the honour to report in my letter of the 14th instant.

Encl. 5, in No. 30.

It appears Colonel Woodriff, the second in command of the whole forces intended to invade Canada, is amongst our prisoners, and I learn that Prescott was intended to have been a point from which all their movements in this part of the Province would emanate. Large quantities of guns and ammunition were to have been collected there, a part only of the powder and muskets having been deposited in the mill. I found many shot for 18-pounders, and am informed several pieces of artillery of that calibre were left at Millen's Bay and other places for want of vessels and secure opportunities to convey them down to Ogdensburgh. I am given to understand that 100 pieces of artillery of the 500 cast at Brownville for the general service were to have been sent over to this position for distribution. Two of the pieces we have taken are newly cast, and bear the stamp and number of a part of this large park above alluded to. I shall endeavour by every means to ascertain where any are deposited, as I feel assured Colonel Worth will seize them on my representation.

I have, &c.
(signed) *Williams Sandom*,
Captain.

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

(No. 7.)

Encl. 7, in No. 30.

Newcastle District, } William Jeckell, of the township of Hamilton, in the Newcastle dis-
to Wit. } trict, maketh oath and saith, that on Monday last, the 12th instant, he went on board the British schooner Caroline, of Oakville, as a passenger for the city of Toronto; the Caroline was then lying moored at the wharf near the lower end of the railroad, in the Genessee river, in the state of New York.

At about half-past eleven o'clock, P.M., the same day, when the captain, passengers and sailors had retired to their respective berths, the Caroline was boarded by 20 or more armed men, when a person came to the companion-way, who I supposed had the command, called for the captain. In reply, the captain asked, "Who is there? What is wanting?" They on deck immediately answered, "You and your crew are prisoners, and your boat is now in the 'Patriot' service." When the captain attempted to go on deck, they ordered him below, saying they would blow his brains out, if he made any resistance.

The captain then asked permission to go to the forecastle to speak to the sailors, lest they should make some resistance, which he feared would make matters worse.

The self-styled Patriots said there was no need of it, that the men were safe enough; then the captain desisted making farther attempts to get out of the cabin. They immediately gave orders to cast off the boat, hoist sail and proceed down the river. They set a guard at the cabin door, and regulated their watches, which were relieved at short intervals. They were told off by numbers, in consequence of which no names were mentioned during the passage down the river; the sentinel at the cabin-door made particular inquiry of the captain, what his cargo consisted of, and whether he had pork, flour, or liquor on board. The captain replied he had not. The sentinel then asked the captain particularly, if there was any disturbance or excitement, or any suspicion of anything about to take place at Cobourg or Port Hope. Captain said, "Not to his knowledge." During the passage down the river, deponent heard one of the men on deck say, he was damned glad they had succeeded in taking the boat without bloodshed. Deponent says, they on deck inquired of captain as often as every half hour, what time it was. They repeatedly told captain, that if he and his crew behaved well, they should be treated accordingly. About four o'clock the next morning, it was discovered that the party had abandoned the boat, which on examination, was found to be fast aground near the wharf, at the mouth of the river. Shortly after the boat was left by this party, the captain and passengers went on shore, and made an affidavit of the facts relative to the outrage committed on the boat before the magistrates, who immediately sent the affidavit to Rochester that it might be followed up.

The only article deponent knows to have been taken from the boat are one gun, two or three over-coats, and deponent's cloak, all of which articles were demanded from the captain and passengers during the passage down the river; also one anchor, which was supposed to be thrown overboard, and some of the rigging cut. The captain, after having got the boat off, which was effected with some difficulty, set sail about noon the same day, for Toronto, but was driven in a gale of wind to Kingston.

(signed) *Wm. Jeckell.*

Sworn before me at Hamilton, this 16th November 1838.

(signed) *Asa A. Burnham*, J. P.

No. 30.
Sir G. Arthur
to Lord Glenelg,
24 Oct. 1838.

Encl. 8, in No. 30.

(No. 8.)

UPPER CANADA GAZETTE EXTRAORDINARY.

By Authority. Toronto, Saturday, 24 November 1838.

Government-house, Toronto, 24 November 1838.

HIS Excellency the Lieutenant-governor has directed the publication of the following correspondence, in the hopes that it may be the means of preventing, in other parts of the frontier, the gross delusion which Colonel Worth, of the United States' army, and the respectable inhabitants of Oswego, represent to have been practised upon numerous persons, by men, "who having instigated them to a lawless invasion, have themselves stood back from the scene of danger in the moment of trial, or from a distance, in safety, have witnessed the sacrifice of the miserable victims of their unscrupulous designs."

His Excellency does indeed hope that what has happened at Prescott, may be the means of "holding up to scorn, contempt, and punishment, the great villains in this most unparalleled assault upon a friendly power."

Sir, Kingston, 23 November 1838.

I HAVE the honour herewith to forward for your Excellency's information a letter, with the documents which accompanied it, which I this day received from Colonel Worth, commandant of the United States' army, at Sackett's Harbour, as also a copy of my reply to his communication.

I have, &c.
H. Dundas,
Lieut.-Colonel 83d Regiment, Commandant.

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

Sir, Sackett's Harbour, 23 November 1838.

BY the mail of this date I received a communication, of which I have the honour to forward you a copy. This paper is signed by gentlemen of the highest intelligence and respectability among our citizens, who, as they represent, have earnestly sought to check the headlong career of those unfortunate dupes of designing demagogues, the objects of their petition.

This appeal places me in a painful and embarrassed position; on the one hand to seek, by an official interposition, to stay or divert the free course of justice, however fruitless the effort, would justly subject me to the censure of the Government—so on the other, I could hardly excuse myself to my countrymen, nay, to my own heart, totally to disregard the humane designs and wishes of those who ask me to become their medium of communication.

Thus circumstanced, I approach you with the frankness which belongs to our profession.

I cannot better favour the object of the petitioners than by forwarding a copy of their communication, which as clearly, as justly and truly, sets forth the circumstances of delusion and fraud practised upon the miserable youths who have, thus acted upon, forfeited their lives, and subjected themselves to an ignominious death. The delusion has vanished, and not a doubt remains, that speedy vengeance will follow the great criminals in this foul business.

I can only add, Sir, the firm conviction, that clemency extended to the wretched victims of baseness and duplicity will, while illustrating the humane and merciful policy of Her Majesty's Government, have the happiest effect in restoring, as we all desire, kindly relations along the entire border; and greatly tend to the ends of justice, by exposing and holding up to scorn, contempt, and punishment, the great villains in this most unparalleled assault upon a friendly power.

With sentiments of respect, I have, &c.
(signed) *W. J. Worth.*

To the Commander of
Her Majesty's Military and Naval Forces,
Kingston, Upper Canada.

My dear Sir, Oswego, 20 November 1838.

THE accompanying communication has been prepared at the request of the persons whose signatures are associated with my own, and who are among the most respectable inhabitants of this place.

We are aware that you have already made an effort in behalf of the unhappy and deluded men now at the mercy of the Canadian authorities, and we have but little hope that the arm of justice can be averted; but if even a few can be saved, much will be accomplished, and our citizens expect from us that we shall make an effort, even if hopeless. The result of the action of the committee is the accompanying communication, which I am instructed to transmit to you.

Believe me, &c.
(signed) *George H. M'Wharter.*

Colonel W. J. Worth.

No. 30.
Sir G. Arthur to Lord Glenelg, 24 Oct. 1838.

Encl. 8, in No. 30.

Sir, Oswego, 20 November 1838.

A LARGE meeting of the citizens of this place, convened last evening, after the arrival of the telegraph, to take into consideration some measures in behalf of the infatuated young men who have forfeited their lives to public justice, by a participation in the late scenes at Prescott, upon the St. Lawrence.

The meeting, we are informed, took no other order than to refer the subject to the undersigned, as a committee, to digest and to carry into effect such measures as we might deem expedient.

After deliberating upon the very delicate office thus assigned to us by our fellow citizens, we have arrived at the conclusion, that a direct intervention of any number of our citizens, either personally or by a formal address to the representatives of the Royal authority in the Province, would be unadvisable.

Individually, we have discountenanced, and endeavoured to restrain, the violent and unlawful proceedings recently manifested so generally upon the frontier, against the tranquillity of the Canadas, and the relations of peace and harmony so happily existing between our country and Great Britain. It is for this reason, we presume, the present duty has been committed to us. But we are apprehensive the Colonial authorities will regard with jealousy and distrust, any interposition of American citizens residing on the frontier, in an endeavour to avert the rigorous execution of the penalties of the law. We are but too sensible that any such intercession may with justice be regarded with suspicion. We therefore address ourselves to you, in the hope that you will consent to undertake for us the duties of an office, to the successful execution of which we feel ourselves, on many considerations, incompetent. Your character as a military man is well known to the Colonial authorities. The zeal and firmness you have displayed, from the commencement of the troubles, in endeavouring to preserve our mutual obligations inviolate, to protect our national honour, and to enforce the laws of the Union, are known as well to the inhabitants of Upper Canada as to your own fellow citizens; and we believe your services and character are by them not less justly appreciated than by ourselves. The sympathies too, which are appropriate and common to military men, would give to your intercession with the military authorities in the Province, an influence which could not be anticipated from any effort of ours.

It is not because the unfortunate men captured at Prescott are for the most part American citizens, that our sympathies are awakened for them; we are informed that many of them are youths under age, who have been beguiled by false representations to embark in an enterprise, the criminal nature of which they did not comprehend, and in the dangers of which their betrayers have not participated. We are strongly persuaded that these youths were deluded into the belief that the enterprise was honourable, that it would be sustained by responsible characters, and seconded by a general insurrection of the inhabitants of the Province.

It is impossible that they are not convinced of the grossness of the delusion. The men who have beguiled them into the commission of an outrage upon the laws of their own country, and instigated them to a lawless invasion of the territory of a friendly power, have themselves stood back from the scene of danger in the moment of trial, or from a distance, in safety, have witnessed the sacrifice of the miserable victims of their unscrupulous designs.

The result of the attempt upon Prescott will prove a corrector of public opinion. We are sensible already of a great and rapid change in the sentiments of our fellow citizens in regard to the moral character of the late enterprise. The illusions in relation to it are fading from their eyes; and we may justly expect that in a short time the people of the frontier, like those of the interior, will regard the recent agitation with no other sentiments than of sorrow and indignation.

We would then, Sir, respectfully request that you will interpose your own personal intercession with the Royal authorities in Upper Canada, for the extension of the Royal clemency to the unfortunate youths, whom we cannot but regard as the prey of invidious and rapacious designs. We are sensible that we ask nothing to which your own feelings will not respond, and sincerely hope that nothing we suggest will be regarded by you as incompatible with your military position in command of this section of the frontier.

We place this communication entirely at your disposal, to be applied in any manner you may deem advisable, in relation to the object it contemplates.

With high respect, &c.

(signed) *George H. M'Wharter,*
Henry Fitzhugh,
James Platt,
Alvin Bronson,
T. S. Musan,
Joseph Hunt.

To Colonel W. J. Worth,
8th Regiment, Commanding.

Sir, Kingston, 23 November 1838.

I HAVE the honour to acknowledge the receipt of your letter of this date, with the other documents which accompanied it. As my authority does not extend in any degree to the remission or infliction of any punishment to which the prisoners taken at Prescott have subjected themselves by the laws of this country, any appeal to me can have little effect in producing any change in the position in which these prisoners are placed. Planned and organized as this expedition appears to have been, it is scarcely possible to believe the state-

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Sir G. Arthur to Lord Glenelg, 24 Oct. 1838.

Encl. 8, in No. 30.

ments of these persons, that they have been duped and deceived into the conduct of which they have been guilty. An examination of the prisoners is at present in progress, whose several statements will be submitted to his Excellency the Lieutenant-governor, to whom alone belongs the right of carrying into effect the sentence of the law, or extending clemency to those prisoners whose cases may appear, on their trial, to recommend them for favourable consideration. After the injuries in person and property that the subjects of Her Britannic Majesty have suffered from the lawless and savage attacks of these persons, it cannot be otherwise than expected that they should call for a prompt and just administration of the law; and while the high character of the officer charged by Her Majesty with the administration of the Government in this Province, is a full guarantee that he will act in the present trying circumstances with firmness and decision; so is it well known that in consonance with his own feelings, his humane and benevolent disposition, supported by a strict sense of duty, he will, in the fullest sense, temper justice with mercy, and to whose consideration I shall no time in forwarding the documents you have transmitted to me.

I have, &c.

Colonel Worth, Commandant,
Sackett's Harbour.

(signed) *H. Dundas*,
Lieut.-Colonel 83d Regiment, Commandant.

(No. 9.)

Encl. 9, in No. 30.

ABSTRACT showing the Native Country of 159 Brigands from the United States, taken Prisoners by Her Majesty's Troops, and forming part of an hostile Expedition fitted out against Her Majesty in the Ports of the United States, which invaded Upper Canada in November 1838, near Prescott.

Upper Canadians	4
Lower Canadians	8
British and Irish	5
Poles	3
Germans	5
French	3
Natives of the United States	131
Total	159

— No. 31. —

(No. 93.)

No. 31.
Sir G. Arthur to Lord Glenelg.
24 Nov. 1838,

EXTRACT of a DESPATCH from Lieut.-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 24 November 1838.

WITH reference to my despatch to your Lordship of this day's date, No. 92, I have the honour to transmit herewith, for your Lordship's perusal, copies of two letters (with their enclosures) from Colonel Airey, commanding the 34th regiment at Amherstburg, on the Western frontier; of one from Colonel Prince (the member for Essex county, and one of the most popular men in that part of the province), commanding the militia at Sandwich; and of one from Colonel Booth, 43d regiment, commanding on the Niagara frontier; also of one from Captain de Rottenburg.

Your Lordship will be painfully struck with the accounts from Colonel Airey, Colonel Booth, and Colonel Prince, of the reluctance of the militia to turn out, in various parts of the province, at a moment of extreme necessity like the present.

This proceeds from a great variety of causes, but I do not believe that in the mass of the people it is founded in disloyalty, and when the enemy is fairly before them, I still trust that they will be found to do their duty.

— No. 32.—

(No. 94.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to *Lord Glenelg*.

No. 32.
Sir G. Arthur to Lord Glenelg, 27 Nov. 1838.

My Lord, Government House, Toronto, 27 Nov. 1838.

I AM particularly desirous, with reference to the late events at Prescott, that there should exist no misunderstanding respecting the affair between the British little armed steamer "Experiment," and the American steamer "United States," and I have therefore called for a more detailed statement than that heretofore afforded, of the circumstances connected with it.

The report from Captain Sandom, of which the enclosed is a copy, will, I trust, satisfy your Lordship that nothing could exceed the gallantry displayed by Lieutenant Fowell on that occasion, except his caution in abstaining from any proceeding that could be possibly construed into a violation of amity with the United States. 12 November 1838.

I have, &c.
(signed) *Geo. Arthur.*

Enclosure in No. 32.

(Extract.)

Her Majesty's ship Niagara,
Kingston, 25 November 1838.

Sir,

I HAVE the honour to enclose for your Excellency's information, a copy of the statement made to me by the commander of the "Experiment," on the leading facts which took place at the time Lieutenant Fowell prevented the steam-vessel "United States" from effecting a landing at the town of Prescott. This statement will, I presume, be more explanatory than the "copy of that part of the log of the 'Experiment' in which the late affairs at Prescott, &c. are recorded," and is an official document equally valid. The "Experiment" being now down at Prescott, prevents my obtaining the copy of the log. Encl. in No. 32.

I have, &c.
(signed) *William Sandom*,
Captain.

To His Excellency
Major-General Sir George Arthur, K.C.H.
Lieutenant-Governor, &c. &c. &c.,
Toronto.

Her Majesty's Steam-vessel, Experiment,
Prescott, 12 November 1838.

Sir,

I HAVE the honour to acquaint you, that whilst lying at anchor off the town of Brockville yesterday evening, I received information that several armed vessels were ready, at Goose Creek, to embark a large force for the purpose of attacking the above-named town that night.

At 10 30, P.M. a steamer was reported coming down the river on the American shore; and as the American merchant steam-vessel United States had been absent for some days, I suspected that she would be also employed by the rebels. I immediately cleared for action, and soon after observed the steam-boat steer for the town of Brockville, in the direction I was lying, not having seen us until within half-gun-shot (as I had carefully concealed all lights on board), when her engine was stopped, and at the expiration of a few minutes she bore away for Morris Town. At this time it was very dark, and I did not see the vessels (two schooners and some boats) she had in tow, which was made known to me at two o'clock this morning, and also that she was full of armed men, and that she was proceeding to this place. I therefore lost no time in following, and found them at anchor on the American side of the river, between this and Ogdensburg.

Soon after daylight I received a request from the magistrates of Ogdensburg not to fire into their waters, which I strictly adhered to.

At 9 30, A.M, the United States moved towards the town of Prescott, and I took up a position which enabled me to fire on her clear of the American waters. After a few sharp rounds she returned towards Ogdensburg. One of the schooners then weighed (the other was aground) and effected a landing of about 250 men, and three pieces of ordnance, at a point about two miles below Prescott, which I could not prevent, as the United States was ready to throw all her force (said to be 600 men and several pieces of artillery) into this defenceless town. Soon after this she came across again, as if determined to carry me by force, when, not finding her reception better than before, she followed her companion to the point above named, in the hope of leading me from the town. I now kept her between

No. 32.
Sir G. Arthur to
Lord Glenelg,
27 Nov. 1838.

Encl. in No. 32.

myself and the point, within range of my gun, to prevent her landing her force. She ineffectually returned the fire from three pieces of artillery. Having beat her back in three attempts to pass up to the town, I returned to abreast of the lower part of Prescott, and soon after observed the schooner which had been laying on shore in tow of the Paul Pry, American merchant steamer, steering for the British shore ; when fairly in our own waters I closed, and gave her grape and canister, and running alongside within ten yards of the schooner (the Paul Pry having escaped into Ogdensburg), 250 men lay down their arms, with five pieces of artillery, and I was in the act of taking her in tow, when I found myself in shoal water, and the United States close on me, coming to the schooner's assistance. I was therefore most reluctantly compelled to leave, and place myself between them and the town for its defence, when both vessels renewed their fire with double force, but which was rendered ineffectual by the well-directed fire of our gun and musketry. The schooner got into Ogdensburg with difficulty; and the United States, after a few round-shot in her hull, and one eighteen-pounder through her starboard engine, followed to repair damages.

I am happy to say we received no damage, except in the hull and rigging from their musketry, which I mainly attribute to the well-directed fire of our carronade by Mr. David Elliott (mate) and the steady conduct of the crew, 25 in number, including officers and boys.

I beg leave to add, in conclusion, that very few armed militia appeared on the wharves to assist me, or oppose the landing of the rebels; and the destruction of Prescott must inevitably have followed any accident to the steam-vessel which I had the honour this day to command.

I have learned this morning through an Englishman (named Budd), who escaped from the schooner, that the numbers killed in each vessel were, United States, 12 ; Paul Pry, 6 ; schooner, 25 ; and a great number wounded.

I have, &c.

To Captain William Sandom,
Commanding, &c. &c. &c.
Kingston.

(signed) *W. Newton Fowell,*
Lieutenant Commanding.

— No. 33. —

(No. 97.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*.

No. 33.
Sir G. Arthur to
Lord Glenelg
30 Nov. 1838.

My Lord, Government House, Toronto, 30 Nov. 1838.

I HAVE perused, with the deepest interest, your Lordship's circular despatch of the 24th of October, wherein your Lordship informs me that the attention of Her Majesty's Government had been given to the establishment of a direct communication by steam, between Great Britain and her North American possessions, and that it was in contemplation to substitute steam-packets for the sailing vessels now employed in the conveyance of the mails between England and Halifax, your Lordship further intimating that the proposed arrangement would probably take effect about the commencement of the next ensuing spring.

Under any circumstances, the adoption of a measure tending so greatly to narrow the distance between the two countries, and promote emigration, could not but afford the utmost satisfaction to all who are desirous to perpetuate their existing bond of union. The advantages of such a medium of communication must prove incalculably great.

I shall not fail to lay your Lordship's interesting statement before the Legislature at its next session; and I am too well satisfied of the gratification which its members will experience at the information, to doubt for a moment their zealous co-operation to the extent of their ability, in the promotion of any local measures that, subsidiary to it, may be necessary to ensure the complete success of the projected undertaking.

I have, &c.
(signed) *Geo. Arthur.*

— No. 34. —

(No. 100.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H. to Lord *Glenelg*.

No. 34.
Sir G. Arthur to Lord Glenelg, 4 Dec. 1838.

My Lord, Government-House, Toronto, 4 December 1838.

THE court-martial, which, as I informed your Lordship in my despatch, No. 92, of the 24th of November, I had directed to be assembled at Kingston, for the trial of the prisoners taken in the affair at Prescott, has commenced its proceedings, and transmitted to me a report upon the conviction and sentence of Nils Szolteocky Von Shoultz, a Pole, who commanded the invading force, and who was the first individual brought up for trial.

I have the honour to transmit to your Lordship a copy of the proceedings of the court-martial in this case, and of the warrant for the execution of Von Shoultz, which I have directed to be carried into effect at Fort Henry, on the 8th instant.

I am not, at present, prepared to give your Lordship any intimation of the extent to which capital punishment will be carried on this occasion; but I am painfully impressed with the opinion that a considerable degree of severity will be rendered unavoidable by the nature of the aggression committed by the prisoners, the circumstances in which this Province is now placed, and the outraged rights and feelings of its unoffending inhabitants.

I have, &c.

(signed) *George Arthur.*

— No. 35. —

(No. 105.)

EXTRACT of a DESPATCH from Lieut.-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*; dated Government House, Toronto, 13 December 1838.

No. 35.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

IN my despatch to your Lordship of the 24th ultimo, No. 93, I had the honour to transmit, for your Lordship's perusal, various documents respecting the state of affairs on the Western and Niagara frontiers, conveying the intelligence that a fresh invasion of our territory was about to be attempted by citizens of the neighbouring republic, who were congregating in large numbers for that purpose in Detroit and its vicinity.

With reference to that, and to the preceding despatch, No. 92, it gives me great concern to be now under the necessity of continuing a detail of aggressions on the part of the band of ruffians who have been so long creating excitement, and been so long countenanced and supported along the American line of frontier.

During the last week in November they made such a demonstration on the Niagara frontier that a descent in that quarter was daily expected; but finding we were so well prepared as they discovered us to be, through their numerous emissaries, they desisted for a time from the prosecution of their designs in that part of the country, and some of the leaders of the enterprise departed for the western frontier, where (as I have already informed your Lordship in my previous despatches) a considerable body of the confederated ruffians had been long congregating, and keeping Her Majesty's loyal subjects under unceasing excitement.

At day-light, on the 4th instant, a body of these ruffians, amounting to about 400 men, landed at Moy, near the village of Windsor, about three miles above Sandwich, when, having set fire to and destroyed a steam-boat which was lying there, they proceeded to consume the barracks and two adjoining houses at Windsor, in which two militia men were burned to death; shot the sentry, killed a man of colour who refused to join them, and, in the most cold-blooded and inhuman manner, murdered Assistant Staff-surgeon Hume, who, unarmed, accidentally fell into their hands; mutilating his body with an axe and bowie-knives.

Tidings of the enormities perpetrated having reached Sandwich, the militia stationed at that post speedily turned out, marched on Windsor, attacked the

No. 35. Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

ruffians, and in a few minutes completely routed them. Twenty-five were killed, and as many taken prisoners; and of the rest who were dispersed, some effected their escape to Hog Island, on the American side, while others fled into the woods, where several of them have been since apprehended.

No. 1, 10 Dec. 1838.

The district order which has been published, and of which copies are herewith transmitted, details the particulars of this atrocious outrage, and they are accompanied with Colonel Airey's despatch.

No. 2.

The descent made on Windsor was but a feint; the intention being, as General Brady, of the United States' army, apprized Colonel Airey, who was commanding at Fort Malden, to surprise that garrison, under the expectation that the 34th regiment would have moved off to support the militia at Sandwich, distant 18 miles. In this, however, the brigands were completely disappointed.

At Sandwich, your Lordship is aware, there exists a French-Canadian population; and I am sure Her Majesty's Government will learn with great satisfaction that they turned out as loyal subjects, in the defence of the country, on this occasion.

The excitement on the western frontier being very great, I have deemed it most prudent to cause the prisoners in our hands to be removed inland to the London district, and have directed a militia general court-martial there to assemble for their trial, under the provisions of the local Act referred to in my despatch, No. 92, of the 24th of November.

I cannot conclude this despatch without adverting in terms of satisfaction to the conduct of General Brady, the officer of the United States' army, commanding at Detroit, on the occasion of the late occurrences.

From the statements furnished, it appears that he had already given Colonel Airey notice of the designs of the ruffians, and subsequently endeavoured to prevent the execution of them by every means at his disposal; but when it is considered that the lawless miscreants congregated at Detroit are sufficiently numerous to set all authority at defiance, it must be obvious that little good can be effected by any individual officer, with a merely nominal force, however strenuous may be his efforts, and honourable his motives.

In my despatch, No. 99, of the 4th instant, I had the honour of transmitting to your Lordship a copy of a communication which I had considered it my duty to address to Her Majesty's Minister at Washington, with reference to an erroneous assertion contained in the proclamation of the President of the United States, and which it was important to correct.

I have since received from the mayor and corporation of this city an address, in which they bring under my notice, in a special manner, the subject in question; and of this address, as well as my reply to it, I have now the honour to enclose some copies for your Lordship's perusal.

No. 3.

Enclosures in No. 35.

(No. 1.)

Toronto, 10 December 1838.

District General Order.

Encl. 1, in No. 35.

His Excellency Major-general Sir George Arthur feels much pleasure in communicating to the regular forces and militia the gratifying information received by him from the western frontier.

A large body of pirates and brigands, belonging to the hostile combination in the neighbouring country which has of late so much disturbed the peace of this province, after assembling in the neighbourhood of Detroit, and showing themselves at different points in the vicinity, at length had the hardihood to effect a landing near Windsor, about three miles from Sandwich, on the morning of the 4th instant, where they immediately commenced their work of destruction by burning a steam-boat called the "Thames," and a house used as a barrack, making prisoners a small but gallant party of militia quartered therein, who, in defending themselves against the attacking banditti, shot their leader, and eventually effected their escape.

During the short time the brigands remained unmolested at Windsor, they used every effort, in vain, to induce the inhabitants to join them, and murdered one man, upon his refusal to take up arms against his country.

Staff Assistant-surgeon Hume, a most worthy and meritorious officer, was also inhumanly murdered by the same body, although quite unarmed, and without offering them the slightest resistance.

No. 35.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

Encl. 1, in No. 35.

On the intelligence of these outrages reaching Sandwich, the brave and gallant militia lost no time in assembling; and, under the command of Colonel Prince, a spirited attack was forthwith made upon this wicked and inhuman banditti, who fled with precipitation to the woods, leaving behind them 26 of their number killed, and 25 prisoners. Several more of this band of murderers have since been captured, and from the inclemency of the season, there is every reason to conclude that the remainder will be taken, or must perish in the woods.

It affords his Excellency the Lieutenant-governor sincere pleasure to notice the unanimity and alacrity displayed by the militia, in which the inhabitants, whether of British or Canadian origin, vied with each other in zeal and intrepidity in attacking and defeating this band of ruffians, as well as in performing the harassing duty of guarding the portion of the frontier left to their charge.

To Captain Broderick, and the detachments of the Royal artillery and 34th regiment, from Amherstburgh, much praise is due for their alacrity and zeal.

Of Captains Bell, Sparke, Leslie, Thebo, Elliott, and the militia under their command, as well as of many gentlemen of Sandwich, who assisted in the attack and defeat of the invading force, Colonel Prince makes honourable mention; and to those officers, as well as to the other officers and men engaged, his Excellency returns his sincere thanks.

These facts, in addition to the complete overthrow of the invading force at Prescott, cannot fail to undeceive the criminal accomplices, who remained behind their piratical associates on the American shore, of the utter hopelessness of their attempts either to intimidate or corrupt the faithful and loyal people of Upper Canada; and if we have to appeal in vain to their feelings, and to the laws of both nations, which they so unjustly violate in making unprovoked war upon this province, common prudence, it may be hoped, will prevent their exposing themselves to the defeat and ignominious punishment which have hitherto attended their atrocious and infatuated attempts to invade Upper Canada.

It is pleasing to his Excellency the Lieutenant-governor, and Major-general commanding, to announce, that the loss of Her Majesty's subjects, with the exception of the victims of the murders before stated, has been very small, only two men being killed, and two slightly wounded, in the pursuit of the enemy.

By command,
C. Foster, Colonel,
Assistant Adjutant-General.

(No. 2.)

Amherstburgh, Western Frontier,
12 o'clock, night, 4 December 1838.

Sir,

I HAVE the honour to acquaint you, for the information of his Excellency the Major-general commanding, that a party of brigands, amounting to 350 men, as has been stated to me by the prisoners taken, and now lodged in the Sandwich gaol, landed this morning about daylight a little above Windsor Ferry, about 19 miles above this post, and about three from Sandwich. Encl. 2, in No. 35.

They immediately set fire to a hired house, used as a militia barrack, a short distance out of the village, which was burnt to the ground.

They also set fire to and burnt the steamer "Thames," which, in consequence of having within the last few days burst her boiler, was lying at a small wharf close to the above house, without any one in her, preparatory to being repaired.

Captain Sparke, of Incorporate Volunteer Company, and some militia under Colonel Prince, immediately turned out from Sandwich, and proceeded against these ruffians, and, after a few exchanges of shot, dispersed them; the brigands crossing the fields, and taking to the woods, where Colonel Prince did not consider it prudent to allow his men to follow them.

On the first intimation of the landing, which was effected by the United States steamer "Champlain," Colonel Prince informed me of it. I immediately sent up Captain Broderick, 34th regiment, and 100 men (in waggons), who had been ready all night to move at a moment's notice, and one nine-pound brass field gun, with a detachment of artillery.

This party arrived at 11 A.M., and immediately proceeded in pursuit; but the brigands had so dispersed towards the woods, that nothing could be seen of them, except in one boat crossing the river, which was fired upon by the gun, and one man killed and one wounded.

The pursuit by parties of militia in the woods is still going on, but, up to three hours ago, only nine prisoners had been taken, and are now lodged in Sandwich gaol.

It is with great regret that I have to report, that Staff Assistant-surgeon Hume was killed by these ruffians early in the morning. He went close up to them, seeing them drawn up in line three deep, with white cross belts on, imagining them to be provincial militia, when he was shot dead. His corpse was afterwards mangled, and both his arms broken.

No. 35.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

The "Erie" United States' steamer, with a detachment of United States' troops on board, was very active in trying to cut off the brigands, and take prisoners, and fired several shots at them.

I rode up to Sandwich this evening, and collected these details, but have not yet received the official report of the proceedings from Colonel Prince; but the number killed on the part of the brigands amounts, by Colonel Prince's verbal statement, to 25; wounded unknown; but I saw three wounded amongst the prisoners, and it is stated several were carried off by their own party.

Encl. 2, in No. 35.

On the part of the militia, there were two men burnt in the barracks, and one shot.

During the time I was at Sandwich, General Brady sent over two gentlemen, Judge Ingersoll and Mr. Elliott Grey, from Detroit, to state, that it was the positive intention of the patriots to make an attack in force upon Amherstburgh this night.

I have, consequently, withdrawn Captain Broderick's party from Sandwich, especially as I do not suppose they will renew the attack there so soon.

I have the honour to transmit copies of two letters found in the pockets of one of the killed, which pretty clearly illustrate the feelings and projects of these villains.

I have, &c.

(signed) *Richard Airey,*
Lieut.-Col. 34th Reg., Commanding W. F.

The Assistant Adjutant-general, Toronto.

(No. 3.)

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:

Encl. 3, in No. 35.

We, the mayor and common council of Her Majesty's loyal city of Toronto, respectfully thank your Excellency, for ourselves and on behalf of the inhabitants of this city, for the sagacity and untiring watchfulness displayed by your Excellency, for the preservation of this province against the secret plots and wicked machinations of a licentious and rapacious enemy.

We find, from the results of your Excellency's policy, that your Excellency, disregarding alike hollow professions of amity, and the treacherous quiet of the neighbouring frontier, has been quietly tracing the progress and organization of a foe, who worked in darkness, and who hoped to overwhelm a peaceful and unprepared country, but who have been hitherto frustrated and disconcerted by the discovery, that, although the functionaries of Government, and the respectable members of society in a neighbouring country, were blinded and deceived by the silence and secrecy of the conspirators, your Excellency has considered their silence as ominous of evil, and penetrated the dark veil under which they hid their wretched designs.

We cannot believe but that however willing many unprincipled and rapacious men may be to come into this province, and share in the plunder of its loyal inhabitants, their audacity would not have arisen to such a pitch had they not deceived themselves into the belief that they would have been joined in this province by numbers of its people, who would assist in the destruction of their fellow-subjects, and in the overthrow of the Government of the country.

We assure your Excellency that, notwithstanding our confidence in the result wherever Her Majesty's brave soldiery and loyal militia should meet the enemy in arms, we feel deeply that the commercial and agricultural interests of this province are suffering to an intolerable extent, by the state of disquietude and alarm kept up by the inimical portion of the people on the American frontier; and we further believe, that any statement which would encourage the population to the belief that they have numerous friends in Upper Canada, ready to assist in the accomplishment of their nefarious designs, is alike injurious to the interests of the well-disposed citizens of the United States, and the Upper Canadians, and has a direct tendency to destroy the peaceful relations which subsist between the American and British nations.

It is, therefore, with great surprise and regret, that we observe that the President of the United States has, in a Proclamation lately issued, chosen positively to make the following statement:

"And whereas disturbances have actually broken out anew in different parts of the two Canadas."

This statement is so utterly contrary to the fact, as regards the province of Upper Canada, and is so full of the evil tendency of which we complain, and contains so much to excuse the barbarous inroads lately made into the province, that we are desirous it should receive public contradiction. We are satisfied your Excellency could have made no official communication, upon which the assertion of new disturbances in Upper Canada could be founded; and we believe, that since the suppression of the insurrection in the past winter, that this province has continued in a state of apparently profound peace, unless when invaded from the United States of America. We also see that thousands of our fellow-subjects are voluntarily in arms,

No. 35.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

Encl. 3, in No. 35.

arms, to repel these invaders, and a large force of Her Majesty's troops are retained in the province for the same purpose, and no other; and we are therefore desirous, for the sake of the loyal character of the Upper Canadians, as well as to undeceive those invaders who may be led to expect assistance in Upper Canada, and for the purpose of preserving the peace which is so essential to public prosperity, that the actual truth should be stated, coming from the highest authority.

We, therefore, humbly pray your Excellency to inform us, for the satisfaction of our fellow-citizens, if consistent with the public service, if any facts have come to your Excellency's knowledge, or any occurrences taken place in Upper Canada, which would warrant the Proclamation, by the President of the United States, "that disturbances have actually broken out anew in different parts of the two Canadas."

(signed) *John Powell*, Mayor.

Council Chamber, Toronto,
10 December 1838.

To which His Excellency was pleased to make the following Reply:—

Mr. Mayor and Gentlemen of the Corporation:

Your Address, conveying, as it does, in the most forcible and flattering terms, your approbation of the measures pursued by me, under the novel and very trying circumstances in which the government of this province has, for some time past, been placed, is peculiarly gratifying to my feelings.

The favourable opinion of so respectable a body of the enlightened and influential inhabitants of the city of Toronto, must ever be highly prized by me; but many considerations concur to give it additional value at the present eventful crisis.

I beg leave, therefore, to offer to you, and through you, to tender to the other inhabitants of Toronto, my sincere and cordial thanks for the confidence now expressed in the recent acts of my administration.

Apprised of the existence of numerous and formidable associations in many parts of the United States of America, for the purpose of overrunning the Canadas, or, if that were found impracticable, of plundering them, I had immediate recourse to those defensive preparations which seemed best calculated to arrest the threatened danger, or effectually to repel it, should it actually arise; and though my measures did not wholly succeed in deterring the brigands from their meditated design of invading our frontier, I have yet the great satisfaction of knowing that their plans have in several instances been counteracted, and the nefarious invasions which have actually taken place, have resulted in the defeat, disgrace, and almost total destruction of the banditti engaged in them; whilst they have afforded to our gallant militia fresh opportunities for the display of that bravery and fervent attachment to their civil institutions, of which they had previously given the most convincing proofs.

It is, as you justly observe, most probable that, however willing many unprincipled and rapacious men may have been to come into this province, and to share in the plunder of its inhabitants, they would hardly have ventured to embark in so hazardous an undertaking, had they not deceived themselves with the expectation of being joined by numerous disaffected persons in it; and, under this view of the subject, it is doubly gratifying to reflect, that they have not, in fact, been joined by a solitary individual.

This signal disappointment of their hopes leads irresistibly to one of the two following inferences: either there is much less disaffection in the province than they would have it believed; or, as is frequently the case among associates in crime, promises have not been kept between the conspirators.

Whichever of these inferences we may adopt as the just one, it supplies matter for the greatest congratulation to all the lovers of peace, and opens a cheering prospect of the early return of this province to a state of security and tranquillity.

In answer to your inquiry, "Whether any facts have come to my knowledge, or any circumstances taken place in Upper Canada, which would warrant the assertion in the proclamation of the President of the United States, "that disturbances had broken out anew in different parts of the two Canadas?" I unhesitatingly reply, that I am not aware of any; and so much struck was I with the inaccuracy of this allegation, that I did not fail to invite the early attention of Her Majesty's Minister at Washington to it, for the purpose of informing the government of the United States of the very material mistake into which the President had been drawn; a mistake certainly of no slight importance, as furnishing some kind of pretext, however unjustifiable that pretext may be, for the interference of the citizens of the Union in the affairs of this province, and, by consequence, tending in some degree to lessen the enormous turpitude of their conduct.

Judging, however, from the general language and tone of that proclamation, I am disposed to give the President entire credit for a desire to suppress the lawless aggressions of a portion of the American population, and to maintain the relations of amity which have happily for a long time past subsisted between the two nations; and I have no difficulty whatever in ascribing the mistake into which the President has unquestionably

No. 35.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

fallen, to the false and scandalous misrepresentations of the situation of this province, and of the spirit which pervades it, wilfully propagated throughout the States by a licentious portion of the press.

Encl. 3. in No. 35.

To the same cause, I likewise am willing to attribute the delusions which have been practised on many American citizens, who can scarcely be supposed to have been influenced by the detestable motives of rapine which, it has now been plainly brought to light, have governed the mass of the brigands, and who appear to have been drawn into a disgraceful connexion with them, by giving credit to many calumnious aspersions on the conduct of Great Britain towards Her Majesty's Canadian subjects, and by a totally erroneous idea of the disposition and sentiments of the inhabitants of this province.

Since, then, the delusion must quickly yield to the irresistible voice of truth, which, "trumpet-tongued," now proclaims the bulk of our population to be deeply attached to their constitution, and devotedly loyal to their Sovereign, it is reasonable to hope that the better class of American citizens will hasten to withdraw themselves from the unhallowed enterprize to which they have rashly lent aid, and that the lawless banditti, on being deprived of that aid to stir up insurrection, and to plunder the inhabitants of Upper Canada, which they ought never to have received, will become incapable of inflicting on this community any further injury.

I seize upon this opportunity again to urge my most anxious desire, that the spirit of forbearance which has been observed by the Government throughout this tragedy, may be followed by the whole body of the people; and that whilst the banditti that have fallen into our hands are made to answer to the offended laws of the province, you will leave it to your Queen and to your country to redress those great wrongs, which, I am persuaded, all Europe will assert have been done to the peaceful inhabitants of Upper Canada, and which, it is my conviction, the respectable citizens of the United States must now look upon with abhorrence, and regard as a most flagrant violation of their own constitutional principles.

(signed) *Geo. Arthur.*

— No. 36. —

(No. 106.)

No. 36.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

EXTRACT of a DESPATCH from Lieut.-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 13 Dec. 1838.

IN my despatch of the 4th inst., No. 100, I transmitted to your Lordship a copy of the proceedings of the general court-martial on Nils Szottocky Von Schoultz, the leader of the brigands captured at Prescott, together with a copy of the warrant issued for his execution; and which, as your Lordship will perceive by the enclosed copy of a letter from the sheriff of the district, was duly carried into effect on the morning of Saturday the 8th instant.

The criminal manifested great contrition, expressing himself strongly with reference to the delusion which had been practised both upon himself and others in the States.

I have now the honour to transmit a copy of the proceedings of the same court-martial, in the respective cases of Dorephus Abbey, and Daniel George; the former a colonel and second in command, and the latter the paymaster of the brigand force headed by Von Schoultz.

Both these prisoners being sentenced to be hanged, were left for execution on the morning of yesterday; but the report of the sentence having been carried into effect, has not yet reached me.

I have further the honour to enclose a copy of the proceedings of the court-martial in the case of Martin Woodruff, who was a colonel in the United States' militia, and prominent in the brigand service.

This convict has been ordered for execution on Wednesday the 19th instant.

So far as I have yet been able to obtain information, these appear to have been the four most active and influential persons engaged in the atrocious outrage committed at Prescott; and I have not doubted that their execution was, however painful the necessity, both unavoidable as a measure of justice, and imperative as a measure of defence.

But

No. 36.
Sir G. Arthur to Lord Glenelg, 13 Dec. 1838.

But to what extent capital punishment should be carried into effect in the cases of the political prisoners in our custody, became a most important and urgent question, and one requiring to be most deliberately considered.

On the 8th instant, therefore, I brought the subject under the serious consideration of the Executive Council in a minute, of which a copy is enclosed; and deeming it, moreover, a matter in which I might reasonably call for the opinion of the judges of the province, I requested their attendance in Council.

I should explain to your Lordship that I did not desire the attendance of the judges from any want of confidence in the judgment of the Council; but from a belief that in a case of this peculiar nature, on such an emergency, the expression of the sentiments of the highest legal functionaries in the province would be a relief to the Council, and as acceptable to them as it would be desirable to myself.

My earnest hope is, that the course pursued may be such as will meet the unqualified approbation of Her Majesty's Government, because, as I am working at this time to a great extent against the popular feeling, it is essential to the strength and the efficiency of the Colonial Government, that its measures should receive the cordial support of the Ministers of the Crown.

The public feeling on the part of the loyal portion of the inhabitants of the province, is exasperated to the highest degree. Never, in fact, was there a task more difficult than to decide what course, under the existing circumstances of the country, should be pursued, so as to combine the least possible violation of public feeling with a sense of justice, preserving withal a due and necessary regard to mercy in its administration; mercy not only as regards the prisoners whose fate is undecided, but which, prospectively, has reference to the lives that may be hereafter sacrificed by the adoption of a present injudicious measure.

— No. 37. —

(No. 109.)

No. 37.
Sir Geo. Arthur to Lord Glenelg, 17 Dec. 1838.

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

My Lord, Government House, Toronto, 17 Dec. 1838.

WITH reference to your Lordship's despatch, No. 93, dated 9th of June last, communicating an address which had been presented to Her Majesty by the House of Commons, praying that there might be laid before that House copies of all Acts passed by the Legislature of this Province in its last session, for the preservation of the peace, and for the trial of prisoners charged with insurrection against the Government; together with a return of the names, &c. of the persons arrested in the Province, I have the honour to state that I did not fail to give immediate directions for supplying all the information that was called for by the House of Commons.

Of the Acts passed by the Legislature at its last session, your Lordship has been supplied with the usual copies in manuscript and in print, as soon as they could be transmitted.

Vide Papers relative to Upper Canada, ordered by the House of Commons to be printed, 21 June 1838, No. 524, pp. 21 to 29.

Considerable delay has, however, taken place in collecting the means of preparing the return of persons placed in confinement on charges of insurrection or treason, and tried by court-martial or civil courts.

I am at length enabled to inform your Lordship, that I hope to transmit this return by an early conveyance, in as complete a form as the records of the public offices will allow.

I have, &c.

(signed) *George Arthur.*

No. 38.
Sir Geo. Arthur to Lord Glenelg, 18 Dec. 1838.

— No. 38. —

(No. 110.)

COPY of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

My Lord, Government House, Toronto, 18 Dec. 1838.

IN conformity to the desire expressed in your Lordship's despatch, No. 127, dated 21st of August last, of which I have already acknowledged the receipt, I have now the honour to transmit to your Lordship the return required by the resolution of the House of Commons of the 18th of the same month, respecting persons convicted of treason, misprison of treason, or felony in this Province, since the 1st day of October 1837.

The House of Commons has called for information relative to the value of the present property of convicted traitors, the number of acres of real estate, the value of the houses, buildings, and lands, if any, belonging to such persons forfeited to the Crown; the grants and sales, if any, of such forfeited property and estates; the names of the purchasers and grantees of such property and estates, and the value of the personal and real estates so forfeited, retained by the Crown; and the amount or value of real or personal estate, if any, that has been granted by the Crown to the widows, children, and relatives of such persons; and the name of such grantees.

Upon this head, I have the honour to state to your Lordship, that no information can be communicated of the nature required, because no proceedings have been yet taken in this Province for the confiscation of the property of convicted traitors.

I have, &c.

(signed) *Geo. Arthur.*

Enclosure in No. 38.

RETURN (pursuant to an Address of the House of Commons, dated 13th August 1838) of the Names of Persons who have been Convicted in *Upper Canada* of Treason, Misprison of Treason, or Felony, between 1st October 1837 and 1st November 1838; the Value of the Personal Property; the Number of Acres of Real Estate; the Value of the Houses, Buildings, and Lands, if any, belonging to such Persons, forfeited to the Crown; the Grants and Sales, if any, of such forfeited Property and Estates; the Names of the Purchasers and Grantees of such Property and Estates; and the Value of the Personal and Real Estates, so forfeited, retained by the Crown, and the amount or value of Real or Personal Estate, if any, that has been granted by the Crown to the Widows, Children, and Relatives of such Persons, and the Names of such Grantees.

CONVICTS pardoned on condition of giving Security to Keep the Peace, and be of Good Behaviour for Three Years.

NUMBER and NAMES.	Quality or Station.	REMARKS.	NUMBER and NAMES.	Quality or Station.	REMARKS.
1. John Sheppard	yeoman.		20. Charles Crocker	labourer.	
Charles Doan	labourer.		George Fletcher	yeoman.	
William Doan	—		John Gibson	labourer.	
John Graham	yeoman.		William Hilborn	—	
5. Adam Graham	—		Andrew Hill	—	
Jared Irwin	shoemaker.		25. William Hill	tanner.	
Arthur Kelly	labourer.		Henry Johnson	yeoman.	
Joseph Shepard	yeoman.		James Johnson	—	
John Wilkie	labourer.		Eli Erwin	—	
10. John C. Devins	yeoman.		James Keane	—	
Timothy Munro	labourer.		30. Jacob L'Amoureaux	labourer.	
Russell Baker	—		Reuben Lundy	—	
Philo Belfry	yeoman.		James M'Guire	—	
Robert Barrie	labourer.		Joseph M'Grath	—	
15. Joseph Brammer	—		Joseph Matthews	—	
John Brammer	—		35. Hiram Matthews	—	
Michael Corrigan	—		Isaac Matthewson	—	
Nelson Carver	—		Bartholomew Plank	—	
Zachariah Dent	tailor.		John Prout	—	

Number and Names.	Quality or Station.	Remarks.
John Reid	tanner.	
40. William Read, jun.	yeoman.	
Titus Root	labourer.	
Philip Wideman	yeoman.	
Percipher Hawke	labourer.	
Robert Taylor	—	
45. Richard Watson	yeomau.	
Abraham Wilson	labourer.	
Thomas Wilson	yeoman.	
Hugh D. Wilson	—	
Townsend Wixon	labourer.	
50. Thomas Sly	—	
James Yule	—	
Henry Weaver	—	
William Carney	—	
Weldon Hughes	—	
55. Godlip Eckhardt	yeoman.	
Lyman Chapin	—	
Malcolm Brown	—	
Adam Winegarden	—	
William Winegarden	—	
60. Lord Willington Winegarden.	labourer.	
Henry Winegarden	yeoman.	
Robert Elliot	innkeeper.	
Isaac Brock Malcolm	yeoman.	
Duncan M'Federain	—	
65. Robert Laing	—	
George Roberts	labourer.	
Stephen Brunger	yeoman.	
Alexander Neilly	—	
William Watts	—	dead.
70. Thomas Arker	—	
Ezekiel Manus	—	
Charles Lawrence	—	
Patrick Malada	—	
Daniel D. Bedford	—	
75. Samuel Sands	—	
Nelson Leach	—	
Loce Denton	—	
Andrew Connor	—	
William Cheeseman	—	
80. James Coleman	—	
Andrew M'Clure	—	
Robert Tracey	—	
Robert Cavanagh	—	
Dennis Cavanagh	—	
85. Benjamin Page	—	
Moses Cook	—	
John Medcalf	—	
Seymour H. W. Stagdill.	labourer.	
John M'Cormack	doctor.	
90. James Kane	labourer.	
John Gillingham	labourer.	
Daniel Shell	—	
William Delany	—	
Charles Chapin	yeoman	respectable.
95. William Thompson	Blacksmith	ditto.
Jonathan Steel	yeoman.	
Asahel Hawley Scott	labourer.	
William Graham Edmonstone.	schoomaster	
Jesse Doan	yeoman.	
100. Charles Lowe	labourer.	
John Kelly	yeoman.	
William Webb	—	
John Hammill	—	
John Moore	—	respectable.
105. Joseph Milburne	—	
Jay Cody	farmer.	
Peter Rogers	yeoman.	
Thomas Watts	—	
William Poole	labourer.	
110. Stephen Smith	yeoman.	
Nathaniel Deo	—	
William Nelson	—	
John D. Willson	—	
Peter Milne	—	
115. Joseph Gould	—	
Horatio Fowler	—	
Joseph Hart	—	
James Bell	—	
John A. Tidy	—	
120. Philip Henry	—	
Nathan Town	yeoman	medical quack.
John Tulford	—	Dr. Duncombe's
Harvey Bryant	labourer.	son-in-law.
Enoch Moore	yeoman	respectable.
125. Peter Malcolm	—	
Solomon Sly	labourer.	
Peter Wilkie	blacksmith.	
Robert Brock	labourer.	
John Hawke	—	
130. John Murphy	yeoman.	
David Proctor	—	
Andrew Rowand	labourer.	
William Wilson	—	
William Wilson (2)		
135. Thomas Wilson	—	
Luther Hoskins	yeoman.	
Ebenezer Wilcox	—	
Alvaro Ladd	merchant.	
Elias Sunder	yeoman	respectable.
140. William Ketchum	tanner	absconded, but subsequently pardoned.

Convicts sentenced to be Confined in the Provincial Penitentiary for Term of Years.

1. Colin Scott	labourer	- 3 years in Penitentiary, and then banished for life.
John Rummerfeldt	—	
Francis Robins	yeoman	
George Lamb	labourer	
5. Joseph Watson	carpenter	
John Dennett Staples	labourer	
John Robinson	—	
George Barclay, jun.	yeoman	
Luthie Elton	tailor	- 3 years in Penitentiary, and then banished for life.
10. Edward Carman	yeoman	
George Buck	labourer	- 3 years in Penitentiary.
Murdock M'Phadden	—	
John W. Brown	—	
14. Erastus Warner	farmer	14 years ditto.

2. (*continued*)

Convicts sentenced to be Banished the Province.

Number and Names.	Quality or Station.	Remarks.	Number and Names.	Quality or Station.	Remarks.
1. Abraham Haling	labourer.		10. George Hill	yeoman.	
Jesse Clever	—		Uriah Emmons	—	
Silas Bardwell	—		Amos S. Bradshaw	—	
John Brown	yeoman.		Lewis Norton	—	
5. John Haling	labourer.		James Covill	—	
Asa Wixon	—		15. Caleb Kipp	—	
John Hill	—		Joel Wixon	labourer.	
Daniel Shepard	—		Charles Durand	attorney.	
Joseph Bowes, jun.	yeoman.		18. Ephraim Cook	yeoman.	

Convicts sentenced to be Transported to the Penal Colony of *Van Diemen's Land.*

1. Ira Anderson	blacksmith	for 7 years.	James Gammill	labourer	for life*.
James Brown	yeoman	for 14 years.	John Grant	—	
Randal Wixon	—		John James M'Nulty	—	
William Aloes	carpenter		James Waggoner	yeoman	
5. Finlay Malcolm	yeomen		20. Garret Van Camp	labourer	
Robert Walker	blacksmith	for life.	John Vernon	carpenter	
Leonard Watson	labourer		Jacob Beamer	yeoman	
John Goldsbury Parker	merchant		Samuel Chandler	labourer	
Paul Bedford	yeoman		Benjamin Wait	yeoman	
10. Horatio Hills	—	died in Toronto gaol.	25. Alexander M'Leod	labourer	
			David Taylor	yeoman	dead.*
Charles P. Wolrath	labourer	escaped from Toronto gaol.	27. William Stockdale	labourer	escaped from Fort Henry; retaken; not yet removed from the country.
Lewis Wilson Miller	gentleman	for life*.			
George Cooley	labourer				
William Reynolds	—				
15. Norman Mallory	—				

* Prisoners taken at the Short Hills, Niagara District, having invaded the Province from the United States in the month of June last, at a time when there was no insurrection in the Province, and several months after all disturbance had been quelled.

Convicts ordered for Transportation, but who escaped from *Fort Henry.*

1. Edward Kennedy	labourer.		Stephen Bird Brophy	civil engineer.
Wilson Read	tanner.		Michael Shepard	yeoman.
Thomas Tracy	labourer.		Walter Chase	labourer.
Thomas Shepard	yeoman.		10. John Anderson	innkeeper.
5. John Marr	labourer.		John Montgomery	—
John Stewart	yeoman.		12. Gilbert Fields Morden	shoemaker.

1. Edward Alexander Theller.	surgeon	ordered for transportation, but escaped from Cape Diamond.	1. John S. Cuyler	labourer	escaped from Toronto Hospital.
1. Thomas Jefferson Sutherland.	lawyer	tried by court martial.			

Convicts Executed.

1. Samuel Lount	blacksmith.	2. Peter Matthews	yeoman
3. James Morrow	tanner.		

Return of Persons convicted of Felony, within the Province of *Upper Canada*, between the 1st October 1837 and 1st November 1838, not including the Names of any Party charged with a Political Offence.

1. Julia Murdock	spinster.	John Balding	labourer.
Calvin H. Pettinger	labourer.	Loughlan M'Lean	—
John Spence	—	John Wright	—
Wilson Hunter	—	Jacob Marselis	—
5. Patrick M'Lelland	—	10. Dawson Bunter	—

Number and Names.	Quality or Station.	Remarks.	Number and Names.	Quality or Station.	Remarks.
Elizabeth Lawson -	spinster.		25. Patrick Fitzgerald -	labourer.	
Patrick Doran - -	labourer.		Thos. Wilson La Clash	blacksmith.	
Benjamin Abbott -	—		Thomas Morgan -	labourer.	
Richard Abbott - -	—		William Sanders -	—	
15. Josh. T. Springstead -	—		William Kindsay -	—	
Joseph Leggatt - -	—		30. Horace Cooley - -	—	
Andrew M'Gilty -	—		Charles Beauman -	—	
August Anger - -	—		John Walker - -	—	
William Sims - -	—		Alfred Berry - -	—	
20. Job Scott - - -	—		Joseph Walker - -	—	
Enos Scott - -	—		35. George Hart - -	—	
John Boyd - -	—		William Mealey -	watchmaker.	
William Maxwell -	—		37. Patrick M'Ewan -	labourer.	
Olmstead Hegtown -	—				

Numerical Abstract of the foregoing Returns.

Number of Convicts pardoned on condition of finding security, &c. - -	140
Ditto - - - - sentenced to confinement in the Provincial Penitentiary	14
Ditto - - - - sentenced to banishment from the Province - - -	18
Ditto - - - - sentenced to transportation to Van Diemen's Land -	27
Ditto - - - - who escaped from Fort Henry - - - - - -	12
Ditto - - - - who escaped from Cape Diamond - - - - -	1
Ditto - - - - tried by court-martial - - - - - -	1
Ditto - - - - who escaped from Toronto hospital - - - -	1
Ditto - - - - sentenced to be executed - - - - - -	3
Ditto - - - - not charged with any political offence; convicted of felony - - - - - - - - - - - - -	37
Total Number - - - - -	254

Note.—Nothing can be stated respecting the personal property or real estate of individuals convicted of treason, or misprision of treason, because no measures have yet been taken for the confiscation of such property or estate in this Province.

Government-House, Upper Canada, 18 December 1838.

John Macaulay, Civil Secretary.

— No. 39. —

(No. 113.)

Copy of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*.

No. 39. Sir Geo. Arthur to Lord Glenelg, 18 Dec. 1838.

Government House,
Toronto, 18 December 1838.

My Lord,

I have the honour to enclose a Gazette containing an address recently presented to me by the Canadians of French origin residing in the city of Toronto, together with my answer.

I do not consider it necessary to trouble your Lordship with all the addresses which continue to be presented to me by the people of the several districts of the province. This, however, is an occasion when it is fit your Lordship should receive some proof of the political feeling cherished by a portion of the population whose kindred in another province have unhappily been deeply tainted with disaffection and treason.

The Canadians of French origin who reside in Upper Canada are not very numerous. Their principal settlements are to be found upon the banks of the river Detroit, where, on a recent occasion, they furnished a company of militia, which, under Captain Thebo, exhibited great gallantry and zeal in defence of the Government, as your Lordship will gather from the military reports which have accompanied one of my despatches.

I have, &c.

(signed) *Geo. Arthur.*

No. 39.
Sir G. Arthur
to Lord Glenelg,
18 Dec. 1838.

Enclosure in No. 39.

Encl. in No. 39.

To his Excellency Sir *George Arthur*, K. C. H., Lieutenant-Governor of the Province of Upper Canada, &c. &c. &c.

May it please your Excellency,

We, the undersigned, Canadians of French origin, now residing in the city of Toronto and its environs, beg to assure your Excellency of our devoted attachment to the British empire, and of our determination to maintain its supremacy in this province by every means within our power.

With surprise and indignation we have beheld the people of a neighbouring country, in the midst of profound peace, trampling on all the usages of nations, and plundering and murdering our unoffending fellow-subjects. This lawless conduct is now no longer confined to a few insignificant citizens, but seems to be shared in by the great mass of the inhabitants of the American frontier counties. We therefore deem it our duty to come forward as a body, and to tender to your Excellency, on behalf of our beloved Queen, our services and our lives in vindication of her outraged rights.

We have enjoyed the blessings of the purest freedom under the British Crown, and gratitude and interest alike impel us to take up arms in its defence.

We repose unlimited confidence in your Excellency's administration of this province; and, while guided by your prudent and energetic counsels, entertain no apprehensions as to the result of any contest into which we may be plunged by the wickedness of our neighbours.

We have deputed Ramond Baby, Esq., and Mr. Paul L'Eveque to approach your Excellency on our behalf, and respectfully to declare these our sentiments.

Presented by Ramond Baby and Paul L'Eveque.

His Excellency's Reply.

Gentlemen,

I receive with satisfaction the address you have presented to me on behalf of the Canadians of French origin residing in this city and its environs, assuring me of their devoted attachment to the British empire, and of their determination to maintain its supremacy in Upper Canada by every means within their power.

This declaration of their sentiments is the more to be appreciated, as it affords a pleasing contrast to the conduct of a portion of the Canadians of French origin dwelling in the Lower Province: the effects of which, as manifested in two recent instances, have recoiled so fearfully, yet so justly, on themselves and the instigators of their guilt.

It would, indeed, be matter of surprise if any individuals of this community, of whatever race or origin, in reality imbued with the patriotic and loyal feelings expressed by those whom you represent, could behold the invasion of the land of their nativity or adoption, at a period of profound peace, by bands of lawless foreigners from a professedly friendly state, the slaughter by them of their fellow-subjects, and the devastation of their-property, without the utmost indignation.

I desire to thank the parties signing the address, for the ready offer of their services, in vindication of the outraged rights of our most gracious Sovereign. I shall gladly avail myself of them in case of need, but it is my sincere and earnest hope that no circumstances of future emergency may necessitate their being called into active operation.

To the acknowledgment contained in the address, that the subscribers to it have enjoyed the blessings of the purest freedom under the British Crown, and that gratitude and interest would alike impel them to take up arms in its defence, I attach the greater value because, independent of the tribute paid by truth to justice, it records a fact, admitting in its leading feature of a rigorous application to the whole body of the Canadians of French origin throughout the two provinces.

I am much flattered by the assurances which the address contains, of illimited confidence in my administration. Its success will be materially promoted by union among themselves; and I beg to assure you that it will continue to be my endeavour, as it has always been my wish, to ensure such co-operation by the adoption of measures conducive to the general interests of the community at large.

(signed) *George Arthur.*

— No. 40. —

(No. 117.)

No. 40.
Sir G. Arthur to Lord Glenelg, 22 Dec. 1838.

Extract of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K.C.H., to Lord *Glenelg*; dated Government House, Toronto, 22 December 1838.

In my despatch of the 13th instant, No. 106, I transmitted to your Lordship copies of the proceedings of the militia general court-martial, held at Kingston, in the respective cases of three of the prisoners taken at Prescott, who, having been found guilty, had been condemned to death, and were left to suffer accordingly.

I have now the honour to enclose a copy of the proceedings of the court-martial held on 12 prisoners taken on the same occasion; and by the minute of the Executive Council, appended to it, your Lordship will perceive that two of the number, namely, Sylvanus Swete, and Joel Peeler, have been ordered for execution this day.

On the subject, generally, of the Prescott prisoners, I have at present no further remarks to offer in addition to those already submitted in the despatch to which I have above made reference.

I enclose, for your Lordship's perusal, a copy of a deposition made by an American respecting the designs of the frontier ruffians to the eastward. By this statement your Lordship will perceive that two of the Prescott prisoners who were ordered for execution, were the actual perpetrators of the murder of Lieutenant Johnstone, of Her Majesty's 83d regiment.

— No. 41. —

(No. 5.)

No. 41.
Sir G. Arthur to Lord Glenelg, 4 January 1839.

Copy of a DESPATCH from Lieutenant-Governor Sir *George Arthur*, K. C. H., to Lord *Glenelg*.

My Lord, Upper Canada, Toronto, 4 January 1839.

In my despatch to your Lordship, No. 3,* of the 2d instant, I transmitted various documents having reference to the case of Hiram B. Lynn, the first prisoner among those taken at the affair at Windsor, who had been tried before the court-martial assembled at London.

* Not yet received.

The proceedings of the court-martial in the cases of the six prisoners named in the margin, have since reached me, and been laid before the Council. By the copies of their minutes which are enclosed, your Lordship will perceive, that, in accordance with the advice of the Council, I have ordered two of these criminals to be executed; the one, Daniel Davis Bedford, on the 11th; the other, Albert Clark, on the 14th instant.

D. D. Bedford,
A. Clark, S. Snow,
R. Whitney,
E. Stevens,
T. Woodbury.

1st, 3 Jan. 1839.
2d, 4 Jan. 1839.

The whole of the six convicts were condemned to death by the court-martial; but the cases of the two above-named individuals presenting, as your Lordship will observe on reference to the minutes, very aggravating features, they have been selected as the fittest examples for the ends of justice; and the conduct of Bedford in particular is marked with circumstances of more than ordinary guilt.

I am very desirous that your Lordship should be informed, at the earliest possible period, of the execution of every prisoner; and I have therefore made this communication without waiting for the copy of the proceedings of the court-martial, which cannot be prepared in time for transmission by the present opportunity.

The brigands, I find, are again assembling in some force to the westward, and Mackenzie and Theller are busy in getting up meetings; it is my intention, therefore, to proceed to-morrow on my way to Amherstburg and Sandwich, in order to satisfy myself that every arrangement is made for the security of the frontier.

I have, &c.

(signed) *George Arthur*.

No. 41.
Sir G. Arthur to
Lord Glenelg,
4 January 1839.

Enclosures in No. 41.

(No. 1.)

Encl. 1, in No. 41.

Executive Council Chamber, Toronto, Thursday, 3d January 1839:

Present, the Honourable Robert Baldwin Sullivan, Presiding Councillor; the Honourable Augustus Baldwin; the Honourable Richard Alexander 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. &c.

May it please your Excellency:

THE Executive Council have perused with great attention the proceedings of the court-martial held at London, in the case of Daniel Davis Bedford.

The Council consider the case fully proved against the prisoner; and also that he was in command of a company of the invading force as captain.

The Council herewith transmit to your Excellency the prisoner's petition, in which he prayed for mercy, when he was accused of having joined Duncombe's army, last winter. Mercy was not then denied him; but it seems he has abused his liberty, by again traitorously appearing in arms against Her Majesty.

The Council therefore respectfully advise, that he be ordered for execution, on Friday the 11th day of January instant, at or near the common gaol of London, between the hours of eight and nine o'clock in the morning.

The breach of the prisoner's recognizance is so flagrant, that the Council are induced to recommend that his bail be immediately proceeded against; as otherwise, the becoming surety for the good behaviour of prisoners on their liberation will probably be looked upon as a mere form, which impression, if it should be entertained by the public, would produce the most mischievous results.

All which is respectfully submitted.

(signed) *R. B. Sullivan*, P.C.

I approve; and the Attorney-general will direct all the necessary measures herein.

(signed) *G. Arthur*, Lieut.-Gov

(No. 2.)

Encl. 2, in No. 41.

Executive Council Chamber, Toronto, Friday, 4th January 1839.

Present, the Honourable Robert Baldwin Sullivan, Presiding Councillor; the Honourable William Allan; the Honourable Augustus Baldwin; 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 have taken into consideration the cases of the following prisoners, reported by the Judge-advocate as convicted, and under sentence of death, pronounced by the court-martial assembled at London, in the London District; that is to say, Albert Clark, Samuel Snow, Robert Whitney, Eleyier Stevens, and Truman Woodbury. The Council feel impressed with the necessity of advising a more strict course of proceeding, and more severe examples in the cases of the prisoners taken at Windsor, than in those of the Prescott invaders.

The invasion to the westward was subsequent to that of Prescott; the western invaders were aware of the defeat to the eastward. They had before them less ground for allegations of being deceived by false representations as to the state of public feeling in the province, and their offence seems to be of a more deliberate and advised character in the subsequent than in the former instance.

The acts of cruelty and violence committed by the invaders at Windsor, before they were attacked—the burning of houses and the steam-boat Thames—and the murder and mutilation of Dr. Hume, not in battle, but in cold blood—seem to mark the proceedings of the invading force with the desire of revenge, and with the intention of carrying outrage to such an extent, as to leave the criminals without expectation of mercy in case of a defeat.

They are thus left without the slight pretence alleged by the eastern prisoners, of their coming to liberate the Canadians, without doing unnecessary injury.

Out of the seven prisoners already tried from amongst those taken to London in the first instance, which the Council believe to be eleven in number, two have already been ordered for execution, and, with the addition of one more, the Council think that the remaining cases reported may be allowed to remain for consideration, when the cases of the prisoners left at Amherstburgh shall be brought forward.

Upon a careful consideration of the evidence taken before the Court, and upon perusal of the opinion of the Attorney-general, stating that no legal objection exists to carrying the sentence upon the prisoners into effect, the Council are of opinion that Albert Clark should be ordered for execution.

He is said to be over 21 years of age; he is proved to have been active in getting the expedition on foot at Detroit, and the case is made out against him by evidence, other than his own confession.

The Council therefore respectfully recommend that the prisoner, Albert Clark, be ordered for execution on Monday, the 14th day of January instant, between the hours of eight and nine o'clock in the forenoon, at or near the common gaol of the London District; and that further consideration of the remaining cases be for the present deferred.

All which is respectfully submitted.

(signed) *R. B. Sullivan*, P. C.

(signed) *Geo. Arthur.*

NOVA SCOTIA.

NEW BRUNSWICK.

PRINCE EDWARD ISLAND.

NEWFOUNDLAND.

SCHEDULE.

NOVA SCOTIA.

No. 1.—Copy of a Despatch from Lieutenant-General Sir Colin Campbell, K.C.B., to Lord Glenelg, dated Halifax, 4 July 1838; (Ten Enclosures) - - - - - - - p. 387

No. 2.—Extract of a Despatch from Lieut.-General Sir Colin Campbell, K.C.B., to Lord Glenelg, dated Halifax, 18 January 1838; (Three Enclosures) - - - - - p. 392

NEW BRUNSWICK.

No. 1.—Extract of a Despatch from Major-General Sir John Harvey, K.C.H., to Lord Glenelg, dated Fredericton, 12 August 1838; (One Enclosure) - - - - p. 395

PRINCE EDWARD ISLAND.

No. 1.—Copy of a Despatch from Lieutenant-Governor Sir Charles A. FitzRoy to Lord Glenelg, dated Prince Edward Island, 27 March 1838; (One Enclosure) - - - p. 396

No. 2.—Copy of a Despatch from Lieutenant-Governor Sir Charles A. FitzRoy to Lord Glenelg, dated Prince Edward Island, 29 June 1838; (Two Enclosures) - - - p. 397

No. 3.—Copy of a Despatch from Lieutenant-Governor Sir Charles A. FitzRoy to Lord Glenelg, dated Prince Edward Island, 5 July 1838; (One Enclosure) - - - p. 398

NEWFOUNDLAND.

No. 1.—Copy of a Despatch from Governor Prescott to Lord Glenelg, dated Newfoundland, 23 October 1838; (One Enclosure) - - - - - - - - - p. 399

NOVA SCOTIA.

—No. 1.—

(No. 35.)

COPY of a DESPATCH from Lieutenant-General Sir *Colin Campbell*, K. C. B., to Lord *Glenelg*. No. 1.

My Lord, Government House, Halifax, 4 July 1838.

IT is highly gratifying to me to have to acquaint your Lordship that the day appointed for the coronation of Her Majesty was celebrated throughout this Province in a manner becoming this auspicious event, and the ardent loyalty which has ever distinguished the inhabitants of Nova Scotia. It was a day of universal rejoicing and festivity; and in every town and village were displayed the most unequivocal manifestations of affectionate attachment to Her Majesty's Royal person. Various congratulatory addresses were presented to me on the occasion, and I now, at the request of the national and charitable societies from which they proceeded, have the honour to enclose them, to be laid at the foot of the Throne.

I also transmit the address of the ministers and elders of the Presbyterian Church assembled in synod at Pictou, and beg, in their behalf, that your Lordship will be pleased to lay it before Her Majesty.

I have, &c.
(signed) *C. Campbell.*

Enclosures in No. 1.

(No. 1.)

To his Excellency Major-General Sir *Colin Campbell*, K. C. B., Lieutenant-Governor and Commander-in-Chief in and over Her Majesty's Province of Nova Scotia and its Dependencies, &c. &c. &c. Enclosures in No. 1.

WE are honoured, in approaching your Excelleney with this address, as the general committee appointed by the inhabitants of Halifax, to superintend and manage these festivities. In fulfilling this agreeable duty, our chief anxiety has been to afford to all classes the means of rational enjoyment and a fit opportunity of displaying the enthusiastic attachment to our youthful and illustrious Queen, which electrifies and binds this assembled crowd with a common sympathy. Let your Excellency cast your eye along the varied and extended line of this procession, and you will perceive all the elements of a mixed but united and loyal people. At the head are the magistrates of Halifax and the general committee, who unite with the inhabitants at large in the sentiments of this address. A vast body not connected with any of the societies mingle in the procession, and who are animated by a feeling, universal among Nova Scotians, of devoted affection to their Queen. Of the societies, the first in order is the ancient masonic body, with the symbols of their benevolent institution. Next follows the North British, mingled with the Highland Society, preceded by the warlike bagpipe, whose thrilling strains have so often "excited brave men to deeds of glory." They are preceded in the order of seniority by the Irish Society, with appropriate banners, and who have entered into the spirit of the day with all the chivalrous enthusiam of their country. Then come the Carpenters' Society, an industrious and respectable body, and the African Society, who have claimed the right, which the committee willingly conceded, of joining their fellow-townsmen in celebrating the coronation of a Sovereign, endeared to them by the reflection that not a slave now breathes within the ample verge of Her dominions, and that men of every clime and colour, whether in the east or west, the arctic or the torrid zone, are at length admitted to a participation of the beneficent and equal protection of British law. The few aborigines that swell the line, and the horsemen who bring up the rear, contribute also to do honour to the day. We beg to assure your Excellency, on behalf of the inhabitants of Halifax, that this public demonstration of feeling is a true index of our loyalty. The cultivated mind and personal graces of the Queen inspire us with admiration, and we have long arrived at a deliberate and sober conviction, that the supremacy of the law, the

NOVA SCOTIA. exemption from popular excesses, the restraining of the fierce and angry passions of men, the peaceful pursuits of industry, and the undisturbed and tranquil enjoyment of the rights of conscience, personal freedom and property, are best secured under that happily adjusted and mixed form of government which has elevated the grandeur of the British empire to so unprecedented a pitch.

(signed) *James B. Uniacke*, Chairman.
James S. Clark, Secretary.

Halifax, Nova Scotia,
28 June 1838.

(No. 2.)

To his Excellency Major-General Sir *Colin Campbell*, K.C.B., Lieutenant-Governor and Commander-in-Chief in and over Her Majesty's Province of Nova Scotia, &c. &c. &c.

The Address of the Members of the Masonic Body resident in Halifax, in Provincial Grand Lodge convened.

May it please your Excellency,

THE Provincial Grand Lodge of Nova Scotia, in subordination to the United Grand Lodge of England, and holding its authority from his Royal Highness the Duke of Sussex, our most worshipful grand master, begs permission to approach your Excellency on the present occasion with the tender of heartfelt congratulation, and the expression of sincere and affectionate loyalty.

This auspicious day, which consecrates Her sacred Majesty Victoria our Queen, and places on her brow, with the solemnity of ancient usages, the Crown of her ancestors, will, we are persuaded, be welcomed with one simultaneous burst of joy and gratulation through her widely extended dominions; but by no portion of Her Majesty's subjects will it be hailed with more earnest aspirations for blessings on Her Majesty's person and Government than by the ancient fraternity of free and accepted masons.

Noted, from the earliest periods, for unshaken attachment to the Throne and peaceable submission to the laws, our society has numbered amongst its members many Sovereigns of our country, and has been, in an especial manner, honoured by the countenance and patronage of the noble princes of the illustrious house of Brunswick. Among them, we cannot but refer, with proud and grateful recollection, to his Royal Highness the late Duke of Kent, who, while presiding over the craft in this country, laid the foundation of our masonic hall.

Though few in number, and resident in a distant portion of the British empire, we feel confident that we utter the general sentiment of the numerous body to which we belong, when we raise our voices to supplicate from Him by whom kings and queens reign, that Her most gracious Majesty may be long preserved to rule over a free, loyal, and happy people.

(signed) *J. Albro*, Past Grand Master.
A. G. Blair, Grand Secretary.

(No. 3.)

To the Queen's Most Excellent Majesty.

May it please your Majesty,

WE, your Majesty's loyal and devoted subjects, the North British Society of Nova Scotia, entreat permission to proffer, at the foot of the throne, our humble but heartfelt congratulations to your Majesty on your coronation as Queen of the British empire. In this remote part of your Majesty's dominions, far from the land of our forefathers, we cherish with feelings of pride and satisfaction those sentiments of respect and attachment for the person and government of our Sovereign which so happily prevail among our fellow-subjects in the United Kingdom. Mindful of the benefits we receive as subjects of the British Crown, and ever ready to acknowledge and defend its rightful sovereignty, we pray that, under the providence of Almighty God, your Majesty may enjoy the blessings of health long to reign over the most powerful and civilized nation on earth, and that your throne may be supported by the devoted love and affection of your people, made happy by prosperity and peace, and blest in every region of the British empire by the influence of your most gracious Majesty's mercy and justice.

(signed) *John Munro*, President.
James Lessel, Secretary.

(No. 4.)

The Humble Address of the Charitable Irish Society.

To the Queen's Most Excellent Majesty,

We, the members of the Charitable Irish Society, established for more than half a century in the capital of this your Majesty's Province for the succour and relief of our destitute fellow-countrymen, without reference to the distinction of creed or class, beg leave to approach your Majesty with this assurance of our undiminished fealty to your throne and person; and although there are but few now among us who witnessed at our board the presence of your late illustrious father, yet it needs not the recollection of such an event to attract the affections of Irishmen to their Sovereign.

Amidst the simultaneous testimony of exultation which on this occasion prevails throughout Nova Scotia, we pray to be permitted to tender this tribute of unaffected attachment, and to beg your Majesty to believe that, though remote in this distant dependancy of your realm, the love of the Irish emigrant remains fresh and unabated for his green father-land; and the Sovereign who has evinced so early a care and solicitude for our Isle of the West, wants no other title indelibly to endear herself to your Irish colonists, whose united voices on this day utter their heartfelt aspirations to heaven for the honour, the health, and the happiness of your Majesty.

(signed) *L. O'Connor Doyle*, Acting President.
Thomas Ring, Acting Vice-President.

(No. 5.)

The Humble Address of the Members of the Brother Carpenters' Society resident in Halifax.

May it please your Majesty,

We, the members of the Nova Scotia Carpenters' Society, formed as far back as the year 1791, with a view to afford assistance to our indigent members, and extend the hand of philanthropy to the wives and families of those of our body who may stand in need of relief, either from death or adversity of any kind, we most respectfully beg permission on this the day of your Majesty's coronation to express, with strongest terms, our attachment and loyalty to your Majesty's person and Government.

As members of the Nova Scotia Carpenters' Society, and as loyal subjects of the Crown of Great Britain, we congratulate ourselves on the happy era that has commenced to dawn upon the pages of British history by your Majesty's accession to the throne of England.

And though resident in a remote corner of your Majesty's dominions, we shall ever maintain inviolate the laws of our country, and uphold the honour and dignity of the British nation. When we look back to the time this garrison was commanded by your late lamented father, we rest assured that under the present reign all classes of your Majesty's subjects without distinction of rank or wealth will participate in the blessings of a free and enlightened constitution.

In conclusion, we your Majesty's dutiful and loyal subjects most heartily respond to the universal sentiment re-echoed on this day, from one cornor of the empire to the other, that your reign may be one of long and continued happiness and prosperity to yourself and the British empire.

In behalf of the society,

(signed) *William H. Morvin*, President.
G. Cutliss, Vice-President.

Halifax, Nova Scotia,
28 June 1838.

(No. 6.)

To the Queen's Most Excellent Majesty.

May it please your Majesty,

We, the members of the African Friendly Society, people of colour, approach your Majesty with feelings of loyalty and attachment to your throne and person, and grateful for the blessings of civil and religious liberty we have enjoyed under your illustrious house.

We cherish in recollection the benevolence of your father, His Royal Highness Prince Edward, the poor man's friend, and will teach our children to remember that your Majesty and your immediate ancestors liberated our people from bondage, and restored to them equal rights.

As loyal subjects of your Majesty, we pray that your reign may be long, peaceful, and crowned with happiness.

(signed) *Charles R. Morriss*, President.
Charles W. Sport, Secretary.

Halifax, Nova Scotia,
28 June 1838.

NOVA SCOTIA.

(No. 7.)

To our Most Gracious Sovereign Lady Queen Victoria.

We, your Majesty's faithful subjects composing the Philanthropic Society of Nova Scotia, feel the highest gratification in tendering to your Majesty this our gratulatory address upon the present joyous occasion of your Majesty's coronation.

The feeling of loyalty to your Majesty's person which pervades the breasts of each and every of your colonial subjects of Nova Scotia, together with an affectionate interest (more particularly felt by Nova Scotians owing to the long residence of your Majesty's late honoured and beloved father amongst us), renders the coronation of your Majesty a subject of more than ordinary interest and joy to us.

While therefore we congratulate your Majesty upon your accession to the high station to which God in his wisdom has thought proper to raise you, we at the same time sincerely and ardently pray that your Majesty may be blessed with a happy reign, the principal distinctions of which shall be its length and its prosperity, and that the Crown this day placed upon your Majesty's brow, may through life press it but lightly.

With the utmost respect and affection, we have the honour to be,
Your Majesty's most loving and humble subjects,
(signed) *Gaspar Roast*,
President, on behalf the Nova Scotia Philanthropic Society.

Halifax, Nova Scotia, 28 June 1838.

(No. 8.)

To the Queen's Most Excellent Majesty,

The dutiful and loyal Address of the Synod of the Presbyterian Church of Nova Scotia.

May it please your Majesty,

We, your Majesty's most dutiful and loyal subjects, the ministers and elders of the Presbyterian Church of Nova Scotia now in Synod convened, humbly beg leave on this the happy day of your Majesty's coronation to transmit to the foot of the Throne this dutiful expression of that devoted attachment to your Majesty's person and Government which we participate in common with all our fellow-subjects in this distant part of your Majesty's empire. Born and educated in your Majesty's dominions, we fully appreciate the distinguishing excellencies of the British constitution, and the benefits which we have hitherto enjoyed under it since the accession of your Majesty to the throne, and during the reigns of your illustrious predecessors, and it is our most anxious desire to maintain the connexion so happily existing between this Province and the United Kingdom, and to transmit its benefits unimpaired to our descendants; we therefore viewed with the deepest regret the recent attempt in the Upper Provinces of British America, to disturb that connexion, and expose it to hazard, and we humbly tender to your Majesty our thanks for the vigour and promptitude with which your Majesty has suppressed that attempt; and we beg leave to express our entire confidence in the wisdom of those measures which your Majesty has adopted for restoring peace and order to the disturbed Provinces, and our fervent desire for their complete success. We also most humbly beseech your Majesty to accept our unfeigned thanks for the gracious attention given to the complaints and wishes of your Majesty's dutiful and loyal subjects in this Province, and for the assurance that every reasonable complaint will be considered, and every real grievance removed. We also humbly beg leave to convey to the foot of the throne a respectful expression of our approbation of the zealous and able administration of the government of this Province by your Majesty's representative his Excellency Sir Colin Campbell, K. C. B., Lieutenant-governor and Commander-in Chief of the Province of Nova Scotia; and it is our fervent prayer to Almighty God, that your Majesty's reign so auspiciously begun may be long and prosperous, that your Majesty may enjoy the protection of the King of Kings, and be at all times directed by his Spirit to the adoption of such measures as he will approve and bless for maintaining the peace and promoting the prosperity of every part of your extensive empire, and that you may retain, to the latest period of your life, that place in the affections of all your subjects which your Majesty now enjoys.

Signed in the name and presence and by the order of the Synod at Pictou, Nova Scotia, this 28th day of June, and in the year of our Lord 1838.

(signed) *Robert S. Patterson*, A. M. Moderator.
James Robson, Synod Clerk.

(No. 9.)

TO his Excellency Major-General Sir *Colin Campbell*, Knight, Commander of the most Honourable Military Order of the Bath, Lieutenant-Governor and Commander-in-Chief of the Province of Nova Scotia, &c. &c. &c.

The petition of the Ministers and Elders of the Presbyterian Church of Nova Scotia,

Humbly showeth,

THAT we, your petitioners, now met in Synod at Pictou, participating in the feelings of loyalty and attachment to the person and government of our beloved Sovereign, which this day awakens in the mind of all Her faithful and loyal subjects, have agreed to express these feelings in a dutiful and loyal address to the Throne, which we have taken the liberty of transmitting to your Excellency along with this our humble and respectful petition, that your Excellency would be pleased to transmit the same to the Right honourable the Secretary of State for the Colonies, to be laid at the foot of the Throne, with the assurance that we will not fail to inculcate on our people, at all times, the duties which, as good Christians and faithful subjects, they owe to their Sovereign. And we also beg leave to express to your Excellency our cordial thanks for the benefits which we have enjoyed under your Excellency's administration of the government of this Province, and our best wishes for your presonal welfare and continued success in discharging the duties of the high and responsible situation which you occupy.

And your petitioners, as in duty bound, will ever pray.

By order of the Synod,

(signed) *Robert S. Patterson*, A. M. Moderator.
James Robson, Syd. Clk.

Pictou, 28 June 1838.

(No. 10.)

To the Queen's Most Excellent Majesty.

May it please Your Majesty,

WE, the magistrates, clergy, and other inhabitants of the county of Pictou, in the Province of Nova Scotia, beg leave most humbly to approach Your Majesty on this the day of your coronation, with heartfelt congratulation, on your assuming the sceptre of the United Kingdom of Great Britain and Ireland, and its dependencies, an empire so unlimited in in extension as to make it proverbial that the sun never sets on its territory, and the subjects of which are not exceeded by any other people, in all those qualities, intellectual, moral, and physical, in which true national greatness consists.

Many of us have lived in the reigns of three of your royal predecessors, and have witnessed the genuine patriotism and manly firmness which extricated your kingdom, in the reign of your illustrious grandsires, out of dangers and difficulties almost without a parallel. We have beheld the nation, under the glorious reigns of your noble uncles, gradually recovering from the shock of war, and devoting itself to the arts of peace with such successful vigour, that its religion, its laws, its commerce, its manufactures, its scientific and mechanical discoveries, its local improvements, and, in fact, its wealth, its power, and its greatness, place it first on the catalogue of the nations of the earth.

That over such a nation, in the hour of profound peace, in the very moment of your maturity, with an unquestioned title, and with every quality calculated to endear you to your subjects, the united voice of a loyal and affectionate people has called you to reign, must fill your royal bosom with emotions which no other heart can realize.

To us, your devoted subjects, this day is one of sincere and heartfelt festivity; and were Your Majesty but assured of the universal rejoicing on this gratifying occasion, Your Majesty would require no other testimony of the fealty and attachment of Your Majesty's subjects of Nova Scotia.

We esteem it our greatest pride that we are so closely allied with the British Crown; and we sincerely trust that your Majesty, solicitous for the integrity of the inheritance derived from your ancestors, will ever watch over and preserve this sacred alliance, by discountenancing all measures which designing innovators may from to time originate, with a view to the dissolution of our highly-prized connexion.

Accept, beloved Queen, this humble tribute of our affectionate attachment to your person and Crown; and we humbly pray Almighty God, that your reign may be long and prosperous, undisturbed alike by foreign war and domestic treason; and that, when it shall be His pleasure to remove you from this scene of human greatness, He will confer on you an immortal and unfading crown of glory.

Pictou, Nova Scotia, June 28, 1838. [1,062 Signatures.]

— No. 2. —

(No. 3.)

No. 2. EXTRACT of a DESPATCH from Lieutenant-General Sir *Colin Campbell*, K.C.B., to Lord *Glenelg*; dated Government House, Halifax, 18 January 1839.

I HAVE the honour to transmit to your Lordship a copy of the speech with which I opened the session of the General Assembly of this Province on the 14th instant, with copies of the Addresses of the Legislative Council and House of Assembly in reply.

Enclosures in No. 2.

(No. 1.)

Enclosures in No. 2.

Mr. President, and Honourable Gentlemen of the Legislative Council;
Mr. Speaker, and Gentlemen of the House of Assembly;

THE loyalty for which Nova Scotia has always been conspicuous, was never more cordially expressed than in your joint Address, congratulating Her Majesty on Her accession to the throne; nor more pleasingly exhibited than in the rejoicings which took place in all parts of the Province on the occasion of Her coronation. Such being the general feeling towards our beloved Sovereign, I could not open the present session in a more acceptable manner than by acquainting you, "that Her Majesty received with gratitude and satisfaction the assurances of your devoted attachment to Her person and Government; and that, in promoting the interests of Her faithful subjects in this colony, the Queen will discharge one of the most grateful duties of the station to which it has pleased Divine Providence to call her."

I am happy to be able to congratulate you on the continued prosperity of the Province. At the present moment we have ample cause to be thankful to the Almighty for an abundant harvest, a successful fishery, an improving commerce and revenue, and for an uninterrupted tranquillity.

In the full enjoyment of this last and great blessing, we cannot but deeply lament that our loyal brethren in the Canadas are not equally favoured; and I am assured that, while admiring the noble stand which they have successfully made against the late nefarious attempts to sever their connexion with the parent kingdom, you will sincerely feel for the sufferings of the families of those brave men who have fallen while defending the authority of their Sovereign, and their own dearest rights.

You cannot have failed to observe with high satisfaction, that every act of Her Majesty's Government relating to these colonies, has clearly indicated Her firm resolve to withstand all attempts to destroy or weaken Her supremacy over them.

It affords me gratification to state, that it is contemplated to substitute steam-packets for the sailing-vessels now employed in the conveyance of the mails between Great Britain and Halifax.

To secure the attainment of all the advantages anticipated from this arrangement, the co-operation of the legislatures of the several colonies to be benefited by it is essential; and I obey Her Majesty's commands in submitting the matter to your consideration, and inviting you to assist in improving the mail routes, and to afford such other facilities as may depend on you, with a view to increased expedition in the communication between this place, New Brunswick, and Quebec.

Her Majesty trusts that this measure, involving as it does considerable additional expenditure by the mother country, will prove beneficial to the public, and give satisfaction to the Colonies.

Mr. Speaker, and Gentlemen of the House of Assembly;

I have ordered the accounts for last year, and the estimates for the present year, to be laid before you, and I have the fullest reliance on your readiness to make due provision for the several branches of the public service.

Mr. President, and Honourable Gentlemen of the Legislative Council;
Mr. Speaker, and Gentlemen of the House of Assembly;

Your Address, complaining of the habitual violation by American citizens of the treaty subsisting between Great Britain and the United States on the subject of the fisheries, has engaged the serious attention of Her Majesty's Government; and you will be happy to learn, that it has been determined for the future to station an armed force on the coast of Nova Scotia, to enforce a more strict observance of the provisions of the treaty by the Americans; and that Her Majesty's Minister at Washington has been instructed to invite the friendly co-operation of the government of the United States for that purpose.

The

The most attentive consideration has also been given to your several other addresses in the last session, and it will be my duty to lay before you the replies which Her Majesty has been graciously pleased to return to them.

As many of the members who come from a distance must be inconvenienced by being detained long in Halifax, I rely on your continued assiduity in the discharge of your respective duties; and you may be assured of my ready concurrence in all measures which may appear conducive to the real advantage and welfare of this happy Province.

(No. 2.)

TO his Excellency Lieutenant-General Sir *Colin Campbell*, K.C.B., Lieutenant-Governor and Commander-in-Chief in and over Her Majesty's Province of Nova Scotia and its Dependencies, &c. &c. &c.

The Address of the Legislative Council of the Province of Nova Scotia.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, the Legislative Council of Nova Scotia, humbly beg leave to thank your Excellency for the speech with which you have been pleased to open the present session of the General Assembly.

It affords us the highest pleasure to be assured that Her Majesty graciously received the tribute of loyal attachment presented by the Legislature of Nova Scotia on her accession to the throne, and that Her Majesty regards with gracious interest the welfare of this colony.

We acknowledge, with your Excellency, the just claim that is made upon the inhabitants of Nova Scotia to receive with thankfulness, as the beneficent gift of a gracious God, the blessings which have crowned the past year; among those blessings, we acknowledge, with peculiar gratitude, the tranquillity with which we have been favoured, while our fellow-colonists in Lower and Upper Canada have been suffering the miseries of a state of war, and we earnestly hope that the period may be near at hand which shall restore to them the blessings of peace.

In proportion as we appreciate the advantages of good order and security, we cannot fail to execrate the conduct of those men who, being Her Majesty's subjects, have forgotten their first allegiance, and of those who, being subjects of a country at peace with Great Britain, have violated the faith of nations, and by their countenance, pecuniary aid, or personal efforts, have become the agents of spreading, as far as their power has extended, murder, rapine, and every disorder among our fellow-subjects in Canada.

We have admired the bravery with which every attempt to obtain a hostile footing in the Canadas has been repulsed by their loyal and gallant defenders, and we enter with deep feelings into the suffering of the families of those who have fallen in the cause of their country.

We believe that the connexion of Nova Scotia and the several British North American provinces with the parent state is conducive to the best interests of both, and rejoice in the conviction that it is Her Majesty's desire and resolution to preserve that union inviolate.

The advantages to Nova Scotia and the neighbouring Provinces from the establishment of steam-packets between England and Halifax are so great, that we trust the Legislatures of the several Provinces will show their grateful sense of the liberality of Her Majesty's Government, and their hearty co-operation in the plan, by uniting in every arrangement in their power requisite for promoting the most expeditious communication between Halifax, New Brunswick, and Quebec, and for diffusing and rendering effective this most useful measure.

We are grateful that Her Majesty's Government has given its serious attention to the interruption of the fisheries on the coasts of this Province by American citizens, and has adopted measures of relief. We trust that the armed force intended to be stationed on our coasts for the redress of this serious grievance, may be fully adequate, and shall be happy to find that the American Government has rendered effective co-operation for that object.

We are happy to be assured that we shall receive from your Excellency the replies which your Excellency informs us Her Majesty has been graciously pleased to return to our address to the Throne in the last session.

Your Excellency may rely on our continued assiduity in the discharge of our duties, and our ready concurrence in all measures which shall conduce to the advantage and welfare of this Province.

(No. 3.)

TO His Excellency Lieutenant-General Sir *Colin Campbell*, Knight, Commander of the Most Honourable Military Order of the Bath, Lieutenant-Governor and Commander-in-Chief in and over Her Majesty's Province of Nova Scotia, and its Dependencies, &c. &c. &c.

The humble Address of the House of Representatives in General Assembly.

May it please your Excellency,

We, Her Majesty's dutiful and loyal subjects, the representatives of Her Majesty's loyal people of Nova Scotia, thank your Excellency for the speech with which you were pleased to open the present session. It affords us much pleasure to learn that our beloved Sovereign "has received with gratitude and satisfaction the assurances of devoted attachment to Her person and Government felt by the people of Nova Scotia," and conveyed by their representatives to the foot of the Throne; and we rejoice in the expressed determination of Her Majesty to promote the interests of Her faithful subjects in the colony.

Of the continued prosperity of the province, as evidenced in its harvests, fisheries, and improving commerce, we have been well reminded by your Excellency; and that peace and tranquillity have accompanied these blessings, calls for our warmest gratitude to the Giver of all good.

The predatory incursions made upon our sister colonies, from the territories of a kindred nation, at peace with the parent state, have been witnessed by the people of Nova Scotia with pain and indignation. While they admire the bravery with which the invaders have been repelled, and feel for the families of those brave men who have fallen in defence of their dearest rights, they rejoice in the policy clearly indicated by Her Majesty's Government to maintain the integrity of the empire. This Assembly feel convinced that no single measure will more surely contribute to the success of that policy than the substitution of steam-packets for the sailing vessels now employed in the carrying of the mails between Great Britain and Halifax; and your Excellency may be assured that to that important subject, and to the improvement of the mail routes from hence to Quebec, our best attention will be devoted, with every disposition to second the views of Her Majesty's Government.

We thank your Excellency for directing the public accounts to be laid before us, and will vote with cheerfulness all necessary supplies.

The serious consideration afforded by Her Majesty's Government to the address complaining of the habitual violation, by American citizens, of the treaty subsisting between Great Britain and the United States, affords us extreme satisfaction. We are happy that an armed force is to be stationed on the coasts of Nova Scotia, to enforce a more strict observance of that treaty, and hope that the invitation to be given by Her Majesty's Minister at Washington, will be followed by the co-operation of the Government of the United States.

We feel grateful to Her Majesty for the attentive consideration given to the several other addresses transmitted through your Excellency during the last session; and your Excellency may be assured of our disposition to dispatch the public business with as much promptitude as may be compatible with the interests of the Province, and the faithful discharge of the duties entrusted to our care.

NEW BRUNSWICK.

— No. 1. —

(Separate.)

No. 1.

EXTRACT of a DESPATCH from Major-General Sir *John Harvey*, K. C. H. to Lord *Glenelg*; dated Government House, Fredericton, August 12, 1838.

I AM just returned from a visit to the city of St. John; and as that city comprizes nearly one-fourth of the population, and a still greater proportion of the wealth, intelligence and respectability of the whole Province, it may be satisfactory to your Lordship to be informed, that, from the enthusiastic reception which I experienced from persons of every rank, class, persuasion and denomination, religious and political, I have derived a renewed conviction that in no part of all Her Majesty's possessions is the Queen's dominion more entirely established over the hearts of Her subjects than in New Brunswick. Copy of the address presented to me is enclosed.

Enclosure in No. 1.

Enclosure in No. 1.

TO His Excellency Major-General Sir *John Harvey*, K. C. H. & C. B., Lieutenant-Governor and Commander-in-Chief in and over the Province of New Brunswick, &c. &c. &c.

WE, the mayor, aldermen and commonalty of the city of St. John, beg leave to offer your Excellency a most respectful and hearty welcome on this your first visit to our city since your assumption of the administration of the Government.

Warmly attached to the Queen and the blessed constitution of our mother country, it gives us the highest satisfaction at all times to receive the Representative of our Most gracious Sovereign, but at none more than the present, when that Representative is, with so much success, exerting both his talents and energies in promoting the best interests of this young and flourishing colony.

In thanking your Excellency for the favour now bestowed upon us by this visit, we cannot omit to renew our expression of continued firm and steady adherence to the loyalty of our forefathers, and to assure your Excellency that, should circumstances require it, the citizens of St. John will not be found backward in affording that assistance to Her Majesty's Representative, in supporting the principles of the British constitution which is due to a Sovereign from loyal and devoted subjects, and renders the connexion between this Province and the mother country inviolable.

St. John, 9 August 1838.

Answer.

I AM gratefully sensible of the hearty welcome with which you have honoured this the first visit which it has been in my power to pay to the city of St. John. My conviction of the unshaken loyalty of the universal people of this noble Province has been so often publicly declared, and I have on so many occasions claimed for them the merit due to that sentiment, and to the most ardent attachment to British connexion, that it only remains for me to tender you my thanks for the present exhibition of those feelings towards me, as the Representative of our Most gracious Sovereign, and to add my warmest acknowledgments for your flattering appreciation of my endeavours to discharge the important duties confided to me. From the first moment of my connexion with this Province, one of the objects which I have had steadily in view, has been the acquisition of a competent knowledge of the leading interests of a city so rapidly increasing in wealth, population and extent, and possessing in an eminent degree capabilities and advantages which only require to be more fully developed to place St. John in the first ranks of the commercial cities of this continent. In order fully to effect this object, I am aware that my residence amongst you should not only be extended to a period beyond what is practicable, without inconvenience to the general interests of the Province, under the circumstances in which I am at present placed, but, also, that my visits should be periodically or occasionally repeated. This arrangement, so much desired by myself, the kindness of my reception amongst you has satisfied me would not be unacceptable to the people of St. John. It only remains, therefore, for me to observe, that it shall be my endeavour to effect it at as early a period as may be possible.

I again thank you for your address, and beg to add, that, intimately connected as you necessarily are, as a municipal body, with the peace, good order and prosperity of this city, I tender you my hearty co-operation in every measure calculated to promote those objects of common interest to us, whenever my intervention can be made useful or available.

(signed) *J. Harvey*,
Lieutenant-Governor.

St. John, 9 August 1838.

PRINCE EDWARD ISLAND.

PRINCE EDWARD ISLAND.

— No. 1. —

(No. 10.)

No. 1. COPY of a DESPATCH from Lieutenant-Governor Sir *Charles A. FitzRoy*, to Lord *Glenelg*.

Government House, Prince Edward Island,
My Lord, 27 March 1838.

I HAVE the honour to transmit herewith an address to the Queen from the Council and Assembly of this island, condoling with Her Majesty on the demise of the late king, and congratulating Her Majesty on Her Majesty's accession to the throne of these realms, which address I have been requested to forward to your Lordship, for the purpose of its being laid at the foot of the Throne.

I have, &c.

(signed) *Charles A. FitzRoy*,
Lieutenant-Governor.

Enclosure in No. 1.

To the Queen's Most excellent Majesty.

Most gracious Sovereign,

Enclosure in No. 1. WE, your Majesty's dutiful and faithful subjects, the Council and Assembly of Prince Edward Island, humbly beg leave to approach the Throne to express to your Majesty those feelings of heartfelt sorrow with which the intelligence of the decease of our late most gracious and beloved sovereign king William the Fourth, of blessed memory, filled all classes of his loving subjects in this portion of his dominions; and whilst we lament the loss which the nation has sustained, by the death of a monarch whose beneficial endeavours to ameliorate the condition of his subjects will ever live in the remembrance of a grateful and loyal people, we sincerely condole with your Majesty on that dispensation of Divine Providence which has deprived your Majesty of so near and beloved a relative.

To the nation at large it must prove a source of grateful satisfaction that the sceptre continues to be swayed by a descendant of that illustrious family under whose auspices it has reached that proud eminence which it now maintains among the nations of the world.

We humbly tender to your Majesty our sincere congratulations upon your accession to the throne of these realms; and we trust that the cherished memory of your royal parent, by whose honoured name this colony has been distinguished, will not lessen that interest for its inhabitants which, we are convinced, your Majesty entertains for all classes of your subjects, however distant from the parent state.

We fervently hope that your Majesty's reign may be long, prosperous and happy; and we humbly beg to assure your Majesty, that there exists no greater devotion to your Majesty's Royal person and Government, in any portion of your widely-extended dominions, than is cherished by your Majesty's loyal and devoted subjects, the inhabitants of Prince Edward's Island.

Council Chamber, 26 March 1838. *E. J. Jarvis*, President.

House of Assembly, 26 March 1838. *Geo. Dalrymple*, Speaker.

— No. 2. —

(No. 19.)

COPY of a DESPATCH from Lieutenant-Governor Sir *Charles A. FitzRoy*, to Lord *Glenelg*. No. 2.

Government House, Prince Edward Island,
My Lord, 29 June 1838.

I HAVE the honour to transmit an address to the Queen from a very numerous and respectable body of the inhabitants of Queen's County in this island, assembled yesterday, which I have been requested to forward to your Lordship.

I have,
(signed) *Charles A. FitzRoy*,
Lieutenant-Governor.

I have also the honour to transmit an address from George Town, in King's County, which I have just received.—*C. A. F.*

Enclosures in No. 2.

(No. 1.)

To the Queen's Most Excellent Majesty.

Most gracious Sovereign,

WE, your Majesty's faithful subjects, the inhabitants of Queen's County, in Prince Edward Island, in the Gulf of St. Lawrence, assembled on the auspicious day of your Majesty's coronation, humbly approach the Throne to give expression to those sentiments of devotion and loyalty to your Majesty's royal person and Government, which we are proud to say unanimously pervade this portion of your Majesty's transatlantic possessions, and to offer to your Majesty our humble yet warm congratulations on the joyful event of your Majesty's public assumption of the Crown of your ancestors, and also to tender to your Majesty our homage and fealty in common with those thousands of our more favoured fellow-subjects whose privilege and pride it will be to surround your Majesty upon this happy occasion. Enclosures in No. 2.

Although Providence has cast our lot in this distant portion of your Majesty's widely-extended empire, we beg to assure your Majesty that we will yield to none of our fellow-subjects either in attachment to your royal person, or in veneration and regard for those hallowed principles of the constitution under which we have the happiness to live, and which have been so gloriously upheld and cherished by that illustrious family from which your Majesty is descended.

We have reason to be truly thankful to the Almighty disposer of human events, who has been graciously pleased to bless this marked and propitious period in the annals of the British empire with general peace and tranquillity, and we sincerely pray that His dispensing power will ever continue to sustain and protect your Majesty, and to render your Majesty's reign long, prosperous and happy.

By order of the meeting,

(signed) *Ralph Brecker*,
Charlotte Town, 28 June 1838. High Sheriff, Chairman.

(No. 2.)

To Her Most Gracious Majesty, Victoria, of the United Kingdom of Great Britain and and Ireland Queen, &c. &c. &c.

Most Gracious Sovereign,

WE, your Majesty's loyal and dutiful subjects of George Town, in your island Prince Edward, participating in the devotion manifested to your Majesty throughout Europe and America, beg leave, with every feeling of respect, to offer to your Majesty the expression of our most heartfelt congratulations on the happy event of your Majesty's coronation.

Notwithstanding we are situated at a considerable distance from the throne, which is s auspiciously dignified by your Majesty, we are fully satisfied that the British constitution,

 which

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which for centuries has proved so great a blessing, is the best adapted of all others to secure the reciprocal happiness, freedom, and prosperity of the sovereign and the subject; and, in order to manifest our ardent attachment to this happy constitution, and to your revered Majesty, who has been raised up to preside over it, we loyally and solemnly pledge ourselves that we will strictly adhere to, and defend the laws and institutions under which we so happily live.

We most ardently pray that your Majesty may long be continued a blessing to your extensive empire; may ever rule over a willing, contented, loyal, and faithful people, and be yourself endued with all wisdom, in the enjoyment of every temporal and spiritual felicity and blessing.

Signed, by order and on behalf of the meeting,

W. B. Aitkin, J. P.
Chairman.

George Town, 28 June 1838.

— No. 3. —

No. 3.

COPY of a DESPATCH from Lieutenant-Governor Sir *Charles A. FitzRoy* to Lord *Glenelg*.

Government House,
Prince Edward Island, 5 July 1838.

My Lord,

I AM requested by the Roman-catholic Bishop of Charlotte Town, to transmit to your Lordship an address to the Queen, signed entirely by the French Acadian inhabitants of the settlement of Rustico, in this island, on the occasion of Her Majesty's coronation.

I have, &c.

(signed) *Charles A. FitzRoy*,
Lieutenant-Governor.

Enclosure in No. 3.

To the Queen's Most Excellent Majesty.

Most Gracious Sovereign,

Enclosure in No. 3.

WE, your Majesty's subjects, of French extraction, inhabitants of Rustico, in the island Prince Edward, beg leave humbly to hail the auspicious event of your Majesty's coronation as a happy omen that the British laws and institutions, under which we have hitherto lived contented and happy in this island, will long be enjoyed by us.

Though placed by Providence in this remote part of your Majesty's dominions, and though we deduce our descent from ancestors of another kingdom, we will yield to no class of your Majesty's subjects in devotedness and attachment to your Majesty's person and government.

With these sentiments sincerely felt by us your Majesty's faithful subjects, we humbly pray that your Majesty's reign over us may be long and happy.

Rustico, Prince Edward Island, June 1838. [213 Signatures.]

NEWFOUNDLAND.

— No. 1. —

(No. 55.)

COPY of a DESPATCH from overnor *Prescott* to Lord *Glenelg*. No. 1.

Government House, Newfoundland,
My Lord, 23 October 1838.

I HAVE the honour to forward an address from the House of Assembly to Her Most gracious Majesty, and a printed copy of the same for your Lordship's information.

I have, &c.

(signed) *H. Prescott.*

Enclosure in No. 1.

PARLIAMENTARY PAPER.

ADDRESS of the House of Assembly to Her Most Gracious Majesty the Queen.

May it please your Majesty,

WE, your Majesty's loyal subjects the Commons of Newfoundland in General Assembly convened, have most humbly and reverently to approach your Majesty, to acknowledge with the most profound feelings of gratitude, the attention which your Majesty has been graciously pleased to give to the complaints of the people of this your ancient and loyal colony of Newfoundland. Enclosure in No. 1.

We have more particularly to express our deep sense of your Majesty's solicitude for the protection of the people of this colony, in permitting their complaints against the state of the administration of justice to be inquired into, by your Majesty in Council, as we have to express our full, complete, and perfect satisfaction at the result of that inquiry.

Your Majesty's loyal subjects of Newfoundland, being either natives of the United Kingdom or their immediate descendants, have at all times entertained the strongest desire to be governed by the laws of England; the rights and immunities of British subjects they value beyond all price; they feel anxious to preserve them for themselves and to transmit them unimpaired to their children; it was, then, a cause for unmixed joy and delight to find these mild and merciful laws and the incomparable constitution of England confirmed to them by the just decision of your Majesty, aided by the advice of your Majesty's Council.

It is with feelings of indignation which we cannot command language sufficiently strong to express, that we have heard that statements have been made to your Majesty and to the other branches of the Imperial Government, imputing to the people of this colony disaffection and disloyalty to your Majesty's sacred person and Government, as well as resistance and disregard to your Majesty's laws. In justification of the people of Newfoundland, and in reply to these unfounded and ungenerous imputations, we fearlessly assert that in no portion of your Majesty's wide spread dominions, are the people more sincerely, devotedly, and unanimously attached to your Majesty's royal person, throne, and Government, than are your Majesty's faithful subjects of Newfoundland. And we further state, without fear of successful contradiction, that, within the recollection of some of the oldest inhabitants, and which takes in the time of the French war, the late American war, and down to the present period, the high crime of disloyalty to the Crown and Government of England, was not, even in one solitary instance, exhibited in your Majesty's courts in Newfoundland against a British subject; but, on the contrary, the people came forward on those occasions, and are even more ready now to come forward were it necessary, to expend their lives and fortunes in support of the sovereign and just rights of your Majesty, and in upholding and cementing the union and connexion with the parent country.

The House of Assembly, the representatives of the people of Newfoundland, not only repudiate the foul charge of disloyalty, but further, claim for their constituents a character

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which they have justly earned, of submitting and acting in obedience to the laws—they also claim for them a moral and religious character, not inferior to that of the people of any other portion of your Majesty's dominions.

Newfoundland is nearly as large as England—the inhabitants are settled in various harbours along the coast, far distant from the capital and from each other, and, we regret to say, surrounded, with little exception, by the unimproved wilderness. There is not, except in St. John's, a fort, garrison, or soldier; and the civil force to preserve the peace in these distant settlements, do not exceed one or two constables, and, in many harbours, not even one constable; yet, notwithstanding, a civil or criminal process issuing from Her Majesty's court at St. John's, can be executed without difficulty in the most distant part, and most populous district in the island. As an example, we humbly beg to call your Majesty's attention to one case, amongst others, which occurred during the heat and excitement attending the general election of 1836. A number of persons were charged with a riot at the election that took place at Harbor Grace, in Conception Bay; that warrants were issued for the apprehension of the parties accused from the Supreme Court at St. John's; one single constable proceeded to what was then and is now stated to be a "disturbed district," arrested all the parties, and brought them, a distance of upwards of 30 miles, to St. John's, where they were delivered over into the hands of justice. This is only one example, from hundreds we could adduce, to prove the readiness with which your Majesty's subjects in Newfoundland submit themselves to the laws, even at a time when it was universally considered that these laws were administered corruptly, partially, and unjustly.

We can further refer your Majesty to the official documents annually transmitted from the local authorities to your Majesty, which will show the account of criminal prosecutions and convictions, and must prove the peaceful and moral character of the people of Newfoundland.

Should your Majesty desire to have further information on the subject, we pray your Majesty to command our late beloved and venerated Chief Justices Sir Francis Forbes and Richard Alexander Tucker to make a report thereon to your Majesty; and we would unhesitatingly appeal to the expressed opinions of these learned, wise and good men, as a full defence against the calumny so unjustly heaped upon your faithful subjects of Newfoundland.

May it please your Majesty,

There is nothing more calculated to bring the administration of justice into disrepute with the people of any colony, than to find persons placed by your Majesty on the judicial bench so far forgetting their duty, as to mix themselves up with the disputes of contending political parties; and it is to be lamented that individuals should in this country be placed in those responsible stations, who so far forget their duty to your Majesty and the people, as to lend the sanction of their names and stations to the foul and unfounded charges made against the loyal inhabitants of this colony.

We cannot conclude this humble address to your Majety, chiefly intended to defend the people of Newfoundland from the foul charge of disloyalty, without expressing our sincere sorrow and regret that any portion of your Majesty's subjects, inhabiting your North American possessions, should be so far misled as were the people of Canada, to make the slightest opposition to the Government of your Majesty.

It affords us the most sincere pleasure to state that we have reason to believe that, even in the provinces lately disturbed, the vast majority of the clergy and people remained steady to their allegiance, and that even those that were led to open acts of resistance to your Majesty's Government were not fully aware of the enormity of their offence, and had no wish to throw off their allegiance to your Majesty; and we have now every hope that these misguided individuals, impressed with gratitude for the indulgence of your Majesty, will become your Majesty's grateful and attached subjects.

We have most sincerely to congratulate your Majesty on the complete suppression of the temporary insurrections in these Provinces; and we have also to acknowledge your Majesty's great anxiety to promote the general interests of the North American Provinces, and to secure their permanent connection with the parent State, by placing over them at this crisis a nobleman so competent to heal the distractions and to detect the defects of the existing constitutions of the colonies, a statesman so distinguished as the present Governor-General Lord Durham.

And we have furthermore sincerely to congratulate your Majesty on the signal success which has already attended his Lordship's mission, and we cannot avoid expressing our decided opinion that there is no part of his Lordship's proceedings more calculated to confirm the people of these Provinces in loyalty and attachment to your Majesty's Gevernment than the manner in which he has carried the well-known wishes and commands of your Majesty into effect, by exercising the highest attribute of Royalty in extending mercy and indulgence to the misguided individuals in Canada who subjected themselves to the highest penalties of the law.

CANADA.

COPIES OR EXTRACTS

OF

CORRESPONDENCE

RELATIVE TO THE

AFFAIRS OF CANADA.

(PRESENTED TO PARLIAMENT BY HER MAJESTY'S COMMAND).

Ordered, by The House of Commons, *to be Printed,*
6 *June* 1839.

SCHEDULE.

No. 1.—Copy of a Despatch from Major-general Sir George Arthur, K.C.H., to Lord Glenelg, dated Toronto, 30 March 1839; (one Enclosure) - - - - - - - p. 3

No. 2.—Copy of a Despatch from the Marquis of Normanby to Major-general Sir George Arthur, K.C.H., dated Downing-street, 6 May 1839 - - - - - - - - - p. 4

No. 3.—Extract of a Despatch from Major-general Sir George Arthur, K.C.H., to the Marquis of Normanby, dated Upper Canada, Toronto, 12 April 1839; (one Enclosure) - - p. 5

No. 4.—Copy of a Despatch from Major-general Sir George Arthur, K.C.H., to the Marquis of Normanby, dated Upper Canada, Toronto, 15 April 1839; (one Enclosure) - - p. 5

No. 5.—Extract of a Despatch from Major-general Sir George Arthur, K.C.H., to the Marquis of Normanby, dated Upper Canada, Toronto, 17 April 1839 - - - - - p. 6

No. 6.—Extract of a Despatch from Major-general Sir George Arthur, K.C.H., to the Marquis of Normanby, dated Upper Canada, Toronto, 11 May 1839; (two Enclosures) - - p. 6

No. 7.—Extract of a Despatch from Major-general Sir George Arthur, K.C.H., to the Marquis of Normanby, dated Upper Canada, Toronto, 13 May 1839; (two Enclosures) - p. 31

COPIES or EXTRACTS of CORRESPONDENCE relative to the AFFAIRS of CANADA.

(No. 67.) — No. 1. —

COPY of a DESPATCH from Major-general Sir *George Arthur*, K.C.H., to Lord *Glenelg*.

No. 1.
Sir G. Arthur to Lord Glenelg, 30 March 1839.

My Lord, Upper Canada, Toronto, 30 March 1839.

SINCE the opening of the present session of the Provincial Parliament, no business of much public importance has been transacted in either House, and nothing brought to a close, except a motion in the House of Assembly on the state of the province.

On the 23d instant, the Assembly passed on this subject the following Resolutions:—

First. That the division of Canada into two provinces was an injudicious measure.

Second. That an United Legislature for the Canadas is indispensable.

Third. That one or more authorized agents, deputed by the House, should proceed forthwith to England.

On the 27th, it was further resolved, that the House is distinctly opposed to a Legislative Union, unless the conditions embodied in a series of fourteen Resolutions be fully carried out by the Imperial Parliament.

Of these Resolutions, I have the honour to transmit herewith a copy.

The sending of authorized agents "to represent the true interests and opinions of Her Majesty's faithful subjects," does appear to me to be a very unnecessary expense; as Her Majesty's Government have already before them all the information on the subject that can be desired.

The clergy reserve question is now under the consideration of the House, and I trust that in some way or other it will be disposed of.

I have, &c.

(signed) *George Arthur*.

Enclosure in No. 1.

Encl. in No. 1

RESOLUTIONS passed by the HOUSE OF ASSEMBLY and sent to the Honourable the LEGISLATIVE COUNCIL for their concurrence, on the subject of an Union of the Provinces of *Upper* and *Lower Canada*.

Saturday, 23d March 1839.

Resolved,—That, during the last Session of the Legislature, a series of Resolutions was adopted by this House, attributing the chief causes of the evils under which these Provinces have suffered to the injudicious division of Canada into two Provinces, which, with an Address dated 26th February 1838, were transmitted to the Home Government, praying for the adoption of such measures as would carry the same into effect.

Vide Papers relative to the Affairs of Canada, ordered to be printed 4 May 1838, No. 337, page 177.

Resolved,—That the experience of the past year confirms this House in the opinions then expressed, and they are still of the same opinion, that an United Legislature for the Canadas, on the terms then proposed, is indispensable; and that further delay must prove ruinous to the best interests of the Canadas.

Resolved,—That as measures deeply affecting the future interests of this Province are now pending before the Imperial Parliament, it is of the utmost importance that one or more authorized agents, deputed by this House, should proceed forthwith to England to represent the true interests and opinions of Her Majesty's faithful subjects residing in Upper Canada.

Wednesday, 27th March 1839.

Resolved,—That in reference to the Resolutions of this House on the subject of a Legislative Union of the Provinces of Upper and Lower Canada, this House is distinctly opposed

to that measure, unless the conditions as embodied in the following Resolutions be fully carried out in any Act to be passed by the Imperial Legislature for that purpose:

1st. *Resolved*,—That in the event of the Union of the Provinces of Upper and Lower Canada, the seat of Government should be within the present boundary of Upper Canada.

2d. *Resolved*,—That that portion of Lower Canada lying East of the Madawaska, and South of the St. Lawrence, consisting of the Counties of Gaspé, Bonaventure and Rimouski, be attached to the Province of New Brunswick.

3d. *Resolved*,—That a proper qualification for Members of the Legislative Council and House of Assembly be fixed upon by the Act of Union.

4th. *Resolved*,—That the Act of Union not to make void any of the appointments of the present Legislative Council, in full confidence that future appointments will be made in such manner, from the different districts, as best to secure the commercial, agricultural and general interests of the Province.

5th. *Resolved*,—That the number of Members to be returned to serve in the House of Assembly be as follows:—

From Lower Canada—50 Members.
From Upper Canada as at present.

That the Elective Franchise in Counties be confined to those who hold their lands in free and common soccage from and after a time to be settled by the Imperial Parliament, not later than the year 1845, and that it be strongly urged on the Imperial Parliament to pass immediate measures for facilitating the change of tenure in Lower Canada, so as to extend to them the exercise of the Elective Franchise with as little delay as possible.

6th. *Resolved*,—That a new division of Lower Canada into Counties be made by the Governor and Council of that Province, so as to provide for the election of such number of members as, together with the members from cities and towns, make up the number to be returned from Lower Canada.

7th. *Resolved*,—That the English language be spoken and used in the Legislature, Courts of Justice and in all other public proceedings.

8th. *Resolved*,—That Courts of Appeal and Impeachment be established within the United Province.

9th. *Resolved*,—That the surplus revenue of the Post Office, together with the casual and territorial, and every other branch of revenue, be placed under the control of the Legislature.

10th. *Resolved*,—That, until otherwise provided for by the Joint Legislature, the Courts and Laws to remain as at present.

11th. *Resolved*,—That the debt of both Provinces shall be chargeable on the revenue of the United Province.

12th. *Resolved*,—That the Local Legislature have power to originate duties, or reduce them from time to time, as they may deem necessary and advisable, subject however to restrictions similar to those of 42d section of 31st Geo. III., chap. 31, respecting certain Local Acts.

13th. *Resolved*,—That with the above exceptions, the principles of our constitution as contained in 31 Geo. III., chap. 31, remain inviolate.

14th. *Resolved*,—That there be two Commissioners appointed to proceed to England on the part of this House, and that Sir Allan N. MacNab, Speaker of this House, and William Hamilton Merritt, Esquire, M. P. for the County of Haldimand, be the said Commissioners.

(No. 40.) —No. 2.—

COPY of a DESPATCH from the Marquis of *Normanby* to Major-general Sir *George Arthur*, K.C.H.

No. 2.
Marquis of Normanby to Sir G. Arthur,
6 May 1839.

Sir, Downing-street, 6 May 1839.

I HAVE the honour to acknowledge the receipt of your despatch of the 30th March, No. 67, reporting the resolutions which had been adopted by the House of Assembly of Upper Canada, in regard to the union of that province with Lower Canada, and the intention of the House to send agents to this country to communicate on the subject with Her Majesty's Government.

As soon as the measure which Her Majesty's Government have in preparation shall have been submitted to Parliament, I shall take the earliest opportunity of communicating it to you, and I beg to assure you that the representations which the delegates of the Assembly of Upper Canada may address to me, will receive from my colleagues and myself all the attention which the personal character of the delegates, no less than the public capacity in which they act, entitles them to claim.

I have, &c.

(signed) *Normanby*.

(No. 87.) —No. 3.—

EXTRACT of a DESPATCH from Major-general Sir *George Arthur*, K.C.H., to the Marquis of *Normanby*, dated Upper Canada, Toronto, 12 April 1839.

No. 3.
Transmitted in my Despatch, No. 67, 30 March.

THE Resolutions of the House of Assembly, in favour of an union under certain conditions, having been referred to the Legislative Council, were rejected by that body, by a majority of ten votes to eight.

No. 1.

The Legislative Council have since transmitted to me the Resolutions, whereof a copy is enclosed, stating that they still adhere to the sentiments and remedies set forth in their report on the state of the province, and in their address to Her Majesty, bearing date respectively the 13th and 28th of February 1838.

Vide Papers relative to the Affairs of Canada, ordered to be printed 4 May 1838, No. 357, pp. 122–126.

Respecting the measure of sending Commissioners to England, the House of Assembly, retaining their former views, have passed a Bill, nominating as before, Messrs. M'Nab and Merritt to be their representatives, with leave to the Legislative Council to nominate a third member from their own body, and voting the sum of 3,000 *l.* to defray the necessary expenses.

No. 2.

This Bill is now before the Legislative Council, and will be decided on in the course of the ensuing week; but I do not expect that the Council will pass it in its present shape.

* * * * * *

I have, &c.
(signed) *George Arthur.*

Enclosure in No. 3.

RESOLUTIONS of the LEGISLATIVE COUNCIL on the State of the Province.

Encl. in No. 3.

Resolved,—THAT this House still adheres to the sentiments, opinions and remedies set forth in their report on the state of the province, and in their address to Her most Gracious Majesty The Queen, bearing date respectively the 13th and 28th days of February 1838, nor have any events happened since that time of a nature to induce them to depart from the principles or reasonings therein contained, or the measures therein proposed as necessary to restore peace and tranquillity to this as well as the sister province of Lower Canada, and to promote their peace, prosperity and happiness, and perpetuate their happy connexion with the British Empire.

Truly extracted from the Journal of the Legislative Council.

(signed) *J. Joseph*, Clerk.

(No. 88.) —No. 4.—

COPY of a DESPATCH from Major-general Sir *George Arthur*, K.C.H., to the Marquis of *Normanby*.

No. 4.
Sir G. Arthur to the Marquis of Normanby, 15 April 1839.

My Lord, Upper Canada, Toronto, 15 April 1839.

WITH reference to my despatch to your Lordship of the 12th instant, No. 87, reporting the proceedings of the Provincial Legislature, I have now the honour to transmit a copy of Resolutions passed this day by the Legislative Council, whereby your Lordship will perceive that the Council, relying that an opportunity will be afforded to the Legislature of being heard, have rejected the Bill referred from the House of Assembly, for sending Commissioners to England to represent the state of the province.

I have, &c.
(signed) *George Arthur.*

Enclosure in No. 4.

Encl. in No. 4.

Resolved,—THAT for the reasons set forth in the Resolutions of this House on the 4th instant, it is inexpedient to pass the Bill sent up from the House of Assembly, intituled, "An Act to appoint Commissioners to proceed to England on behalf of this Province, and for other

other purposes therein mentioned," especially as the report and address to Her Majesty referred to in those Resolutions expressed the entire confidence of the Legislative Council that Her Majesty's Government would not carry into effect any measure deeply affecting the interest of this province, without affording to its inhabitants an opportunity of being heard on the subject.

Resolved,—That when Her Majesty's Ministers have made the Legislature of this province acquainted with the plan which it is proposed to submit to the Imperial Parliament for the restoration of peace and tranquillity to the people of Upper and Lower Canada, this House will take the same into consideration, and communicate its opinion thereon to Her Majesty, either by uniting with the House of Assembly in the appointment of a Commissioner or Commissioners for that purpose, or by address, as may seem most expedient, according to the circumstances of the case.

(No. 91.) — No. 5.—

EXTRACT of a DESPATCH from Major-general Sir *George Arthur*, K.C.H., to the Marquis of *Normanby*, dated Upper Canada, Toronto, 17 April 1839.

No. 5.
Sir G. Arthur to the Marquis of Normanby, 17 April 1839.

I HAVE had the honour to receive Lord Glenelg's despatch marked "Circular" of 7th February last, wherewith his Lordship has transmitted for my information a copy of the Earl of Durham's Report to Her Majesty on the affairs of British North America, and also of part of the Appendix.

The Report, having already reached this province through the medium of the public journals, has been copied into many of the provincial papers, and read with the greatest avidity by all classes.

Her Majesty's Government will naturally be desirous to learn how it has been received by those most interested in its details and suggestions; and I have therefore delayed noticing it until the latest moment which would allow of my communication reaching New York to catch the "Great Western."

The members of both Houses, I find, generally consider parts of the report which refer to Upper Canada to be in many particulars incorrect; and a Committee of the House of Assembly has been consequently appointed to draw up a report upon the subject.

They regard the Earl of Durham's scheme for the future government of Canada as essentially the same as that which was advocated by Mr. Bidwell, Doctor Rolph and Mackenzie, and to which the great majority of the people of this province expressed their unequivocal dissent; that, in fact, it was on this point that the elections to the present House of Assembly turned.

The sensation produced by the Report has been almost instantaneous, and strongly expressive of the opposite feelings of the contending parties. On the one hand, Sir Francis Head was burnt in effigy; and, on the other, a Reform candidate having canvassed for the vacant seat in the third riding of this county, was most unmercifully beaten by a party of volunteers who had turned out to defend the country in November last.

* * * * * * * *

In the course of a few days, I shall do myself the honour to address your Lordship more fully on the subject of the Earl of Durham's Report, but I think it right to submit to Her Majesty's Government without delay the few remarks which are contained in my present communication.

I have, &c.

(signed) *George Arthur*.

(No. 102.) — No. 6.—

EXTRACT of a DESPATCH from Major-general Sir *George Arthur*, K.C.H., to the Marquis of *Normanby*, dated Upper Canada, Toronto, 11 May 1839.

No 6
Sir G. Arthur to the Marquis of Normanby, 11 May 1839.

I HAVE the honour to transmit to your Lordship, to be laid at the foot of the Throne, an Address from the House of Assembly, with reference to the report of the select committee appointed to report on the state of the province. This report is also transmitted herewith.

I have, &c.

(signed) *George Arthur*.

Enclosure 1, in No. 6.

To The Queen's most Excellent Majesty.

Most Gracious Sovereign,

We, your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, beg permission respectfully to approach Your Majesty with the renewed assurance of our continual loyalty, attachment and devotion to Your Majesty's Person and Government. Encl. 1, in No. 6.

We beg to express to Your Majesty our most grateful sense of the support and protection which Your Majesty has been graciously pleased to extend to Your loyal and faithful subjects against the unprovoked invasions of both of the provinces of Canada on the part of the people of the neighbouring nation. To that protection, and to the wisdom and foresight of our rulers, aided by the never-failing loyalty and gallantry of Your Majesty's subjects, we are, under Divine Providence, indebted for the maintenance of our laws and liberties, and the preservation of our lives and properties from the vindictive and wicked assaults of a depraved and savage banditti.

The vast expense incurred by the British nation in maintaining the fleets and armies of Your Majesty sent for our support, is cause of deep and serious concern to Your Majesty's faithful subjects; nor can they cease to express their grateful acknowledgments for the noble generosity thus evinced. It, however, is a source of no small gratification to us to have it in our power to say, that in Upper Canada at least this burthen has not been thrown upon the parent State from any necessity to maintain internal tranquillity, but merely to shield us from the attacks of a people with whom we are professedly at peace, but who nevertheless are waging open war against the Crown and subjects of Your Majesty.

There is but too much reason to apprehend, that should Your Majesty withdraw your forces from this country at the present moment, renewed invasions, and on a more extended scale than any that have hitherto occurred, would be speedily experienced. It is not for Your Majesty's subjects in these colonies to point out to Your Majesty the means that should be adopted to put an end to these outrages; but, as the representatives of the people of Upper Canada, we venture humbly, but confidently, to declare that these outrages never will cease until Your Majesty shall have announced to the government of the United States that Your Majesty holds it responsible for the conspiracies and invasions formed and conducted by the citizens of the republic to overthrow Your Majesty's Government on this continent, and to murder and destroy Your Majesty's subjects, for no other reason than that they are loyal and faithful to their Sovereign's Person and Government.

We beg permission further, most respectfully and earnestly, to draw Your Majesty's attention to the rightful claim of Your subjects to indemnity for the destruction of the "Sir Robert Peel" steam-boat while lying in the waters of the United States, in the peaceful pursuit of its ordinary business. This outrage, no less insulting to the British nation than injurious to the individuals who have suffered from it, by the loss of their property, has never been in any way atoned for, and the consequences to the owners of the vessel are of the most ruinous kind. We therefore implore Your Majesty to take such steps for the relief of Your Majesty's injured subjects as You may in Your wisdom think right. Neither do we imagine that when Your Majesty shall have determined on the course proper for Your Majesty to pursue, in reference to this particular case, that Your Majesty will overlook the claims which all Your Majesty's subjects in both provinces have for indemnity for the many and great injuries of a similar nature inflicted on them by a foreign nation, and for which, unless reparation be in some way made, and security given for their future peace, consequences of the most painful character, and which it is feared cannot be prevented, may result from future collisions.

Since the commencement of the present session of the provincial parliament, the final Report of Your Majesty's High Commissioner on the Affairs of British North America has been received in this country. In this Report Your Majesty's faithful subjects find many statements deeply affecting the social and political relations and condition of Upper and Lower Canada, and the recommendations of several important changes in the form and practice of the constitution. It is with much concern that Your Majesty's faithful subjects find that Your Majesty's High Commissioner has strongly urged the adoption of these changes by Your Majesty and the Imperial Parliament, without waiting for the opinion that may be formed of them by the people who are to be most deeply and immediately affected by them. Under these circumstances, we have caused a report to be drawn up by a select committee of the House of Assembly, which contains matter referring to this subject, as well as to our relations with the people of the United States, which we respectfully submit for Your Majesty's consideration; and in the fullest confidence that Your Majesty and the Imperial Parliament, continuing to act on those noble principles of justice and patriotism that have hitherto been manifested towards this portion of the British Empire, will discountenance and disallow every measure that in the most remote degree has a tendency to weaken the ties which now unite the North American colonies of Your Majesty to your Majesty's Crown and Government, we commit ourselves to that superintending power, to which, as loyal people, we owe implicit obedience.

Whatever measure Your Majesty may be pleased to approve and recommend to Your Imperial Parliament, we earnestly implore Your Majesty's especial attention to the financial difficulties that have occurred to arrest the progress and completion of the great public works in which this province has been engaged. These difficulties, we venture to assure Your Majesty, do not arise from any fault of the government and legislature of Upper

Canada, but entirely from causes produced by enactments of the British Parliament, by the dissensions in Lower Canada, and the unwillingness of that province to aid in accomplishing undertakings that are calculated to bring to both colonies great and equal benefits. The remedy for the embarrassments to which we refer rests entirely with Your Majesty and Your Majesty's Imperial Legislature; and we rejoice that it rests in such hands, well convinced that whatever measure of relief can be accorded to us will be generously and freely granted.

Commons House of Asembly, 11th day of May 1839.

Allan N. MacNab, Speaker.

Enclosure 2, in No. 6.

Encl. 2, in No. 6.

REPORT from the SELECT COMMITTEE of the HOUSE of ASSEMBLY of *Upper Canada*, appointed to report on the State of the Province.

To the Honourable the Commons House of Assembly.

The REPORT of the SELECT COMMITTEE on the State of the Province (unanimously adopted by the Committee.)

Reference to report of last session on the political state of the provinces.

IN the report on the political state of the provinces of Upper and Lower Canada adopted by your honourable House during the last session of the provincial legislature, the following statement is recorded:—

Extract from report of last session.

"The next suggestion to which your committee beg to draw the attention of your honourable House, is the necessity (now too painfully obvious) of keeping up a respectable military force within both provinces.

A respectable military force necessary.

"It must be sufficiently apparent, your committee believe, that this desire for military protection does not proceed from any apprehension of internal revolt in Upper Canada, at least.

A military force not needed from apprehension of revolt in U. C.

"Recent events have proved how small the number is that aim at rebellion, and how ready and how well able the great body of the inhabitants of this province are to suppress any attempt at insurrection: but the civilized nations of Europe will learn with astonishment, that it ceases to be a question, whether the 'Great Republic' of the United States of America, boasting of the superiority of its institutions over those of every other country, has the power of controlling its citizens within the limits essential to the maintenance of peace, and the honourable performance of treaties, solemnly entered into by it with foreign powers.

Very few aim at rebellion.

The great body of the people were able to put down any attempt at insurrection.

Whether the great republic of the United States is capable of controlling its own citizens no longer problematical.

"The occupation and conquest of Texas in the south,—and the assembling of an armed force on its eastern frontier, openly recruited in its principal cities and towns, commanded by its citizens, and by them also supplied with arms, ammunition, clothing, money and provisions, and transported in the presence of and unrestrained (if not encouraged) by its magistrates and public officers, in steam-boats and other vessels into this province, and landed in it for the avowed purpose of overthrowing the government and wresting the colony from the Crown of Great Britain, sufficiently prove that, if the countries bordering on the United States desire to protect themselves from the inroads of freebooters, pirates, fugitive traitors and outlaws, they must look for security to their own fleets and armies, and not to the honourable forbearance of the American people, or the efficiency or moral influence of their government."

The fact of lawless invasion of other countries by freebooters, &c. from the United States, prove that their neighbours are not to expect security from their forbearance or the moral influence of their government, but from their own fleets and armies.

Your committee are well assured that nothing could afford your honourable House greater satisfaction than to feel justified in recalling the imputation which this declaration conveys upon the integrity of a people with whom it is the inclination as well as the interest of all Her Majesty's subjects, and especially those residing in this province, to keep up the most friendly intercourse. The detail of facts, however, which it will be the duty of your committee to lay before your honourable House and the British nation, will too painfully and undeniably prove that the apprehensions entertained of want of faith and of outrage and aggression on the part of the people of the United States upon Her Majesty's subjects in Upper Canada, was far from being exaggerated in the report referred to; nor was it less truly stated by the illustrious Duke of Wellington, whose patriotic and powerful advocacy of the interests of his grateful fellow-subjects in these provinces can never be forgotten by them—that these outrages and aggressions were committed for no other reason than that the people of Upper Canada were loyal to their Sovereign.

Committee would greatly desire to recall the above imputation.

But a detail of facts will prove it far from being exaggerated.

The truth is stated by the Duke of Wellington, that we suffer those outrages because we are loyal to our Sovereign.

The Report from which the above extract is taken bears date the 8th February 1838, previously to which two distinct invasions of the province had occurred by numerous bodies of American citizens: the first, the occupation of Navy Island; the second, that of Bois Blanc, followed by the attack on Amherstburg.

Two invasions had occurred previously to the date of the above report; one at Navy Island, and one at Bois Blanc.

Each of these inroads was repulsed by the steady loyalty and intrepid bravery of the militia. Not the slightest disposition was manifested on the part of any portion of the people of this country to unite with the invading force, and it was hoped that the ill success which had attended them would induce those with whom they had originated to lay aside all further attempts to disturb the peace of the province—but this hope unhappily proved utterly fallacious; and it will now be the painful duty of your committee to detail a succession of invasions, piracies, murders and outrages committed by the citizens of the United States upon the peaceful and unoffending inhabitants of this province, such as are without parallel in the history of civilized nations, and, in these days, would be looked upon as disgraceful amongst the most barbarous of mankind.

These inroads repulsed by the loyalty and bravery of the militia. None of the people of the country united with the invaders.

The hope that their ill success would have prevented further invasions proved fallacious.

On

On the 22d of February 1838, upwards of 400 American brigands assembled at a place called French Creek, in the state of New York, situate on the River Saint Lawrence, about 25 miles below Kingston, from whence they marched in military array, and took possession of Hickory Island, a few miles nearer Kingston within the British territory. This band of invaders was headed by an American citizen of the name of Van Rensellaer, who had previously held command on Navy Island, and were armed and openly organized and recruited in the state of New York. As soon as this unexpected movement was known, a few hundreds of the militia in the Midland District and District of Johnston assembled, and instantly marched against the brigands, who, however, did not wait the threatened encounter, but fled and dispersed on receiving information of the approach of these brave and loyal men.

400 brigands from French Creek in state of New York took possession of Hickory Island, in the British territory.
Headed by Van Rensellaer.
Fled at the approach of the militia.

About the same period from 300 to 400 pirates from the state of Michigan, established themselves on Fighting Island, near Sandwich, in the Western District, from which position they were driven by a small military force under Colonel Townsend, of the 24th regiment, sustained by the prompt and intrepid bravery of the militia. This body of invaders, in their hasty flight, left behind them a field-piece, and a large number of muskets, perfectly new, which bore the mark of the United States army, and were known to be the property of the government of that republic.

300 to 400 men took possession of Fighting Island; dispersed by Colonel Townsend of the 24th regiment.
Brigands left a field-piece and a large number of new muskets behind them.

The next invasion of our territory was the occupation of the inhabited island called Pointe-au-Pelé, below Amherstburg, by a force estimated from 400 to 500 men, headed by a brigand named Bradley, residing at Sandusky, in the state of Ohio, and who is represented as a man of wealth and influence. The circumstances attending this inroad were of a more serious and lamentable character than any that had previously occurred. The brigands, upon taking possession of the island, commenced by making prisoners of the settlers, robbing them of their horses, cattle, corn and other property, and sending it away to the opposite American shore. Upon the approach of a small force, composed of a detachment of the regular troops and militia, they, conceiving themselves sufficiently strong to resist the attack with which they were threatened, commenced a fire upon our men, and in the course of the conflict that ensued no less than 30 out of about 90 of the brave soldiers of the 32d regiment, under the gallant Captains Brown and Eveleigh, were killed and wounded, and one militia-man, a spirited young man of the name of Parish, was also slain. Having effected these murders and outrages, such of the ruffians as escaped injury (it was reported that upwards of 70 of them had been killed or wounded) fled to their own shores, where they were received with acclamation by their fellow-citizens. Colonel Prince, who, on hearing of the invasion of the Island of Pointe-au-Pelé, had immediately joined the military force which had marched to that place on his return to Sandwich, captured a noted brigand of the name of Sutherland, who had been second in command at Navy Island, and who had subsequently directed the attack on Bois Blanc Island and Amherstburg, and who at the time he was taken was on his way to join his brother pirates, of whose defeat and flight he had not been informed.

400 to 500 brigands land on Pointe-au-Pelé Island, headed by Bradley; imprisoned and robbed the settlers; opposed by a small detachment of regulars; the brigands killed and wounded 30 regulars, and killed one militia-man.

Brigands fled, having upwards of 70 killed or wounded.
Colonel Prince captures the noted brigand Sutherland.

This was the last of the succession of invasions of the province that occurred during that period of the year when the country was accessible by ice and winter roads; and as all of them had been signally defeated, and as the inhabitants of the province were living in peace among themselves, and had not shown the slightest disposition to unite with any of the parties that had assailed our shores (if exception be made of some suspicious movements on the part of a very small number of individuals in the Midland District, against whom, however, no legal evidence of guilt was established), it was believed that the public tranquillity was no longer in danger; and, in the confidence of perfect security, our merchants, farmers and mechanics returned to their ordinary occupations; and the people of the country generally resumed their usual intercourse and communication with each other, and with their republican neighbours. It was well known that there were still lurking along the American frontier a number of the traitors who had fled the province to avoid the punishment to which they were justly liable for their crimes; and it was also well known that some few of the most restless and malignant among them would continue their exertions to produce collision between the inhabitants of the two countries. Yet it was believed that the interest, if not the inclination of the people of the neighbouring states, would induce them to interpose their influence, and such authority as their laws could enforce, to preserve a safe and peaceful communication with Her Majesty's subjects, who are most anxious on their part to live in harmony with them.

The prompt suppression of these invasions procured temporary peace to the province.

Confidence restored; business in general resumed, and the trade with the United States.

Traitors still lurking along the American frontier.

It was believed that our neighbours would be inclined to maintain peace and suppress any attempt of aggression.

Unhappily, however, we were soon convinced that our hopes of peace and security were altogether groundless; that we were about to experience injuries far more serious than any we had hitherto suffered; that, in fact, we were not only to be subject to the predatory attacks of detached and independent bands of assassins and pirates, but that a great and influential community were combining secretly, but deliberately, to overthrow our government and our laws, to lay desolate our country, and to murder and destroy all who should venture to oppose their barbarous and wicked designs. It was some time before this unparalleled conspiracy was discovered, and in the meanwhile a series of outrages were committed by small parties of American citizens, to which it is necessary briefly to advert.

Our hopes proved groundless.
Secret combinations to overthrow this government, and murder and destroy all who opposed.
Some time before the conspiracy was discovered.
Outrages committed.

The first was the destruction of the "Sir Robert Peel" steam-boat. This vessel, quite new, and valued at 10,000 *l.*, when on her way from Prescott to the ports at the head of Lake Ontario, stopped on the 30th May at an island in the River St. Lawrence, called Wells' Island, and within the limits of the state of New York, for the purpose of taking in wood. While lying moored to the shore, in full confidence of security in the port of a friendly power, and in the middle of the night, when all the passengers (among whom were a number

Destruction of "Sir Robert Peel" steam-boat in American waters.

The steam-boat attacked in the middle of the night.

A number of ladies on board.
The ruffians armed and disguised.
The passengers treated with brutal violence, and robbed of very valuable property.
The boat consumed by fire.

of ladies) had retired to rest, she was boarded by a band of about 30 pirates, headed by a well-known freebooter. These ruffians, armed and disguised, rushed into the cabins, hurried the passengers from their beds, and with brutal violence drove them on shore. The crew, not expecting the attack, and wholly unprepared for it, were unable to make resistance; the entire possession of the vessel was therefore easily gained by the assailants, who, after pillaging her of every thing valuable, including the money, watches, clothing, and other property of the passengers, towed her into the stream, where they set fire to her, and watched her until she was entirely consumed, and then returned to the American shore.

A great sensation throughout the British colonies.
It was supposed that corresponding feelings would be manifested on the opposite shores.
A slight expression of disapprobation exhibited itself.
A proclamation issued by the government of the state of New York.
One or two leaders arrested, but acquitted by the jury.
No event shocked the people of this province like this.
Thousands who trusted in the good faith of the people and government of the United States lost all confidence.
Since the above wanton attack it has been unsafe to enter their harbours or have intercourse with them.
No indemnity offered for this great injury, nor for the insult to the British flag; but a demand must be made.

As might reasonably be expected, an outrage so unusual in any country, and wholly without a parallel in this, produced a powerful sensation throughout the British colonies, and it was believed that corresponding feelings of indignation would have been manifested on the opposite shores, and that every effort would be made to bring the perpetrators of this cowardly and atrocious felony to punishment. But although some expression of dissatisfaction did exhibit itself, it was slight in comparison with what was looked for, and what the enormity of the crime led every one to expect. A proclamation was issued by the government of the state of New York, offering a paltry sum for the apprehension of certain of the pirates, but although the majority of them, including the leaders, were well known, only one or two of them were arrested; who, being placed on their trial, notwithstanding the plainest evidence of their guilt, were, almost without hesitation, acquitted by the jury empannelled to try them. Up to this period, no event had occurred, connected with our border difficulties, that so shocked the feelings of the people of this province as this last. It caused thousands who had previously indulged the belief, that the government and people of the United States were averse to the unprovoked and lawless aggressions which had been previously made upon us, to doubt the correctness of their opinions. They began to consider it unsafe to enter their harbours; and from that period to the present, it has been with reluctance that any well-affected subject of Her Majesty in this province has approached the shores of the United States, or engaged in intercourse of any kind with the citizens of that republic. The feeling of cordial good-will that once existed between the people of the two countries was greatly weakened, and subsequent events have almost entirely destroyed it. No proffer of indemnity has yet been made by the nation responsible for this great injury to our fellow-subjects, and insult to the British flag; nor does it appear to be considered necessary by the American government, for the maintenance of its national honour, to do this plain act of justice without waiting a demand, which, we cannot doubt, is certain to be made and enforced.

Short Hills affair.
150 brigands attack a small detachment of provincial dragoons.
After defending themselves with great courage were subdued, not by the arms of the pirates, but by fire.
Dragoons robbed and stripped.
Farmers plundered.
Brigands attempt to retreat; 27 captured.
Reasons assigned for this invasion.
The loyalty of the people of the province tried and established.

The next instance of foreign agression was the affair of Short Hills, where a bandit of the name of Morreau headed a party of brigands, supposed to number about 150, who made a sudden and unexpected attack in the night time on a small detachment of provincial dragoons, stationed in a wooden building in the township of Pelham, who, although assailed by more than ten times their number, defended themselves with the greatest courage and fortitude, and were at last subdued, not by the arms of the pirates, but by the building which they occupied being set on fire. The moment the ruffians got these gallant men into their hands they robbed them of their property and stripped them of their clothing, and having plundered the dwellings of some of the farmers and yeomanry in the neighbourhood, they attempted a retreat, but being pursued, 27 of them, including their leader, were captured. There is reason to believe that this invasion was undertaken and directed against the district of Niagara, under the expectation that so soon as a footing was gained by the brigands in that district, they would be joined by large numbers of disaffected people from different parts of the province. In this, however, they were wholly disappointed; and as the loyalty of the great mass of Her Majesty's subjects had been so clearly and undeniably established by the constant and entire rejection of every attempt that had been made to seduce them from their allegiance; and as, after the result of this last attack was known in the neighbouring states, there appeared to be a sudden and complete cessation of all further attempts at invasion, the Commander of the Forces considered it no longer necessary to keep up the militia which had been embodied for a limited time of service, and they were accordingly disbanded, and the defence of the country was left to the troops of the line.

The result of this last attempt produced a cessation of further aggression.

The greater part of the militia disbanded.

The above policy questioned.

The policy adopted in thus lessening the defensive force of the province was much questioned at the time it occurred, and the apprehensions which many entertained that all danger of foreign invasion was not past were considerably increased by intelligence which was soon after received, that an attack had been made on the remote settlements at Sarnia and Bear Creek. In the month of July a party, supposed to consist of about 50 brigands, crossed over from a place called Palmer, in the United States, to the British settlements on the St. Clair river, where they robbed and imprisoned several of the settlers, and then returned. About the same time a loyal subject of the name of Carey, who was also an officer of militia, was shot in the night by a set of murderers, who it was well known were from the opposite shore, although they were never clearly identified.

Attack on Sarnia.
50 brigands crossed over from Palmer, in Michigan, robbed and imprisoned several settlers.
Mr. Carey, a militia officer, shot.

An attempt to destroy the house of the sheriff of the Niagara district.
Assassination of Captain Ussher in the dead of the night.
The above outrages committed by American citizens living near Buffalo,
who openly boast of the bloody deed.

But the most fearful and appalling proof of the existence of a conspiracy among a band of desperate assassins, living in the neighbouring states, against the lives and property of particular individuals among Her Majesty's subjects, was given in the attempt to destroy the dwelling-house of the late Sheriff Hamilton, at Queenston, and the treacherous and cowardly assassination, in the dead of the night, of the gallant Captain Ussher. Both these outrages occurred within a few days of each other, in the month of November last, and were committed by American citizens, living in the neighbourhood of Buffalo, where they are well known, and where it is affirmed (your committee believe with perfect truth) that the murderers of Captain Ussher have openly boasted of their having perpetrated the bloody deed,

deed, and that it was committed in retaliation of that lamented gentleman's having been untruly reported to have assisted in the destruction of the Caroline.

In corroboration of the too melancholy evidence which these events afford, that the loyal subjects and servants of Her Majesty are living in the neighbourhood of enemies, whose actions are neither controlled nor directed by the common feelings of humanity or religion, and who are as ready to engage in secret assassination as in open war and invasion, and who give encouragement to both, without fear or apprehension that the laws of their own country will reach or punish them, or that their magistrates and public officers have either the power or inclination to interfere with or restrain them, your committee feel it right to notice two instances which, they believe, cannot fail to strike every humane mind with the deepest feelings of surprise and concern:

Her Majesty's subjects live in the neighbourhood of a people uncontrolled by the common feelings of humanity or religion.

Instances of the above woful testimony.

A newspaper was some time since established in the city of Buffalo, in the state of New York, which has constantly advocated the invasion of these provinces by foreign brigands, and urged upon the inhabitants of the union to sustain and support them. In one of the numbers of that paper, published a few weeks since, alluding to his Excellency the Lieutenant-governor, and the officers of Her Majesty's Government, whose painful duty it was to aid in enforcing the laws of the province against domestic traitors and foreign invaders, the following paragraph appeared:—

A newspaper published at Buffalo which advocates these invasions.

> "It is our deliberate conviction that it is every good man's duty to do all in his power to sweep this murderous tyranny from the Western World. To accomplish it almost any measures are justifiable.
>
> "We have no patience with those bloody wretches, and much as we abhor assassination, we would almost justify it in freeing the world from such monsters.
>
> "Where are those Canadians who swore to avenge the death of every patriot prisoner? Macnab, and Drew, and Arthur, and Prince, and Hagerman, and Robinson, are still alive."

Extract from the Buffalo paper.

At a later period, placards were posted up throughout the city of Detroit, offering a reward of 800 dollars for the dead body of the gallant and greatly calumniated Colonel Prince; and 1,000 dollars if brought to the city alive; and, not long afterwards, a person who was strongly suspected of having come over to Sandwich, near which place Colonel Prince resides, for the purpose of murdering him, after being arrested on suspicion, was bailed by the collector of customs at the port of Detroit.

Placards in Detroit offering 800 dollars for the dead body of Colonel Prince, and 1,000 dollars if taken alive.

A person arrested on suspicion of having a design on Col. Prince.

Bailed by collector at Detroit.

These publications and direct incitements to the commission of the most horrible of crimes passed unnoticed by the magistracy of the great communities in which they were promulgated; and the parties who avowed their authorship do not appear to have been considered guilty of any offence.

These publications and incitements to crime unnoticed by the people in the United States.

Your committee would feel no small degree of gratification could they here conclude their observations on the outrages to which their enduring and deeply-injured fellow-subjects have been exposed, from the faithless and barbarous conduct of the citizens and people of the United States. They would rejoice to have it in their power to ascribe the unprovoked attacks, which they have narrated in the preceding pages of their Report, to the wreckless and wanton conduct of a few unprincipled men—who, guided by their own bad passions, had assailed the peace of the province without encouragement or countenance from that portion of the population of the Republic who claim to be respectable, and enemies of crime.

Well assured that your honourable House would promptly discountenance and disallow the promulgation of any expression that would unjustly assail the integrity of a neighbouring nation and people, who have, until the last few months, been regarded as friends as well as allies, your committee will cautiously abstain from advancing a sentiment that can be regarded as unjust towards the American people. But, while they admit that that portion of them who reside at a remote distance from the bonndary which divides Canada from the United States have taken no open part in, but, on the contrary, may have condemned the crimes committed by their fellow-citizens, to which reference has been made in this Report, your committee are nevertheless bound in truth and justice to declare, that the brigands and pirates who invaded this province murdered our fellow-subjects, and destroyed their property at Prescott, Windsor and elsewhere, were encouraged, aided and supported by all classes of citizens of the Republic residing in the contiguous states. The evidence of this fact is too strikingly obvious and conclusive to admit of any doubt.

The American people who live remote from the frontier may condemn these acts of piracy, &c.;

but they are evidently encouraged by all classes in the contiguous states.

Your committee feel it unnecessary to dwell at any length on the occurrences which immediately preceded the invasions that were so signally and gallantly defeated at the two places just mentioned; but it is necessary to advert to them, as well to preserve the narrative entire, as to place before the people of England and of all other countries a connected detail of the injuries to which we have been subject, and for which we are entitled to redress.

Events that preceded the last invasions.

Rumours had for some time been circulated through the province that a secret and extensive combination was forming in the frontier states of the Union, with a view to the invasion of both the provinces of Canada by a force so numerous, well armed and organized, as to ensure the overthrow of the government, the conquest of the country, and its separation from the British Crown. These reports were for a time disregarded; but, towards the close of the month of October, evidence was laid before the Lieutenant-governor, and information was simultaneously transmitted to Her Majesty's Minister at Washington of a nature that left no doubt on the mind of any reasonable man that our lives and liberties were threatened with much greater danger than had hitherto assailed them.

Rumours of secret and extensive combinations in the frontier states for an invasion of both the Canadas.

These reports at first disregarded; but subsequently fully confirmed

This conspiracy included many wealthy citizens and officers of the general and state governments;
possessed of great resources in money and military stores.
It extended from Maine to Michigan, and was conducted by associations resembling masonic lodges.
Lowest estimate of confederates 40,000.
National bank established on intended seizure of public and private property in the province.
Officers of "New Republic" citizens of United States.

It was clearly ascertained that a secret combination or conspiracy, of vast extent, including many of the most wealthy citizens of the Republic, as well as officers of the general and state governments, and possessed of great resources in money and military stores, was then in active progress, and had been for some months on foot within the jurisdiction of the United States, for the purpose of waging war upon both provinces of Canada. This combination extended from Maine to Michigan, and was carried on by means of local associations resembling masonic lodges, formed in every town and village along the frontier. The lowest estimate of the numbers of the confederates was 40,000; and the depositions of some of the informants, who had been admitted into the secret of the conspirators, carried the number very much higher. A pretended national bank was organized, to be established and maintained by the seizure of public and private property in the provinces; and the chief officers who were to compose the "New Republic" were chosen and determined upon, all of them being citizens of the United States.

Superior lodges at Rochester, Buffalo, Cleveland, Detroit and Cincinnati.
Nine steam-boats on Lake Erie in use of pirates.

The superior lodges of the conspirators were established at Rochester, Buffalo, Cleveland, Detroit and Cincinnati; arms and warlike stores were purchased to a very large amount, and secreted in different places; and the services of at least nine steam-boats on Lake Erie, as well as of several on Lake Ontario, were secured by the leaders in this felonious association.

His Excellency assumed the responsibility of immediately embodying the militia.

This promptness of the Lieutenant-governor, under Providence, saved the province from much bloodshed and misery.

With a promptness and resolution for which the loyal people of this province will ever feel grateful, his Excellency the Lieutenant-governor lost not a moment in assuming the responsibility of calling upon and embodying a militia force, sufficient to repel any invasion, no matter in what numbers, that might be attempted by the enemy. And to this noble and patriotic conduct, promptly sanctioned as it was by the Commander of the Forces, the loyal people of this province at least, and probably those of Lower Canada also, are, under Providence, indebted for their preservation from scenes of bloodshed and misery which humanity shudders to contemplate.

Mr. Fox instantly called upon the United States government to vindicate its honour;

which conduct of Mr. Fox places Her Majesty's subjects under the deepest obligations;

though his admonitions have been disregarded.

Communications were at the same time transmitted to Mr. Fox, Her Majesty's Minister at Washington, informing him of the dangers with which the provinces were threatened. This distinguished gentleman instantly called upon the American government to vindicate its national honour, and effectually to interpose the authority of its laws to put down the atrocious combination, and punish the guilty conspirators, whose names and places of residence they were fully apprized of. Your committee are merely giving expression to the feeling universally entertained by Her Majesty's subjects, that Mr. Fox has placed these provinces under the deepest obligations for the vigour, straightforward manliness and statesman-like ability, with which, on the occasion referred to, as well as in many preceding instances, he has vindicated their claims to the interference of the United States government to protect them from outrage on the part of its citizens. That his admonitions have been disregarded, and that his exertions have proved unsuccessful, in no respect diminishes his claim to our gratitude and thanks.

Discovery of the conspirators greatly disconcerted them.

The timely discovery of the designs of the conspirators, and the preparations made in consequence for their reception, no doubt greatly disconcerted their schemes; and it was at one time believed that they would altogether abandon them. The reverse, however, proved to be the fact. Acting in concert with that portion of the Lower Canadians who were resolved on making another effort at revolution, an armed force entered Lower Canada early in November, composed of American citizens and a few Canadian refugees. In every instance in which they came in conflict with the Loyalists and British soldiers, they were defeated and dispersed; and the feeble insurrection which occurred about the same time at Beauharnois and a few other places, was promptly suppressed by the vigorous measures adopted by his Excellency Sir John Colborne.

An armed force enters Lower Canada early in November;

but defeated in every conflict with the loyalists and British soldiers.
Insurrections at Beauharnois and other places promptly suppressed by Sir J. Colborne.

Conspirators determine on an attack on this province.
"United States" steam-boat and two schooners employed by the pirates on Lake Ontario.
600 men, with artillery, muskets, &c. embarked at Oswego and other American ports, in open day, in sight of their public officers.

Unsubdued, and apparently still confident in their strength and resources, the conspirators determined on an attack upon this province; and having obtained the assistance of the largest American steam-boat on Lake Ontario, called the "United States," and two large schooners, they embarked at Oswego and other ports and places along the American frontier, to the number, as it is asserted, of about 600, well provided with artillery, muskets, ammunition and provisions, all which must have been obtained at great expense, and which were put on board the different vessels publicly, and in open day, without interruption by any magistrate or other public officer.

Descent upon Prescott on 12th November.
Not more than half the invaders landed, the rest returned to Ogdensburg.
The arrival of a force from Kingston, commanded by Col. Dundas.
The American troops, and a naval force under Capt. Sandom, prevented the return of the pirates.
The pirates made a stand, resisted the militia and regulars, and killed and wounded a number of them;
but had to surrender: 200 of them taken prisoners to Kingston.
This descent on Prescott, in concert with the movement of brigands in Lower Canada and in the west.

With this force, headed by an American citizen of the name of Birge, and the same bandit who had led the pirates that destroyed the "Sir Robert Peel," a descent was made on the Canadian shores near Prescott on the 12th of November. It appears that from some cause not clearly explained, not more than half the number of invaders who had been collected for this expedition landed at Prescott, the rest crossed over to Ogdensburg, a considerable town immediately opposite; and before any second attempt was made by them to reach our shores, a force arrived from Kingston, commanded by Colonel Dundas of the 83d Regiment, and a detachment of American troops under Colonel Worth, from Sackett's Harbour, came down, which, with the small naval force under Captain Sandom, prevented their joining their ill-fated associates. These latter, finding no hope of escape, resisted the gallant militia, soldiers, sailors and marines who had hurried to attack them; and having gained an advantageous post, killed and wounded a considerable number of them. At last, however, the piratical invaders surrendered at discretion, and such as remained alive, nearly 200 in number, were brought to Kingston and lodged in the Fort there.

There is no doubt that this descent upon Prescott was intended to be in concert, not only with the movements of the conspirators and brigands in Lower Canada, but also with those which had been planned in the west. In this there was some disappointment; but regard-

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less of the lessons which had been so continuously and in every instance taught these desperate and unprincipled men, the invasion of the western district was resolved upon by them, and an armed body amounting to about four hundred embarked in a steam-boat called the "Champlain," in which they crossed to the village of Windsor, where they established themselves for a few hours, but upon being attacked by a small portion of the gallant militia and volunteers stationed at Sandwich, they were defeated and dispersed, leaving many killed, besides numbers who were afterwards taken prisoners. There is reason to suppose that a much larger force was prepared to cross from Detroit, and would have come over but for the intervention of General Brady, the officer in command of the United States troops at that place.

Invasion of western district resolved on.

400 crossed over to Windsor in the western district, but defeated by a small portion of militia.

Supposed that General Brady, United States army prevented more crossing from Detroit.

In closing their observations on the different invasions of this province, and the outrages committed upon its inhabitants, since the commencement of the last year, your committee feel it due to the honour and character of their fellow-subjects in this province to record the fact, that in no instance that can be traced did a single resident of Upper Canada, of any class or origin, unite himself with the assailants after they had landed in the province, and that, of those who crossed from the United States, the great majority was composed of citizens of that republic—very few indeed, even of the refugees being associated with them; and if there be any hope of these guilty men being brought to a sense of the crimes which have led them to their own misery, and the great injury they have been instrumental in bringing upon their country, it must be a source of some consolation to them to know, that by resisting the solicitations which no doubt were pressed upon them to join in this wicked and savage warfare, they escaped the horror of witnessing barbarities of the most disgusting and heart-rending description. Not only were the brave defenders of the province shot down and deliberately murdered by their fiendish assailants, but their dead bodies were mangled and mutilated and hung up as objects of scorn and derision to these inhuman monsters. The body of an intrepid and promising young officer, (Lieutenant Johnson,) of the 83d regiment, was thus treated at Prescott, and the lifeless remains of Doctor Hume, were exposed to similar indignities in the west, where also a noble-minded negro, who probably had escaped from a land of slavery to one where he hoped long to enjoy British freedom, was cut down and slaughtered, because he refused to join the band of murderers who called upon him to assist in the destruction of his benefactors.

No instance in which any resident of Upper Canada joined the brigands after their several landings.

Horrid cruelties practised by the brigands upon the brave defenders of the province.

Lieutenant Johnston, 83d regiment, at Prescott.

Doctor Hume and a coloured man at the west.

And these deeds of wickedness and deepest crime were perpetrated by men claiming to be citizens of the most enlightened nation in the world, and who professed to enter the province for the purpose of conferring freedom and equal laws,—general happiness and prosperity upon its inhabitants!

These deeds of wickedness perpetrated by men claiming to be citizens of the most free and enlightened nation in the world.

Your committee have, in the course of the foregoing remarks, alluded to the participation, on the part of the citizens of the United States generally, in the conspiracy which resulted in the hostile expeditions against these provinces, and the inefficiency of the measures taken by the American general and state governments to prevent them. But they feel it necessary to point out, in a more particular manner, the evidence on which these statements rest, and to direct attention to the small reliance that is to be placed in any efforts of the public authorities of the United States to protect us from future attacks: and thus prove the necessity for calling upon Her Majesty to continue to her faithful and loyal subjects that protection to which they feel themselves to have so just a claim, and which Her Majesty has hitherto so generously extended to them.

The part taken by the citizens of the United States generally in these conspiracies and invasions.

Your committee are aware, that at one period great pains were taken by the press and particular parties in the states, to convince the world that the barbarous outrages, and criminal and disgraceful combinations which they have detailed, were confined to the lowest classes of the population—to the illiterate and notoriously profligate portions of the community.

Great pains have been taken to convince the world that only the lowest classes were engaged in these barbarous outrages.

In the absence of more direct proof of the little credit that should be attached to these statements, it would be difficult to persuade any reasonable person of their truth, when the vast extent and systematic orginization of the bands which assailed the province from time to time are adverted to. It is not credible that, from 500 to 1,000 men, composed of mere rabble, and destitute of any visible means of their own for their maintenance, could for nearly a month be clothed, fed, armed and kept together on a desert spot of ground, such as Navy Island, upon which there was no shelter from the inclemency of a Canadian winter, unless they received support and encouragement from the opulent;—and it is equally unreasonable to suppose, that such an assemblage could be collected for the avowed purpose of overturning by force of arms the government of a neighbouring country, with which their own nation was at peace, without the persuasion of men capable of exercising a powerful influence over public opinion. The worst of men are never found congregated in such numbers and for such a purpose, unless brought together by an influence exercised by men of wealth and intelligence. But it is not upon reasoning of this kind that the fact of countenance and support having been given by the American people to the brigands solely rests. It is now an admitted and notorious truth, that, in every one of the numerous instances of invasion of these provinces by the brigands, the arms of the United States were used by them, and found in their possession; while the steam-boats and schooners belonging to their most wealthy merchants were publicly employed in conveying hundreds of men and quantities of military stores and provisions from their chief cities and towns along the frontier to the places of attack. It is equally certain, that during the last summer and autumn, the preparations which were making to invade the provinces and murder its loyal inhabitants were known and encouraged by officers of the general and state governments, by justices of the peace and by citizens of all classes and denominations. Public meetings

Proofs to the contrary of such a notion.

The systematic arrangement of the brigands.

500 to 1,000 men clothed, fed, and armed on Navy Island, where there was no house, in the depth of winter,—

and kept together for the avowed purpose of overthrowing the government of a neighbouring country, at peace with their own.

Arms of the United States used by the brigands.

Steam-boats and schooners used belonging to their most wealthy citizens, and publicly employed.

Preparations for the invasions known by officers of general and state governments, magistrates, &c.

Public meetings attended by above persons, who harrangued the people, inciting them to action, and subscribing money.

were called in many places, and attended by persons of the description mentioned, who haranged the populace, calling upon them to aid in overthrowing British authority in the colonies, and subscribing money to accomplish that object. Not long before the attack on Prescott, a meeting of this description occurred in the city of New York, at which two of the principal officers of the customs, persons who held their appointments from the president and government of the United States, took an open and active part, one of them acting as vice-president, the other as secretary of the meeting, yet no notice appears to have been taken by their superiors, of conduct which, in England at least, would have led to their immediate dismissal and punishment.

A meeting as above described, held at New York, attended by two principal officers of customs, one was vice-president, and the other secretary of the meeting. No notice taken of the above.

A public meeting at Oswego, after Prescott affair, dissuading from further attempts at invasion.

After the termination of the affair at Prescott, so disastrous to the hopes of those who planned it, a public meeting was called at Oswego, (from whence a large portion of the brigands took their departure, publicly embarking, as has been already stated, in the largest steam-boat belonging to the Americans on Lake Ontario,) for the avowed purpose of recommending the public to abstain from further participation in Canadian warfare. At that meeting, a Mr. David Brewster, first judge of the county court, a court of extensive local jurisdiction, openly declared, that he had been engaged in "the patriot cause," but that he had become convinced of his error, and therefore had determined to abandon it, and advised his "fellow-patriots" to do the same; one of these was stated to be a Mr. Seth Hawley, postmaster and member of Assembly elect, who, however, did not think proper to avow his recantation, although he had declared his intention to do so, and he still, it is to be supposed, remains "a patriot."

Mr. David Brewster, first judge of the county court, acknowledged having been engaged in the patriot cause.

Mr. S. Hawley, likewise, the postmaster.

A paper promulgated in Jefferson county, containing an appeal to the "patriots of the county," to desist from further aggression.

About the same period, a paper was promulgated in the county of Jefferson, in the state of New York, containing an earnest and well-written appeal to the "patriots of the county," to desist from further hostile aggressions upon the Canadas, and pointing out the destruction and misery which had befallen those who had been concerned in the attack on Prescott, and other places. This paper, evidently written for a good purpose, and by persons well-informed of the combinations which had been entered into, contains the following statements and admissions:—

Extract from a paper published in Jefferson county.

"It was ascertained that a complete civil and military organization had been effected through the medium of certain secret societies extending along the whole line of territory bordering on the British dominions; that an army had been created; troops enrolled; munitions of war provided; and money raised; and that a blow was about to be struck, for the subjugation of the British Government there (in Canada), by citizens of the United States, with the expected aid of disaffected British subjects in these provinces. It was known that meetings of these societies were frequently held, and numerously attended, receiving constant accessions of strength. Labourers left their employ; apprentices their masters; mechanics abandoned their shops; merchants their counters; magistrates their official duties; husdands their families; children their parents; Christians their churches; ministers of the gospel their charge, to attend these meetings." "To which the public officer, the magistrate, the conservator of the peace, was only admitted by breaking the official oath he had previously taken to support the constitution and laws of his country."

Committee close this part of their report with statement of Jeremiah Winnegar, one of the Prescott prisoners, at his trial.

To these avowals, might be added hundreds of others of similar import; but your committee deem it unnecessary to notice them, and they will close this part of their report by giving the statement made by Jeremiah Winnegar, one of the prisoners taken at Prescott, which was read upon his trial before the court-martial at Kingston; and the evidence of a Mr. Brown, a judge of the Court of Common Pleas in the state of New York, and a brother of the late General Brown, commander-in-chief of the United States army. The former was condemned to be executed, but was afterwards reprieved and pardoned by his Excellency the Lieutenant-governor, and is now at liberty in his own country. This old man's story is well known to be true, and although told with more ingenuousness and appearance of candour than marked the account given of themselves by the other prisoners, does not materially vary from most of theirs.

Statement, &c.

"Jeremiah Winnegar is a native of the state of New York, labourer; resided at Dexter, and became a 'hunter' in October last; was sworn in by Sterling. His son was engaged to come with the expedition to Canada; prisoner volunteered to come in his stead, his son being lame; came to Millen's Bay on Saturday the 10th November last; embarked the following day in one of the schooners lying in the bay, in Captain Kemble's company; the schooner ran aground on Monday morning, the 12th November, and prisoner was taken off by the 'Paul Pry' and put on board the other schooner, and landed at Wind-mill Point, below Prescott. On Tuesday morning, prisoner was called out of a house where he stayed for the night, and went into a field to fight; discharged his musket twice and retreated to a house, where he remained until Friday evening the 16th November 1838, when he was taken prisoner; did not expect to fight when he left home; came for the sole purpose of giving liberty to the people of Canada; thought when he was coming that he was doing God service; is of the persuasion; has a wife and 11 children; heard ministers of the gospel encouraging the people to support the patriot hunters; is in his 59th year."

From Winnegar's address to the court at his trial.

To this account of himself, he added the following in his address to the court at the time of his trial:—

"I have nothing more to say than is contained in my statement. I can establish by witnesses who have known me upwards of 30 years, what my general character is, but have nothing to prove connected with this affair; I presume many of the court have families; I have a family as near and dear to me as them; I have left a wife, seven sons and four daughters; I have brought them up by honest industry, and have been blessed with health to maintain them. Though a poor man, I have the same feelings as others, and my family

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are dear to me, and, though old, I am their main support; I have only now to throw myself on the mercy of the court."

George Brown of Brownville, Jefferson county, judge of the Court of Common Pleas, on the trial of George H. Kimball and others, before the court-martial at Kingston, on the 28th December 1838, was called as a witness by George H. Kimball, and stated as follows:— Statement of George Brown of Brownville, on the trial of Geo. H. Kimball.

"There is a brother of the prisoner (George H. Kimball) about 30 years old, formerly a colonel of militia. He returned home after the affair at Prescott; I called to inquire of him the fate of a son of mine who was there. It is generally understood among us that he was a captain; John B. Kimball told me that General Shoultz had appointed him to act as lieutenant-colonel, but that he came away during the action. One Fields, also an officer, came away the day before. John B. Kimball stated that they were rather deranged for want of officers, and that he had acted as adjutant on the morning of Tuesday, and paraded the men."

On cross-examination he said, he thought George H. Kimball was "brought into the expedition by a great many of our citizens associating in secret societies to aid in the Canada cause. Great inducements were held out to young men to join. I believe numbers have been thus deceived and deluded. The secresy of these societies prevented any person from taking measures to counteract what they were doing. I would further add that, being bound by oath, as I understood, to keep every thing secret, no communications could be made of what was going on. It is reported among us that a bank was formed, and the funds were provided as bank stock, in order to evade our laws. It is the general opinion it was done by contributions of people in our country."

John B. Kimball, who made these disclosures to Judge Brown, of his participation in the affair at Prescott, has never been prosecuted.

With respect to the measures adopted by the government of the United States, in reference to the hostilities which have been waged against Her Majesty's subjects by citizens of that country, almost without intermission, since the month of December 1837, it is obvious that the discussion of them does not properly belong to your committee; but they nevertheless think it right to advert to facts, which it is of importance that their fellow-subjects should be made acquainted with, and which may not by any other means be so conveniently placed before them as in the report of your committee. Measures adopted by the United States government not properly a subject for the consideration of the committee; still it is thought proper to advert to them.

It is not to be disguised that, whatever confidence the loyal people of these provinces may have entertained in the good faith of the American government and public authorities at the commencement of the warfare which has been carried on against these provinces by the people of the United States, that confidence has been very nearly, if not entirely, destroyed. The confidence that may have been placed in the good faith of the United States government is well nigh destroyed.

Notwithstanding the repeated invasions that have taken place, the murders that have been committed, the acts of piracy and arson that have been perpetrated by thousands of persons who are well known, and who are now living unmolested in the adjoining states, openly boasting of their infractions of the laws of the Union as well as of this country, not one of them has been subjected, so far as your committee are aware, to any legal punishment. Neither does it seem in any degree probable that any of them will be molested. In like manner the conspiracy so extensively organized during the last summer and autumn, for the overthrow of the government of the country, although undoubtedly known to hundreds of persons holding official situations, was not only not suppressed, but received direct encouragement and support from those whose duty it was to break it up, and to expose and punish all engaged in it. No punishment has been inflicted on any who have taken part in these outrages, though the persons are well known and make boast of their deeds.

The military force placed on the American frontier to prevent the invaders from entering into the provinces was wholly inadequate and incompetent to the performance of that duty, and does not appear to have been even of sufficient strength to guard the arsenals containing the arms of the government, which were in many instances seized and carried off by the brigands, to be used against the people of this country. The military force on the American frontier inadequate to stop the invaders, or to guard their own arsenals.

True it is that Mr. Charles Buller, the chief secretary of the Earl of Durham, who left this country some time in the month of November last, has informed the British nation, from his place in the House of Commons, that the government of the United States had done all that a government could do to prevent the assaults made upon us; that they passed a law of neutrality, and had kept that law more strictly than we had done; that they had prosecuted and convicted several gentlemen who had infringed that law; that they had doubled their army to keep this law; that the opinion of the people, from one end of the country to the other, was decidedly with us; and that the Americans dared not hold a sympathizers' meeting in any town in the United States. Your committee has no right or disposition to question the liberty of speech of any Member of the Imperial Parliament; but, on behalf of their loyal fellow-subjects, they protest against that privilege being used to mislead the British nation on points of the utmost possible importance to their peace and future security. Statements of Mr. Buller made in the House of Commons. Opinions of the people with us. Americans dared not hold a sympathizers' meeting.

Mr. Buller's predilections in favour of republican institutions may be very strong, and he may feel a desire to vindicate the conduct of a government which is based on universal suffrage, vote by ballot, and similar popular theories which, in his opinion, are the best in the world, and are, therefore, the objects of his admiration; but, in advocating these anti-British, and anti-monarchical principles, he should be cautious, when assuming to make a statement of facts, to be strictly accurate. No doubt Mr. Buller intended to be so when he made the statements above referred to; and although he resided in this country from June to November, holding daily and hourly intercourse with the most intelligent of the American Mr. Buller's predilections in favour of republicanism.

people, having the most ample opportunity of informing himself correctly, and although on his return to England in the latter month he passed through a considerable portion of the United States, where he might have corrected any error which he had inadvertently fallen into, yet it is to be supposed that he was so much engaged in the important duties imposed on him as Chief Secretary to the Lord High Commissioner, the Earl of Durham, that he had not time to investigate so closely as otherwise he might have done, the conduct of the government of the Republic; and knowing what that government ought to have done, he has too hastily assumed that it had performed its duty. A more careful inquiry, which it must be admitted it is rather singular he omitted to make, would have proved to him that the "Law of Neutrality" to which he refers had not been kept, but had been wholly disregarded; that no "gentleman" or any other man had been prosecuted and convicted for infringing that law; that the American army had not been doubled to keep that law; that, in fact, no addition whatever had been made to it for any such purpose, or any other purpose; that the opinion of the people of the United States, from one end of the country to the other, was not with us, but decidedly the reverse; and that it was wholly incorrect to say that the Americans dared not hold a sympathizer's meeting in any town in the United States, —these meetings being of constant occurrence throughout the principal towns of the adjacent country, and through several of which Mr. Buller passed, although, probably, not at the moment they were assembled.

Mr. Buller's duties would hardly allow him to investigate candidly the conduct of the American government.

A more careful inquiry must have led him to different conclusions.

Facts at complete variance with Mr. Buller's statements. Further confirmation of the above.

Further confirmation of the above.

Lest it should be imagined that this contradiction of the accuracy of Mr. Buller's statements requires confirmation from more disinterested parties, your committee will give an extract from the leading journal of the state of New York, remarking on the speech of the learned gentleman when the report of it first appeared on this side the Atlantic:—

Extract from a New York journal.

"The Duke of Wellington and Sir Robert Peel animadverted severely on the conduct of this government, in relation to the inroads into Canada, but the President was defended by the Ministers, Lord Brougham and Mr. C. Buller, an attaché to the Durham Mission. The latter gentleman, indeed, stated circumstances in favour of our policy, with which ourselves are unacquainted, such as, that this government had doubled the army to prevent the assaults on Canada, and one or two other facts unheard of before."—*Morning Courier and New York Enquirer*, Saturday, 23 March 1839.

Similar remarks might be quoted from many other journals of the Union, but upon a fact so obvious and undeniable, it cannot be necessary to cite them.

Considerations of our right to follow the brigands to their own country.

But your committee are disposed to regard with far greater alarm and apprehension certain principles advanced by the government of the United States, in respect to our right to pursue the brigands who may invade the provinces, and attack them within the limits of those States.

Ground assumed on this subject by the American minister at London.

The ground assumed by the American minister in London, in relation to the destruction of the "Caroline" steam-boat, if admitted, would at once place these provinces in a situation that would wholly disable them from effectually protecting themselves from foreign aggression; Mr. Stevenson assumes that the invasion of Upper Canada by the armed force, under the command of one of his fellow-citizens, Van Rensellaer, at Navy Island, was a case of civil war, existing at the time within the province; that civil wars are not distinguishable from other wars, as to belligerent and neutral rights, and therefore not being able to deny the fact; but admitting it, as he does, to be true, that the steam-boat in question was engaged in the service of the invaders, and had communicated with them from the United States shore three times in the course of one day, he nevertheless asserts that we were not justified in following her to her place of shelter at Schlosser, and destroying her there. As a consequence of such mode of arguing, if Mr. Stevenson be right, it must follow that the government of the United States is of opinion that if all the steam-boats lying at Buffalo, some 50 in number, had been engaged in bringing men, munitions of war, and other aid from that place to the armed body of invaders on Navy Island, there was nothing illegal in such acts, and that our troops would not have been justified in pursuing them into the States, and destroying them wherever they could find them. Your committee have no apprehensions that any such doctrine will be admitted by Her Majesty's Government if the occasion should occur requiring its discussion; and if precedent were necessary to controvert it, there is no country whose history affords more striking examples in point than that of the United States, many of which, if it would serve any useful purpose, might be noticed in this place; one only, however, will suffice.

Occupation of Navy Island considered by Mr. Stevenson a case of civil war.

Consequence of such arguing.

No country affords more striking examples in point than the United States.

Pensecola and Barancas taken possession of by Americans in time of peace.

In May 1818, Pensacola and the Fort of Barancas, in West Florida, belonging to the Spaniards, were taken forcible possession of by the American troops, in a time of peace between the two countries—the former "with only the show of resistance," the latter by capitulation; the garrisons of both being conveyed to the Havana, at the expense of the American government.

Their occupation justified by the American government.

The occupation of these Spanish possessions was justified by the government of the United States, on this occasion, upon the ground, that as almost the whole of the tribe of Seminoles inhabited the country within the limits of Florida, Spain was bound by the treaty of 1795 to restrain them from committing hostilities against the United States; "that as she was unable to fulfil this obligation, her inability to maintain her authority over the territory and Indians within her limits ought not to expose the United States to other and greater injuries," and that, where the authority of Spain ceased to exist, the United States had a right to pursue their enemy, on a principle of self-defence.

Extract of President's message on the Seminole war.

"The right of self-defence," says the President (in one of his messages to Congress, upon the subject of the Seminole war) "never ceases; it is amongst the most sacred, and alike necessary

necessary to nations and to individuals; and, whether the attack be made by Spain herself, or by those who abuse her power, the obligation is not the less strong."

"In pursuing the savages to an imaginary line in the woods, it would have been the height of folly to have suffered that line to protect them. Had that been done, the war could never have ceased. Even if the territory had been exclusively that of Spain, and her power complete over it, we had a right by the law of nations to follow the enemy on it, and to subdue him there."

The Spanish minister at Washington protested most strongly against these alleged violations of the territory of the King of Spain. He denied that any encouragement or protection had been given by the Spanish authorities to the Seminole Indians, between whom and the United States they did not even know that a war had commenced, and he called upon the government forthwith to restore to Spain the places which had been forcibly wrested from her, and the property which had been found in them; to make indemnity for the injuries and losses which had been occasioned by the invasion; and to punish the general and the officers by whom the outrages had been committed.

The Spanish minister protests against the conduct of the United States.

Spanish government demands the punishment of the American General.

The American government, in reply, reiterated the grounds upon which it justified the occupation of the forts. The Spanish minister was, however, informed that Pensacola would be restored to any person duly authorized on the part of Spain to receive possession of it; and that St. Mark's would be surrendered to any Spanish force sufficiently strong to hold it against an attack from the Indians. But the American government declined to inflict punishment or to pass a censure upon General Jackson, whose conduct was "founded on the purest patriotism, and whose vindication was written in every page of the law of nations, as well as in the first law of nature—self-defence." On the contrary, it considered it had a right to claim from Spain (and which the American minister at Madrid was instructed to demand) "the punishment of the Spanish governors who had aided and assisted the Indians in the hostilities against the United States, whom it was their duty to have restrained."

Justification of the act reiterated by the American government.

American government decline to inflict punishment or pass censure on General Jackson.

Eulogium on General Jackson's conduct.

America demands the punishment of the Spanish governors, for aiding the Indians.

But, referring to the facts of the case stated by Mr. Stevenson, it is not true that a civil war existed in Upper Canada at the time of the destruction of the Caroline. There was not a man in arms in the province then, nor has there been one since for any other purpose than to repel invasion from the United States.

No civil war existed in Upper Canada when the "Caroline" was burnt; no man in arms since but to repel invasion from the United States.

The armed force at Navy Island was not an insurrectionary force, but one that had invaded the province from the state of New York; which invasion was an act of open hostility, committed by American citizens, armed and organized in the United States, and marched in the presence of magistrates and public officers of the Union, without resistance or interruption into Upper Canada, for the avowed purpose of making war upon Her Majesty; and the steam-boat, Caroline, was openly and notoriously engaged in the service of, and aiding and assisting this invading force. As in the case of the Spanish government in Florida, the government of the United States either wanted the power or the inclination, it matters not which, to restrain their citizens from making war upon The Queen of England, and attempting the destruction of Her subjects and the overthrow of Her government; and the subjects and military force of Her Majesty had an undoubted right, not only to follow the steam-boat, Caroline, into the territory of the United States and destroy her there, but to enter into that country and destroy the preparations there making for their destruction, if it were seen that the American government either could not or would not do so themselves. That this right has not been acted upon by the people of Upper Canada before now, proves their sincere and anxious desire to preserve peace; but it would be folly to disguise the fact, that the repetition of aggressions, such as they have already experienced, may exhaust that disposition to patient forbearance which has hitherto controlled them.

The armed force at Navy Island was a bonâ fide invasion, planned and armed by American citizens, and known to their magistrates and public officers.

The case of Florida is fully applicable on both sides respecting the Caroline;

and our forces had a full right not only to enter Schlosser and burn the "Caroline," but to enter the states and destroy the preparations making for the invasion under similar circumstances.

That this act has not been acted upon, a proof of our desire for peace.

It would probably be considered that your committee had not fully discharged their duty, while remarking on the case of the Caroline, if they permitted the opportunity to escape of contradicting on authority which they knew to exist, and of the most conclusive kind, the statements made by Mr. Stevenson of the cause and manner of her destruction, and of the wholly unfounded allegations, that a number of persons were on board of her when she was set on fire and precipitated over the Falls of Niagara. Mr. Stevenson says, that the account given of the destruction of this boat, by Mr. Fox and the British authorities in this province, is in every essential particular discredited and disproved by the most unimpeachable evidence; that the evidence transmitted by him to Lord Palmerston strips the proceeding of every pretext alleged in its justification, and marks it as an act of the most offensive and unwarrantable character. Apart from the admissions which are to be found in Mr. Stevenson's own communication, and which have been already adverted to as sufficiently contradicting his assertions, your committee have it in their power to affirm, that it is established by evidence incapable of successful contradiction from any quarter, that the piratical steam-boat in question was engaged for what was called the Patriot service several days before she came to the island. A detachment of the brigands was sent from the island to Buffalo, to assist in extricating her from the ice, and fitting her out and bringing her to the island. She took muskets and other military stores on board at Buffalo, for the use of the invaders. On her arrival at the island, her captain surrendered the entire direction of her to the chief brigand, who gave orders for her safety, fearing she might fall into the hands of the British: she was openly and publicly employed during the day in bringing over cannon and men from Schlosser to Navy Island. When she was attacked, the crew on board were armed and prepared for resistance, anticipating an attack: they did resist, and seriously wounded several of the assailants. There was a body of men on shore, armed for her defence in the event of an attack, but they did not venture to go on board the vessel; and, lastly, it is utterly untrue that any one was on board at the time she was precipitated over the Falls.

Contradiction of Mr. Stevenson's statements.

Mr. Stevenson's statement.

The "Caroline" in the service of the Patriots several days before she came to the island.

Brigands sent from the island to Buffalo to get her out of the ice.

She took muskets, &c., on board at Buffalo.

Her captain gave up his command to the chief brigand.

Openly employed in bringing warlike stores from Schlosser to Navy Island.

The crew on board were armed.

They resisted and wounded several of the assailants.

A body of armed men on shore for her defence.

Not one on board when she went over the Falls.

Your committee feel that this statement of the truth of the case is not necessary to vindicate the legality of the destruction of the boat, but simply to remove the imputation that unnecessary severity was exercised towards the persons on board of her, or that in any possible case her destruction was not fully justified.

Repeated appeals have been made to the United States government for the punishment of the brigands, without effect.

They have manifested a contrary disposition, and look with satisfaction on the attempts made to sever the colonies from the Crown.

It has been with feelings of the deepest concern, and, at times, of indignation, that the loyal people of the Canadas have observed the apathy of the government of the United States, notwithstanding the repeated appeals that have been made to them, in restraining and punishing the brigands who are within its reach. It is a fact not only undeniable, but almost universally admitted, that the conduct of the United States is, and from the beginning has been, such as to show that they regarded with satisfaction rather than disapprobation, the attempts made to sever these colonies from the British Crown; and although your committee do not feel authorized to advance their individual opinions as those of your honourable House, when they state their conviction, that there is a very strong desire among the American people and government to expel monarchical institutions from this continent, yet they believe that the indications of this desire are so obvious, that our gracious Sovereign and the British nation should be constantly and plainly apprized of them by those who have the best opportunities of watching them, and stating them with confidence.

England should be constantly and plainly apprized of American policy.

The feelings adverted to, mainly induced the recent movements in Maine.

Your committee believe, that the feeling to which they have adverted has mainly induced the recent extraordinary movements in Maine, and the sudden and unexpected assertion of the general government, that the exclusive jurisdiction over the disputed territory on our eastern boundary does not belong to Great Britain, but that the State of Maine was fully justified in taking possession of it by force of arms. If reference were made to the mere inconvenience that would result from the impunity with which crimes of the most atrocious character might be committed in a country over which no ascertained legal jurisdiction extends, it would be enough to decide the necessity of leaving the territory in dispute under the control of laws by which it had always been governed; but the people and government of the United States are insensible to this or any other consideration that comes in conflict with their designs on the possessions of the British Crown. They well knew, and cannot deny, that the territory in dispute has always been under the jurisdiction of Great Britain; and they are equally sensible that the settlement of the true line dividing the two countries has never been retarded or evaded by the English Government, but that the fault, if there be any, is wholly on their side. Notwithstanding which, at a moment when it is believed dissensions exist in the colonies, warlike possession is taken of a part of the country that has always been claimed by, and which has ever been in the possession of, Great Britain, and which, if ceded, will completely cut off the land communication of the British North American colonies with each other; and the moment this most unjustifiable aggression is committed, Congress, in compliance with a recommendation from the President, passes a law authorizing him to employ the army and navy and militia of the Republic to resist any attempts on the part of Great Britain to enforce by arms her claims to exclusive jurisdiction over what?—over that part of "the State of Maine!" which is in dispute between the United States and Great Britain. This enactment would settle the whole matter if submitted to, since it assumes that the territory in dispute is part of "the State of Maine," leaving further argument or proof on the part of Great Britain wholly out of the question.

Your committee would exceed their province, if they ventured an opinion, however remote, of the course which Her Majesty may take in reference to this unexpected interference with Her undoubted sovereignty; but they may venture to express on behalf of their brave and generous fellow-subjects of New Brunswick their firm conviction, that not the smallest portion of their rights will be sacrificed to the cupidity of an encroaching and presumptuous opponent.—And on behalf of themselves and of the loyal inhabitants of Lower Canada, they can only say, that the surrender of the territory claimed by the United States could not fail imminently to endanger the connexion of these colonies with the parent state; and most earnestly do they hope that a concession so unfounded and ruinous will never be made. Neither can it be forgotten by colonists, nor will it be overlooked by the British Government, that no compromise can take place which will have the effect of transferring any portion of Her Majesty's subjects to a foreign power. The people of New Brunswick may be released from their allegiance and cast off from the mother country, but they cannot be transferred and rendered subject to another power without their own consent. The true line, and that only, must determine to what nation they belong.

Confidence that Her Majesty will not allow the rights of her subjects to be sacrificed.

The people of New Brunswick cannot be transferred to another power without their own consent.

Your committee, having thus adverted to the events of most prominent importance that have occurred during the last year, feel called upon to impress upon your honourable House the necessity—a painful one it certainly is—of assuring our gracious Queen, that while Her loyal subjects in these provinces acknowledge with the deepest gratitude the efficient protection extended to them by the large military force that has been stationed in the country, they are bound to reiterate the opinion expressed in the report of your honourable House of the last session, that the continuance of this protection is essential to their future peace and safety, not, however, from the slightest apprehension of internal revolt, but "because the government of the United States either wants the inclination or the ability to compel its citizens to yield obedience to the laws of nature and of nations;" and because we believe these citizens are still ferociously bent on repeating the aggressions from which we have already so severely suffered.

Continuance of this protection essential to our peace and safety.

Spirit of the United States still bent on further aggressions.

Your committee further earnestly recommend that your honourable House should bring under the consideration of Her Majesty's Government the just and undoubted right of the owners of the Sir Robert Peel steamer to prompt and complete indemnity for the felonious destruction of that vessel in American waters by American citizens. It has occasioned some surprise

Indemnity to the owners of Sir Robert Peel strongly urged.

surprise that this remuneration has not been made ere this; but the ruinous consequences which would result from longer delay to several of our fellow-subjects, imperatively require, that your honourable House should press their claims with the utmost earnestness. The more recent burning of the "Thames" steamer, and of the property of individuals in different parts of the country, by the invading brigands from the United States, should, your committee are of opinion, receive the early attention of your honourable House, in order that steps may be taken to obtain for the owners a full indemnity for their losses. Your committee are well satisfied that the people of this province will not permit individuals to sustain ruinous losses which should be borne equally by all. They cannot regard the destruction of the property referred to, as among those casualties that establish no claim for indemnity from the public. They are the consequences of a national calamity, which the whole people are concerned in repairing, and your committee are well satisfied that such is the opinion of every loyal subject of Her Majesty in the province.

Ruinous consequences will result to the owners by longer delay.

Indemnity for the Thames steamer and other property.

The people of the province will not allow ruinous losses to be sustained.

It is not for your honourable House to point out the best means of defending these provinces from future invasion; but your committee are of opinion, that Her Majesty would not receive unfavourably the respectful representation, that there are many reasons against employing, for any length of time, the rural population of this new country in military duties. Taking them away from their agricultural pursuits is productive of much and serious disadvantage to the province, and it would be wrong to overlook the injurious effects which may be produced on the morals of young men, from habits too readily contracted in a service that cannot demand their constant employment.

Reasons for not employing the rural population in military duties.

If Her Majesty should direct the construction of forts and places of defence along the frontier, it is believed that very great saving would be ultimately effected, by rendering unnecessary a portion, at least, of the militia force which is now embodied; and to the calling out of which, the people of the province are materially indebted for their present safety.

Construction of forts a saving of expense.

In concluding their remarks upon the struggle in which the Canadas have been engaged during the past year, your committee will briefly advert to two points, the most gratifying to every loyal British subject. The first is, the noble and cheering declaration of our beloved Queen, that "Her Majesty is firmly determined to maintain the authority of Her Crown in this part of Her dominions;" and the second, that Her Majesty's subjects, of British and Irish descent, are not only entitled to, but are eminently deserving of the royal pledge thus given to them.

Declaration of Her Majesty.

His Excellency the Lieutenant-governor truly observed, in his speech at the opening of the present session of the provincial legislature, that "the main foundation of the hopes of the discontented persons in this province and their foreign supporters has been a mischievous notion, industriously propagated, that England would desert her trans-Atlantic possessions in their hour of difficulty and danger."

Observation of the Lieutenant governor in his speech.

These false and pernicious opinions are now dispelled, as your honourable House never doubted they would be, by a pledge the most emphatic and sacred. And while their enemies are thus disappointed in their hopes, Her Majesty's loyal people are encouraged to persevere in that noble display of devoted loyalty and unsubdued bravery which has so eminently distinguished them on every occasion and in every conflict where their services have been required to expel or annihilate their ruthless invaders. It is in the power of your honourable House to inform our gracious Sovereign that, notwithstanding all the misrepresentation and falsehood that has gone forth with respect to the political feelings and principles of her subjects here, and notwithstanding the persuasions employed, and the allurements held out to seduce them from their allegiance, they have stood steadfast and firm in their faith and loyalty to their Queen; that not a man among them was found to unite with the invaders of their country; that they spurned with abhorrence the false and delusive offers made to them of greater freedom and happiness by a foreign people, who had basely and criminally dared to interfere with their institutions, and to pollute their soil with their presence; that the truth of these feelings and principles has been tested by the blood of many of their fellow-subjects, who have sacrificed their lives in maintaining them, and whose example their lamenting survivors, animated by the same patriotic spirit, are and ever will be ready to follow.

The false opinion that England would desert these colonies dispelled.

The people of this province have stood stedfast in their allegiance, though they have been misrepresented and allured.

When your committee were appointed by your honourable House, they had reason to suppose that the duties with which they were charged would not extend beyond the subject referred to in the preceding pages of this report; but since that period, a document has been promulgated by order of the House of Commons, proporting to be the Report of Her Majesty's late High Commissioner, the Earl of Durham, addressed to Her Majesty, on the affairs of British North America, which contains matter so deeply affecting the social as well as political relations of all the provinces, especially of Upper Canada, that it would ill become your committee to pass it over in silence. Indeed, they regret that, at this late period of the session, it is impossible to give the statements and opinions advanced by his Lordship the extensive investigation their importance demands; but your committee will apply themselves with calmness, and they trust with dispassionate zeal, to vindicate the people of Upper Canada, their government and legislature, from charges that imply a want of patriotism and integrity, which they know to be unjust, which they did not expect, and which they grieve to find advanced by a nobleman who had been sent to these provinces to heal rather than foment dissensions, and who certainly should have carefully

Report of Lord Durham.

Containing matter deeply affecting the social and political relations of Upper Canada.

Not time for full investigation of report.

Vindication from charges against the people, government and legislature of Upper Canada.

guarded against giving currency to unfounded, mischievous and illiberal rumours, for the truth of which he admits he is unable to vouch.

First announcement of Lord Durham's appointment caused disappointment.

When it was first announced that the noble Lord had been selected by Her Majesty to represent the Royal Authority in these colonies, in the two-fold authority of Governor-general and High Commissioner, with powers far greater, as it was asserted, than had ever been confided to any of his Lordship's predecessors, it cannot be denied that a very general feeling of disappointment and apprehension pervaded the loyal population of the provinces. His Lordship's political principles were, of course, universally known, and it was feared that he might too readily adopt and act upon opinions that had unhappily been long in the ascendant, and which, from want of an earlier check, had brought upon the country all the misfortunes with which it had been afflicted. Neither were these apprehensions lessened, when it was ascertained who were to be his Lordship's ostensible advisers, and the chief officers of his suite. Apart from objections of a merely personal character, (although these in an unsophisticated society, such as existed in Canada, were far from overlooked,) it was known that the gentleman named as chief secretary, as well as some others, were identified with a small knot of politicians, who had undisguisedly advocated the views and opinions of Papineau and Mackenzie, and whose desire to release these colonies from what they termed "the baneful domination of the mother country" had been plainly avowed. Notwithstanding these reasonable apprehensions, however, the population, as if by common agreement, determined to receive his Lordship with the utmost cordiality and manifestation of confidence. They were aware that he had been for many years a Member of the Imperial Parliament; that he had for some time occupied a seat in the cabinet under Earl Grey, and that he had filled a diplomatic appointment of considerable importance; and they believed that it was quite impossible for him to have been engaged in these various employments without acquiring a knowledge of public business, and being taught a prudent wariness of conduct that would prevent his falling into any great or irretrievable error. But that which the loyalists chiefly relied upon was the character which was ascribed to his Lordship of integrity, intelligence and love of country; they did not fear the result of his mission if he were possessed of these great and essential qualities. It was comparatively of little consequence whether he was Tory, Whig or Radical in England, if in Canada he would exercise a sound, upright, patriotic and independent judgment. It had never happened that a man guided by these principles, and possessed of a dispassionate mind, had failed, after a short residence in the North American colonies, to detect the fallacy of the "conciliating" policy that had been so long pursued, or to determine which party sincerely desired to perpetuate the connexion with the mother country; and which was aiming, under the specious pretext of securing liberal institutions, to sever the union and establish a democracy. Neither was an instance known of a high-minded Englishman residing in America for any length of time, however strong his predilections might previously have been, who did not leave it with a feeling of disgust at the practical exhibition of republican institutions on this continent. Accordingly, upon his landing at Quebec, Lord Durham was received with the appearance of enthusiasm, and certainly with the most sincere desire to convince him that no impediment would be thrown in the way of his government by those who were truly desirous that peace and order should be again restored to the country, and who were heartily tired of the imbecility with which affairs had been conducted for the greater portion of the two preceding years.

Apprehensions not less when his advisers were known.

Chief secretary known to advocate the opinions of Papineau and M'Kenzie.

Determination to receive Lord Durham with confidence.

No consequence what Lord Durham was in English politics if his judgment were exercised soundly and upright.

No high-minded Englishman living long in America but must be disgusted with the exhibition of republican institutions.

Lord Durham received on landing with enthusiasm.

First act of his Lordship.

The first act of his Lordship's administration was the issuing of a proclamation, setting forth the objects of his mission and the policy he was determined to pursue in executing his high and important duties. He declared that "the honest and conscientious advocates of reform and of the ameliorations of defective institutions should receive from him, without distinction of party, races or politics, the assistance and encouragement which their patriotism had a right to command from all who desired to strengthen and consolidate the connexion between the parent state and these important colonies; but the disturbers of the public peace, the violators of the law, the enemies of the Crown and of the British empire, would find in him an uncompromising opponent, determined to put in force against them all the powers, civil and military, with which he was invested."

Received with satisfaction.

This manifesto was received with general satisfaction by the well-affected in both provinces; they desired no more than that the principles it avowed should be fully and faithfully acted up to, well persuaded that if this were done, the peace of the country would be quickly restored.

Your committee are not disposed to doubt that Lord Durham sincerely desired and intended to fulfil, to the very letter, every pledge, direct or implied, contained in his proclamation,—that his acts would be marked by discretion and a respect for constitutional principles, and that he was firmly resolved to exert every faculty he possessed in restoring tranquillity and security to the Canadas: unhappily, however, some baneful influence intervened, or some defect of judgment existed, to mar and frustrate these noble and generous resolutions. Your committee disclaim the intention of uttering one single sentiment that can be construed into wilful or gratuitous disrespect to the Earl of Durham, or the desire of conveying the most distant imputation on his patriotism or integrity; but in the performance of a duty which admits of no forbearance that may exclude the truth, they are bound to declare, that from the date of this proclamation to the close of his Lordship's administration, almost all his public acts were marked, either by a disregard of the restraints of law and of the constitution, or the entire absence of that knowledge essential to guide and keep a public man within the limits of the powers confided to him.

Some baneful influence marred the resolutions of his Lordship.

From the date of his first proclamation no regard for restraints of law and constitution marked his public acts.

Distrust

Distrust in his Lordship was first excited by the suspension from office of all the members of the executive council, who had been commissioned by the Crown, and the appointment, as their successors, of gentlemen, who, with the exception of two, (the commissary-general and the secretary of the province of Lower Canada,) had accompanied him from England, and who, whatever might have been their general knowledge, were wholly unacquainted with the local concerns of the country, and utterly incompetent to suggest or frame any legislative measure that the peculiar condition of public affairs demanded. These removals were made in the most courteous manner, and your committee are unable to say, that they did not take place in consequence of orders from England; but the effect was, not only to excite uncomfortable feelings in the province, from the ungracious appearance of the act, but to cast his Lordship upon a sea of difficulties, without a single competent pilot to warn him of the dangers that surrounded him, and it is not to be wondered at, that he was speedily involved in serious embarrassments.

Suspension of members of executive council, and appointment of new council.

This act brought his Lordship in much difficulty.

He soon afterwards required the great seal of this province to be affixed to a commission, tested in his own name as Governor-general, appointing certain gentlemen commissioners to inquire into the land-granting department in Upper Canada, overlooking or disregarding the provisions in his appointment, by which he was precluded from acting in any province, in which he had not actually assumed the government and been sworn into office. Although this act was wholly unauthorized, it was nevertheless acquiesced in, that it might not be alleged that his Lordship had been thwarted in any manner, in carrying into effect whatever measures he deemed necessary to accomplish the object of his mission.

He required the great seal of this province to be affixed to a certain instrument, tested in his own name, though contrary to his instructions.

A further and somewhat ludicrous exhibition of his Lordship's assumed powers was evinced in the proclamation issued by him, offering a reward of 1,000*l.* for the apprehension and conviction of the pirates concerned in the destruction of the "Sir Robert Peel" steamboat. As the offence was committed in the United States, where alone the power of punishment existed, this proclamation was considered a somewhat singular if not an unprecedented interference with the administration of justice in a foreign country. To the people of this province, a demand on the American government for reparation would have appeared a more reasonable and legitimate mode of proceeding, and would have afforded far greater satisfaction and more convincing proof that his Lordship was determined to protect to the utmost of his power Her Majesty's subjects from insult and injury.

Lord Durham's proclamation, offering a reward for the apprehension of the pirates who burnt the Sir Robert Peel steam-boat.

A measure of a much more mischievous tendency soon after occurred in his Lordship's interference, when in Lower Canada, with the course of justice in the disposal of the prisoners captured at the Short Hills, in the upper province. This interference and the cause of it are detailed in the correspondence laid before your honourable House. It is, however, unnecessary to refer to it here, for any other purpose than to show that his Lordship did not regulate his official acts and correspondence by any legal rules, but according to such views as he might chance to entertain, apparently regardless of the embarrassments he might occasion to others in the performance of the most painful and difficult duties.

Lord Durham interferes with the course of justice in disposal of prisoners taken at the Short Hills.

The remarkable ordinances that consigned to transportation to Bermuda several of the Lower Canadian traitors, and which enacted that the penalty of death should be inflicted upon others who had been neither tried nor indicted, but who had fled or absented themselves from the province, if they again returned to it, and the disallowance of these ordinances by Her Majesty, are subjects within the recollection of every one, and it would answer no useful purpose to discuss them here. But, without examining the degree of validity that attaches to those ordinances, or the motives or necessity for their enactment, they undoubtedly, at the time they were promulgated, were regarded by every professional or well-informed person as unprecedented and extraordinary, if not wholly unconstitutional and void.

Transportation of traitors to Bermuda.

The concluding act of his Lordship's government, his proclamation of the 9th October, requires no comment from your committee; it was regarded by all lovers of order with silent astonishment and disapprobation, and with what justice is best proved by the terms in which it was noticed by Her Majesty, who directed the Colonial Minister to inform Lord Durham, that Her Majesty had been advised by Her Ministers to regard it, "not merely as a deviation from the course which had hitherto been invariably pursued by the governors of the British possessions abroad, but as a dangerous departure from the practice and principles of the constitution. They considered as open to most serious objection, an appeal by such an officer to the public at large, from measures adopted by the Sovereign, with the advice and consent of Parliament.

Proclamation of 9th of October.

Her Majesty's notice of that proclamation.

"The terms in which that appeal had, in that instance, been made, appeared to Her Majesty's Ministers calculated to impair the reverence due to the royal authority in the colony, to derogate from the character of the Imperial Legislature, to excite amongst the disaffected hopes of impunity, and to enhance the difficulties with which his Lordship's successor would have to contend.

"The Ministers of the Crown having humbly submitted this opinion to the Queen, the Secretary of State proceeded to say, that it became his duty to inform his Lordship that he had received Her Majesty's commands to signify to his Lordship Her Majesty's dissapprobation of his Lordship's proclamation of the 9th October.

"And that, under these circumstances, Her Majesty's Government were compelled to admit that his Lordship's continuance in the government of British North America could be attended with no beneficial results."

Your committee have noticed these prominent public acts of his Lordship for no other reason than to draw attention to the proofs which exist of the singularity, if not unsoundness, of his judgment, and as affording room for those not personally acquainted with the facts on which his Lordship founds his conclusions in the report which he has presented to Her

Unsoundness of Lord Durham's judgment.

Majesty, to doubt, or at all events to receive with caution, the statements he has set forth with respect to the social and political condition of a province, in which he never resided, and with which he had scarcely any personal acquaintance. His Lordship's personal observation was confined to his passing up the River St. Lawrence, and crossing Lake Ontario, in a steam-boat, occupied exclusively by his family and suite; a four days' sojourn at the Falls of Niagara, and a twenty-four hours' visit to the Lieutenant-governor at Toronto.

His Lordship's personal acquaintance with Upper Canada.

Your committee are not called upon to examine or offer any opinion upon that part of his Lordship's report which relates to the affairs of Lower Canada. It is, however, evidently drawn up with much greater care, and, they believe, with far greater accuracy, than that portion of it which relates to this province.

Examination of Lord Durham's Report in respect to Upper Canada. Disturbances in Lower Canada arise from contest between races. Dissensions in Upper Canada from jealousy between three classes.

They will therefore proceed at once to the examination of those opinions and observations of his Lordship which most seriously affect this community. Lord Durham ascribes, and your committee believe truly, all the dissensions and disturbances that have occurred in Lower Canada, to a contest between races of different origin, British and French Canadians; and, forgetful of the mischievous tendency of his remarks, he intimates that the political dissensions in this province are to be traced to a jealousy or disagreement between three classes, and a contest among them for the emolument and patronage of office.

First class.

Second class.

Third class.

The first of these, his Lordship (borrowing with questionable taste a newspaper *sobriquet*) designates as "the family compact," and he informs Her Majesty that "the bulk of the party consists, for the most part, of native-born inhabitants of the colony, or of emigrants who settled in it before the last war with the United States." The second is stated to be formed by a body of the same class of persons, called "reformers;" and the third class comprises, according to his Lordship's opinion, emigrants from the United Kingdom who have settled in the province since the war above referred to.

The standing of the first class.

It is alleged by Lord Durham, that the first party mentioned by him, "for a long time receiving accession to its numbers, possessed almost all the highest public offices; by means of which, and its influence in the executive council, it wielded all the powers of government; it maintained influence in the legislature, by means of its predominance in the legislative council, and it disposed of the large number of petty posts, which are in the patronage of the government, all over the province. Successive governors, as they came in their turn, are said to have either submitted quietly to its influence, or, after a short and unavailing struggle, to have yielded to this well-organized party the real conduct of affairs. The bench, the magistracy, the high offices of the episcopal church, and a great part of the legal profession, are filled by the adherents of this party; by grant or purchase they have acquired nearly the whole of the waste lands of the province; they are all powerful in the chartered banks, and till lately shared among themselves, almost exclusively, all offices of trust and profit. The bulk of this party consists, for the most part, of native-born inhabitants of the colony, or of emigrants who settled in it before the last war with the United States;" and his Lordship declares that never was the power of the party so extensive or so absolute as it now is.

His Lordship's reason why dissatisfaction has been created.

The High Commissioner, in thus describing a class of persons who are evidently held in slight estimation by his Lordship, has been unable to find, or, at all events, he does not state any objection to its members on the ground of want of ability or patriotism; he does not question their loyalty, and he admits that they are numerous, and possess much property and great influence; but that, in consequence of their having monopolized the power and patronage of the government, they have excited envy, created dissatisfaction, and have ultimately provoked attack; and it is plain, that, entertaining the same sentiments with their opponents, his Lordship thinks it necessary that they should be put down, and that the authority and influence of the Crown should for that purpose be thrown into the scale of the second class, whom his Lordship designates "reformers;" among whom, however, he says, "it cannot be doubted that there were many who wished to assimilate the institutions of the province rather to those of the United States than to those of the mother country."

Lord Durham thinks that first class should be put down to make way for the second, notwithstanding their doubtful standing.

These opinions unfavourable to his Lordship as a statesman and an adviser of the Crown. First class acquired their influence by honourable means.

There are two aspects in which these opinions of his Lordship may be regarded, equally unfavourable to his penetration as a statesman and his character as a safe adviser of the Crown. It could not fail to strike a man of ordinary understanding, that if the "compact" were so numerous, and composed of the class of persons he describes, they must have acquired the influence they possess naturally, and as a matter of course, and not by any dishonourable means; and it would be difficult to persuade any one that the government of the country could be carried on without their support; and certainly there is something inexplicable in the opinion intimated by his Lordship, that they should be cast aside to make way for another party, "many of whom," his Lordship says, "wished to assimilate the institutions of the province rather to those of the United States than to those of the mother country!" But your committee have a higher duty to perform than criticising the language, or endeavouring to fathom the meaning, of the Earl of Durham. They feel themselves equally bound to vindicate their fellow-subjects of both classes. It is somewhat singular to find it represented that the reformers of this province complain of the existence or influence of "a family compact," composed of persons who are represented to be of the same origin with themselves; but, whatever may be the opinion of others, your committee believe that the differences which have existed in the province have proceeded from political disagreements that have unhappily grown up in this as in every other community, and not from envy of each other's prosperity; and although true it is that the ranks of the reformers have been disgraced by men who have turned traitors to their country, yet the great body of that class of persons profess to lament the circumstance with as much intensity of feeling as any other; and your Committee believe, that however much they may feel gratified at finding their political sentiments on the subject of the

Quite inexplicable that the second class should supplant the first, considering their object.

Vindication of both classes.

Differences have arisen on political questions and not from envy of the other's prosperity.

internal

internal government of the country approved and recommended by the Earl of Durham, they hold themselves to be under no obligation to his Lordship for endeavouring to raise up domestic dissensions, which can have no other effect than obstructing or delaying the restoration of that social harmony which once happily existed, and which all benevolent men of every party anxiously and earnestly desire to see re-established in the province.

No obligation to Lord Durham for trying to raise up domestic dissensions.

If Lord Durham had given himself the trouble to inquire into facts, and to consider them, he would have been convinced of the impropriety and injustice of designating, as he has done, the great body of the people of the country as a "compact," united to tyrannize over and oppress their less numerous and less powerful fellow-subjects.

Injustice in Lord Durham designating the great body of the people a "compact."

When the Constitution was conferred on the Canadas in 1791, and the first Governor-general Simcoe assumed the administration of affairs, there were little more than 10,000 inhabitants in the upper province.

State of the colony in 1791.

His Excellency was accompanied by personal friends who had served under him in the war of the revolution. These, with few exceptions, were appointed to fill the various public offices in the colony. There are few of these most excellent and venerated men now remaining, and none of them who are not superannuated or incapable of further labour. Notwithstanding the natural and reasonable claims of their children and descendants to consideration, very few of them have been appointed to any situations of emolument, and none of them, that your committee are aware of, have succeeded to their father's vacant offices. The patronage of the Crown, even during the short period that has elapsed since the organization of the government, has been widely and indiscriminately extended among all classes and all denominations of Her Majesty's subjects, without the slightest regard to family or hereditary claims; and so far from a monopoly of office or power being retained by these persons, it was at one time a source of much dissatisfaction and complaint that they had been ungenerously overlooked. But his Lordship, as if to meet this objection, that he probably apprehended might be raised to the part of his report to which these observatians apply, has announced to Her Majesty and the British nation, that the third party to whom reference has been made, viz., the emigrants from the United Kingdom, who have settled in the province since the last American war, regard the entire of the original and native population, whether reformers or others, as a "family compact," combining to exclude them from the enjoyment of offices conferring emolument or power; that this large and spirited class of people feel as aliens instead of citizens; and that they possess no greater right as British subjects than if they resided in the United States. Your committee cannot suppose that Lord Durham has imagined such a state of society; they are well convinced that some disappointed or discontented person has imposed upon his Lordship's credulity, and led him to promulgate an opinion, the tendency of which to great and permanent injury cannot be easily counteracted.

Those who came with first Governor filled various public offices. Few of these remaining; and few of their children have been appointed to situations of emolument.

Patronage of the Crown extended to all classes.

Lord Durham affirms that the third class consider the other two classes as a family compact, combined to exclude them from emolument or power.

His Lordship's credulity must have been imposed upon by some discontented person.

No portion of the community can suffer more directly or seriously from the effects of this erroneous assertion than the very persons who, it is alleged, are labouring under the baneful influence complained against; and it is with no common satisfaction that your committee find among their number three gentlemen well known throughout the province, the representatives of three distinct constituencies, and who, being of the number of those who his Lordship states are regarded as aliens in this portion of their Sovereign's dominions, are best able to pronounce upon the accuracy of his Lordship's statements.

Three gentlemen of the committee, of the third class.

One of these gentlemen, Colonel Prince, is an Englishman by birth, and was bred to the legal profession. He came to this province six years ago, and brought with him a considerable sum of money, which he has expended in purchasing and improving real estate in the western district. On the first occasion of issuing a commission of the peace for that division of the province, he was included in it; and at the next general election he was returned to represent the county of Essex, by a population almost exclusively Canadian; and the legislature, to mark their sense of his gallant conduct upon different occasions, in resisting the invasion of the country by foreign brigands, passed a law admitting him to practise as a barrister and attorney in all the courts. The Lieutenant-governor soon after conferred upon him the rank of colonel in the militia, and intrusted him with the command of a battalion embodied for actual service, and which is still on duty. The second is Mr. R. Rollo Hunter, a gentleman of independent property, and a native of Scotland. He has resided in the province six years, is in the commission of the peace, and has been elected as representative for the county of Oxford. The third, Mr. J. A. H. Powell, is an Irishman. He came to the country since the last war; his father held the rank of major in the army; he sold his commission, and settled at Perth, in the district of Bathurst, of which he was appointed sheriff. Upon his death, his son (Mr. J. A. H. Powell) succeeded him, and has since been returned a member for the county in which he resides.

Colonel Prince.

Mr. R. R. Hunter.

Mr. J. A. H. Powell

That which has been above related of the reception these gentlemen have met with, and the total absence of all ground for considering that they have been treated or regarded as "aliens," may be said of the whole body of British and Irish immigrants who have taken up their abode in this province; and the three members of your committee, to whom special reference has been made, conceive that they are bound in justice, calmly but unequivocally, to deny that Lord Durham has been correctly informed with respect to the feelings of the original settlers in Upper Canada towards them; on the contrary, they know that if there be one matter more than another that they feel a deep interest in, and desire to promote, it is, emigration from the British islands. They are aware of the immense advantage the country has derived from this source, in general wealth, as well as in their social and political relations; and it is universally considered that the check it has experienced from the recent difficulties in the two provinces is among the most serious, if not the very greatest,

The three gentl... above deny tha... Durham has bee... rectly informed

The first and second classes have repeatedly promoted emigration.

of the evils that have resulted from them; and as a proof of the anxiety of the provincial House of Assembly here to promote emigration, and to remove every impediment to its increase, the members, at a time when the House was composed almost exclusively of persons of the first and second classes above alluded to, repeatedly and unanimously called for the disallowance of an Act passed by the legislature of Lower Canada, imposing a tax upon British emigrants landing at the ports of Quebec and Montreal—a tax which was regarded by them as odious, injurious and unconstitutional.

Those of the third class who hold places of honour and emolument.

With respect to the exclusion of British and Irish emigrants from places of honour and emolument in the province, it is sufficient to state that the Vice-chancellor, the Master and Registrar of the Court of Chancery, the Receiver-general, the Secretary of the Province, the Solicitor-general, four out of five executive councillors, and 12 out of the 29 legislative councillors appointed since Sir John Colborne assumed the government of the country; two-thirds of the clergy of the Church of England, a like proportion of district schoolmasters, and the principal and masters of Upper Canada College, with one exception, have been taken from that class of gentlemen; and it may be confidently asserted, that from among them a large majority of justices of the peace, militia officers, commissioners of the court of requests and other local appointments have been made; while it is a remarkable fact, that of the 16 battalions of militia ordered to be embodied for actual service for the defence of the country, ten of them are commanded by British or Irish gentlemen who have recently come to the province, selected without reference to politics or religious creed, but purely on account of loyalty and ability.

Refutation of the opinions and statements of Lord Durham.

Your committee feel it unnecessary to pursue this subject further; and while they are gratified in having it in their power to offer a complete, and they trust satisfactory, refutation of opinions and statements, which, if true, would bring discredit and injury upon the province, they cannot avoid repeating their concern that those statements and opinions should have been inconsiderately advanced by a person filling the high station conferred upon the Earl of Durham.

High Commissioner states various matters on administration of Sir F. B. Head.

The High Commissioner having thus recorded his opinion of the different parties in the province, proceeds to state various matters connected with the administration of Sir Francis Head, and the different departments of the government, which your committee will notice in their order as briefly as possible.

Inaccuracies of Lord Durham's statements acquired from those who did not speak correctly.

It has happened, unfortunately for Lord Durham, that he employed agents to procure information, or acquired it from parties evidently incompetent or indisposed to speak correctly upon the past political events of this province; since to this circumstance your committee are bound to attribute the many inaccuracies contained in his Lordship's report, which in themselves are quite sufficient to cast general discredit upon it.

The statement that Sir F. Head dismissed some executive councillors not correct.

Thus, his Lordship affirms that Sir Francis Head, on assuming the government of the colony, dismissed from the executive council some of the members who were most obnoxious to the House of Assembly, and requested three individuals to succeed them. This is wholly incorrect: Sir Francis Head did not dismiss any of the council upon assuming the government, and of course he did not appoint others to succeed them; the appointments made by Sir Francis were in addition to the councillors he found in office; and they were in fact made in consequence of the representation of the latter gentlemen, that an increase of their members was necessary for the transaction of the public business of the country.

The selection of the new councillors was, very probably, made to conciliate the House of Assembly, but not at the instance of that body or at the suggestion of any one of its members.

The statement that among the first acts of Sir F. Head he appointed to some vacant offices those of the first class, not correct;

His Lordship next states, "that among the first acts of the Governor, after the appointment of this council, was the nomination to some vacant offices of individuals who were taken from the old official party, and this without any communication with his council. These appointments were attacked by the House of Assembly, and the new council finding that their opinion was never asked upon these or other matters, and that they were seemingly to be kept in ignorance of all those public measures which popular opinion, nevertheless, attributed to their advice, remonstrated privately on the subject with the Governor. Sir Francis desired them to make a formal representation to him on the subject; they did so, and this produced such a reply from him as left them no choice but to resign. The occasion of the differences which had caused the resignation was made the subject of communication between the Governor and the Assembly, so that the whole community was informed of the grounds of the dispute."

and of which he had fully opportunity of knowing.

It is to be regretted that Lord Durham had not read the communication to which he refers in the last sentence quoted from his report before he gave this account of the cause of the resignation of the council, he would in such case have avoided the error into which he has fallen; he would have learned that no nomination to vacant offices of individuals taken from the old official party had been made after the appointment of the new council, and therefore that they had not resigned for the reasons given by his Lordship, but because they aimed at a change in the mode of administering the government, which it was deemed improper to concede, and which was therefore refused by Sir Francis Head.

His Lordship's inaccuracy in the case of Mr. Hepburne.

A second inaccuracy occurs in that part of the High Commissioner's Report which relates to the proceedings of the new House of Assembly, in the case of Mr. Hepburne. His Lordship says that, in consequence of these proceedings, Sir F. Head succumbed to the Assembly, and persuaded Mr. Hepburne to resign his office, and to take one of very inferior emolument; and that this was done to avoid collision with the Assembly, who are represented as having been influenced by exceedingly discreditable, if not base, motives in their proceedings against Mr. Hepburne. The truth of this case is simply this: that Mr. Hepburne

Hepburne did not resign his office for the reason mentioned, but retained it until within a few months of Sir Francis Head's departure from the country, and then voluntarily relinquished it for appointments far more desirable than the one he gave up.

As Lord Durham has fallen into error upon mere questions of fact of recent occurrence, it will probably not be considered surprising that he should mistate those of more remote date; but his Lordship has misapprehended one subject to which he has adverted in a manner somewhat remarkable, and which ought not to pass without notice. His Lordship states, that a law was passed immediately after the last war with the states, forbidding American citizens to hold land in the province. In the first place, no such law was ever passed, and in the second, it was wholly unnecessary. Any one of the legal advisers of his Lordship could have told him, that an American citizen, unless naturalized, cannot by the laws of England hold lands within the British dominions. It is probable that in alluding to this subject, his Lordship has been misled by an inaccurate reference to an Act of a directly contrary tendency, which was adopted in 1828. This Act was passed, and has the effect of confirming the titles of American citizens who had previously settled in the province, under the impression that they might legally hold lands. With respect to future settlers of this class, the law remains as it always has been, neither facilities nor obstructions being placed in their way. Of the policy of their admission, however, it would surprise no one, if his Lordship, after his experience in the government of this country, should have entertained great doubts; the reverse, however, appears to be his opinion, he seems to think the indiscriminate admission of the citizens of the neighbouring Republic would be of advantage both to the province and the mother country.

His Lordship's mistake respecting a supposed law that passed, forbidding Americans to hold land in Upper Canada.

Your committee will pass over particular notice of the opinions advanced by his Lordship, on the subject of the clergy reserve question, "of the policy towards the Catholics," and the "complaints of Orangeism;" not that abundant room does not exist for the expression of regret, that on subjects sufficiently calculated in themselves to produce excitement, his Lordship should have felt it right to appear as the partisan or advocate of either party, and to express favourable views as to one, and adverse opinions as respected the other. If mischief do not arise from so indiscreet a course, the province will be indebted to the magnanimity of its inhabitants, rather than to the observations and advice of Her Majesty's High Commissioner.

Clergy Reserves.

His Lordship does not appear to have considered it necessary to recommend forbearance among parties whose differences involve no great principles of government, but are confined to subjects of a social rather than political character; but he prefers the attempt to cast aside and disregard the wishes and pretensions of any portion of the community that happen not to be in accordance with those theories, for which he most plainly evinces a preference.

His Lordship evinces no disposition to recommend forbearance among parties.

The settlement of the question, which has undoubtedly strongly agitated the public mind with respect to the clergy reserves, has been an object of the most anxious solicitude among all parties in the province; and nothing can more clearly prove that want of success in attaining this desirable end is not to be attributed to illiberal or unchristian feelings, than that the various measures which have been introduced have met with conscientious objections among all classes of politicians.

Conscientious objections have stayed the settlement of the clergy reserve question.

Your committee, however, earnestly hope that the forbearance and mutual concessions which have lately marked the proceedings of your honourable House will result in some measure that will prove acceptable to the great body of their fellow-subjects, and put an end to further discussion upon a subject that involves the only point of serious dispute among them.

Hopes may be entertained that the question will be settled.

With respect to what his Lordship is pleased to designate the "policy towards the Catholic," your committee are well convinced that no portion of the inhabitants of the province are more fully aware than the Catholics themselves, that no invidious policy has ever been designed or acted upon towards them—and ungrateful would such conduct be if ever attempted. No portion of the people of this province have been more ready to fulfil the duties of faithful subjects, and none are more deserving of the protection and patronage of the Crown.

"Policy towards the Catholics."

As regards the statement respecting the existence of "Orangeism," as your committee do not feel themselves at liberty to comment on particular associations in the province, they will confine themselves to the expression of their conviction, that an universal desire exists amongst all classes of the community to live in peace with each other, and that this desire will gradually but certainly put an end to distinctions that may be found to create dissensions; and, in their opinion, nothing would be so certain to defeat this great object as the application of violent or coercive measures, or the indiscreet interference of authority. The distinctions referred to by Lord Durham were not found to damp the universal loyalty and good feeling of the people of this province during the last 18 months of peril and invasion; all parties laid aside their disagreements, and none more readily and willingly than Catholics and Orangemen, who were found fighting in the same ranks, side by side, in defence of their laws, their liberties and their Sovereign. Such men, actuated by such principles, cannot be estranged from each other; they must and will be friends as well as neighbours.

"Orangeism."

Desire in the community to live in peace.

The distinctions noticed by Lord Durham have no ill effect upon the loyalty of the people.

Lord Durham, in his remarks on the physical condition of the province, has considered it necessary to contrast the improvements that are going on in Canada with those in progress in the neighbouring states, and to draw a comparison very disadvantageous to this province. Your committee would extend this report to an unreasonable and unprofitable length were they to enter into the discussion of the various

Lord Durham contrasts the physical condition of Canada with the United States.

statements and opinions of his Lordship. They will, therefore, content themselves with remarking, that, if it were admitted that the contrast is correctly drawn by his Lordship, it ought not to surprise any one who would take the trouble to recollect the true cause to which it should be attributed. The improvements referred to in the adjacent states have for their support the wealth of a country containing population of fifteen millions of souls:—Upper Canada, unsustained by any other than its own resources—cut off from a sea-port by the unwise legislation of the mother country—unable from the same cause to increase its revenues by duties on imports, and containing a population of less than half a million, might well rest satisfied that no just reproach could be cast upon it, if its inhabitants had abstained from all attempts at great and expensive works, and had confined themselves to the ordinary pursuits of agriculture and commerce. But the fact is otherwise; and notwithstanding the inference to be drawn from the High Commissioner's Report, Upper Canada has undertaken, and gone far towards accomplishing, works that would do credit to any nation, and which, if they are not found superior in magnitude and usefulness, will bear an advantageous comparison with any in the neighbouring country. That they have not been rendered more complete and extensive is not to be attributed to want of enterprise or of patriotism on the part of the people of Upper Canada, but to the mistaken policy already adverted to, which has left them without the means of developing the great natural resources of the country, and which can alone be remedied by the Imperial Parliament. But your committee believe that the happiness and prosperity of a country does not altogether depend in forcing, after the manner of hot-bed vegetation, public works, or what are termed, public improvements. These are of course useful in their way, but unless accompanied by obedience to, and a just and impartial administration of the laws, insuring protection of life and property, and social happiness and contentment, they are of small value. In these important respects, the inhabitants of Upper Canada may, with justifiable exultation, claim superiority over their republican neighbours; but the Earl of Durham has not thought it necessary to advert to considerations of that kind; he does not seem to have had eyes to see, or ears to hear, any of the faults or defects of those, by him, commended and admired people. It is possible, however, that it may detract something from the estimation in which they are held by him, when he peruses a report of a select committee of the senate of the state of New York, recently promulgated, which denounces the Erie Canal and other great improvements so much lauded by his Lordship as infamous jobs; that they were completed by foreign (British) capital; and recommending that the debts contracted for their completion should be considered as having been fraudulently incurred, and that they should never be paid. This recommendation, sufficiently republican in its nature, may convince others, if it does not Lord Durham, that it is possible that the exhibition of the public "improvements" in the United States may not have been altogether so wise or so deserving of the unqualified praise that has been bestowed upon them; and that certainly it would have been more becoming not to have undertaken them, if the public (chiefly British) creditor is to be refused repayment of the money advanced for their construction.

The improvements in the states supported by the wealth of the whole country.

Those of Upper Canada supported only by its own resources, and unable to increase them.

Upper Canada has undertaken works that would be a credit to any nation.

That these works are not completed is not the fault of Upper Canada.

The happiness and prosperity of a country are not assured by its public improvements, unless accompanied by obedience to, and a just administration of, the laws.

In these Upper Canada may justly claim superiority over the United States.

Lord Durham has not discerned any faults or defect in his favoured people.

Opinion respecting Erie canal, &c. expressed by committee of the senate of New York.

The above opinion is sufficient proof that the public "improvements" in the States do not deserve the praise bestowed on them.

His Lordship's remarks on condition of trade in Upper Canada.

The High Commissioner appears to have given no very great attention to the condition of trade in Upper Canada; he, however, slightly adverts to the want of a port of entry from the sea; and as a measure that would remove some of the embarrassments experienced from this cause, and from the disadvantages arising from the St. Lawrence being closed by frost for a considerable portion of the year, his Lordship suggests that merchants should be permitted to ship their goods from England, and land them at New York in bond, and from thence to bring them into Upper Canada, free of duty. Your committee will not remark at any length upon the objections which the ship-owners and merchants of England would probably raise to a measure of this description, but they are wholly unable to reconcile this suggestion or advice of his Lordship with the recommendations wisely and patriotically urged upon Her Majesty's Government, in his letter addressed to Lord Glenelg, dated Niagara, 16th July 1838, and which contains the following passages:—

Extracts from letter of Lord Durham to Lord Glenelg, dated Niagara, 16th July 1838.

"Opposite to Fort Erie, immediately on the Lake, is the town of Buffalo, the head quarters of the robbers and pirates who have so long infested this country. Its extent and appearance are surprising; the size and respectability of the buildings, and the number of masts which I could discern in the harbour, prove the value of the commerce and the wisdom of the arrangements which have thus created, in about ten years, a city in the midst of the wilderness.

"This prosperity is owing to the Erie Canal, which commences at Buffalo, and thus makes it the depôt of all the trade of the West, flowing to New York.

"All these advantages might be ours, by the judicious application of not a large expenditure. The Welland Canal, which commences at the Grand River in Lake Erie, and strikes the Lake Ontario, a few miles west of Fort George, has great advantages over the Erie Canal; it is open three weeks earlier in the spring, and connects the two lakes by a short passage.

Extracts, &c.

"If this canal was completed, and the St. Lawrence Canal, the water communication by the Lakes, the Rideau Canal and the St. Lawrence, to the sea, by Montreal and Quebec, would be complete, and all that immense trade which now flows from the west by Buffalo and Lockport, and the Grand Canals to New York, would pass through our provinces, and enrich all the towns and districts through which it was carried.

"This is not a speculation of mine, but it is an admitted fact by the Americans themselves; the knowledge of which leads the merchants of Buffalo to encourage these border inroads which

which disturb the peace of our provinces, and prevent our attention being directed to objects which involve their complete ruin.

" I enclose your Lordship an American paper, published at Oswego, in which you will find all these important considerations, to which I have briefly adverted, treated at length. I quote it for the value and correctness of its commercial anticipations, setting aside all reference to the military speculations which it contains.

" I feel so strongly the importance of this subject, both as a means of restoring tranquillity to the Canadas, and of blessing the North American provinces with a degree of prosperity which has never yet been afforded them, that I feel it my duty to press it on the immediate attention of Her Majesty's Government.

" I would ask of them a grant of money, to be issued on the same principles and securities as those which regulate the assistance given to harbours, rail-roads, canals and other public works in England. The interest of the money advanced could be satisfactorily ensured, and I feel certain that the value of the tolls would very soon be so great, that the principal would be speedily repaid. I believe, my Lord, I am not too sanguine when I assert, that such a step taken, would at once put an end to all discontents and disturbances in the Canadas. The Americans would see that their chances of acquiring these provinces, by holding out the temptation of a prosperity which our supremacy does not afford the Canadians, were at an end, and would discontinue their intrigues on our frontiers, whilst the inhabitants of our North American colonies would find in the increase of trade and wealth, which must flow in, pursuits and occupations which would leave them neither the leisure nor the desire for political agitation, or traitorous conspiracies.

" On our part, we should by the judicious application of this loan spare all the immense expense of our army and fleet, and of the volunteers and militia.

" I again express my earnest conviction that the measure I recommend is, for the reasons which I have adduced above, founded on the best considerations of economy, tranquillity and security for the present and the future; and as such I humbly submit it to the decision of Her Majesty's Government."

The above despatch gave great satisfaction in the province at the time it was written.

When Lord Durham announced his having written this despatch, it was received throughout the province with the highest possible satisfaction. He truly described it as a measure above all others best calculated to remove dissensions and to establish the prosperity of the country. It would be impossible to over-rate the grateful feelings which such an act of munificence on the part of the British Government would excite among all classes; but it is most singular that his Lordship should, when drawing up his final report, have overlooked the fact, that if his scheme of importing goods free of duty by the way of New York were adopted, our magnificent canals would be rendered almost, if not entirely, useless, and the whole advantage arising from the transportation of our imports would be transferred to the boats and canals of the state of New York.

Our canals would be rendered useless by the adoption of Lord Durham's scheme.

Your committee need not say how unequivocally they deprecate this unwise and destructive recommendation, nor do they for a moment believe that it will receive countenance in any quarter.

His Lordship described truly the inability of Upper Canada to complete public improvements.

In referring to the great works undertaken by this province, Lord Durham has truly ascribed the inability of the province to complete them to the impediments arising from the political condition of Lower Canada, and its unwillingness to contribute its aid in works in which they are equally interested; but your committee regret that this statement should have been accompanied by most unmerited and ungenerous insinuations against the gentlemen who have gratuitously, and at great personal inconvenience, acted as commissioners in superintending the outlay of the public money. There is something so offensive and unbecoming in these passages of the report, as to induce the committee, from that and other internal evidence, to believe that that portion of it which relates to Upper Canada was not written by and never received the careful revision of his Lordship.

Those passages in the report respecting the commissioners for our public works exceedingly offensive.

Your committee will now direct the attention of your honourable House to such parts of the High Commissioner's report as more particularly relate to the executive department of the government, and to the legislature. In submitting to the consideration of your honourable House the observations they have to offer on this part of the subject, it is with pain they have to declare, that his Lordship appears to have adopted opinions of the most unjust and injurious description, upon information the most inaccurate, and without thinking it necessary to seek the truth in those quarters where he was most certain to obtain it.

The opinions expressed therein respecting the executive and the legislature most unjust and injurious.

His Lordship has overlooked the obvious reasons against making reference so publicly to the course pursued by the executive in prosecuting the brigands.

It is somewhat singular that Lord Durham should have overlooked or disregarded the many obvious objections that existed to his making reference in the public manner he has done, or indeed in any other manner, to the course pursued by the executive government of this province, in the administration of justice in relation to the traitors and brigands whom it became a necessary but painful duty to prosecute. That the course pursued in Upper Canada did not harmonize with the policy of his Lordship, is not to be denied; but what was done here was done in accordance with the known and established laws of the province; trial by jury was not dispensed with, and no *ex post facto* enactments were passed to create unknown penalties against unconvicted offenders, and no punishments were awarded that were not within the legal authority of the Crown. Although punishments more severe than Lord Durham had the power or the inclination to award were inflicted in Upper Canada, his Lordship has no right to dispute their necessity; and he is wholly without grounds for asserting that his policy, if known and followed here, would have been attended by any other consequences than resulted from it in Lower Canada, where he was at full liberty to give it effect. In that province, the general impunity which followed crime of the deepest malignity was followed by renewed rebellion and increased outrage.

Comparison between the effects of the different policy pursued by Upper and Lower Canada.

Upper Canada has been spared that additional disgrace, and saved from the calamities of a second insurrection; whether this cause for satisfaction is to be attributed to that firm determination to vindicate the laws of the country, which your honourable House, without a dissenting voice, has thanked his Excellency the Lieutenant-governor for exercising, no one can confidently affirm; but it is known to members of your honourable House, that the painful duty of disposing of the numerous prisoners who had subjected themselves to the severest penalties known to our laws, was entered upon with the most earnest and anxious desire to extend mercy to the utmost limits compatible with the safety of the country, and that this desire was firmly adhered to, notwithstanding the strong feeling of an outraged and deeply-injured community loudly and unequivocally demanding examples of the utmost severity, far more numerous than were inflicted.

In disposing of the prisoners, the utmost mercy extended compatible with safety.

Without the slightest mention of the grounds on which the two persons alluded to by his Lordship, as having suffered the extreme penalty of the law, but apparently purposely omitting any notice of them, his Lordship has stated that they unfortunately engaged a great share of public sympathy, and that their pardon had been solicited in petitions signed, it is generally asserted, by "30,000 of their countrymen"! The making this statement, if strictly accurate, could answer no useful purpose, but quite the contrary; but to mark how incautious his Lordship is in referring to facts, it is proper to state, that instead of 30,000 signatures, there were not 5,000 appended to the petitions presented.

His Lordship states that petitions were presented on behalf of Lount and Matthews, signed by 30,000;

though there were not, in fact, 5,000.

In connexion with this subject, it cannot fail to attract the notice of every one, that Lord Durham appears to have altogether overlooked the outraged feelings and deep injuries done to the loyal people of this province by the convicted traitors. In no part of his Lordship's report does he exhibit sympathy for them; they are the objects of reproach; the guilty are the only parties for whom his Lordship expresses sympathy or compassion.

The outraged feelings of the loyalists appear to have been overlooked.

Your committee have, with regret, further to observe, that the High Commissioner, not content to limit himself to ungracious notice of particular acts of the government with respect to the public prosecutions, has, in addition, given credit and currency to charges the most ungenerous, not only against the officers of the local government and the legislature, but also against a large portion of the loyal people of the country generally. His Lordship has represented to Her Majesty, that "it certainly appeared too much as if the rebellion had been purposely invited by the government, and the unfortunate men who took part in it deliberately drawn into a trap by those who subsequently inflicted so severe a punishment on them for their error. It seemed, too, as if the dominant party made use of the occasion afforded it by the real guilt of a few desperate and imprudent men, in order to persecute or disable the whole body of their political opponents. A great number of perfectly innocent individuals were thrown into prison, and suffered in person, property and character. The whole body of reformers was subjected to suspicion, and to harassing proceedings instituted by magistrates whose political leanings were notoriously averse to them. Severe laws were passed under colour of which individuals very generally esteemed were punished without any form of trial."

The High Commissioner has given credit to most ungenerous charges against the government and the loyalists.

Extract from report relative thereto.

If one who was not clothed with the official character of Lord Durham had promulgated the paragraph here quoted, he might justly be rendered personally liable for its publication; but although his Lordship is not responsible for his official acts, as Her Majesty's High Commissioner, to the provincial government and the people, his observations so deeply and injuriously affect, yet a moral obligation rests upon him, as an honourable man, to declare to the world upon what grounds he has asserted that "it appeared too much as if the rebellion had been purposely invited by the government, and the unfortunate men who took part in it deliberately drawn into a trap by those who subsequently inflicted so severe a punishment on them for their error"! By what authority has his Lordship stated that "it seemed, too, as if the dominant party made use of the occasion afforded it by the real guilt of a few desperate and imprudent men in order to persecute or disable the whole body of their political opponents"? From whom did his Lordship learn, and who are the injured parties referred to in his statement, that "a great number of perfectly innocent individuals were thrown into prison, and suffered in person, property and character"? Who were the magistrates "whose political leanings subjected the whole body of reformers to harassing proceedings"? And lastly, what "severe laws were passed, under colour of which individuals very generally esteemed were punished without any form of trial"? The enormities here enumerated could not have been perpetrated without the grossest fraud and tyranny on the part of the government, the corrupt and guilty co-operation of the legislature, and the most malignant and wicked participation of the great body of the people. And surely, however great may have been the objections of his Lordship to those different parties, and however strong the sympathy with their political opponents, yet, charged as he was with the deeply-responsible and delicate office of Her Majesty's High Commissioner, the most important object of which was, if possible, to reconcile conflicting parties, and to restore peace and harmony to the country, remembering also his first promise to the people of these provinces that he would discharge his duty "without distinction of party, races or politics," he surely ought most cautiously to have guarded against falling into any errors of fact, and carefully abstained from uttering sentiments calculated to inflame the public mind, and to raise up new causes for dissension instead of allaying those that already existed.

A private individual promulgating the above opinion would be personally liable therefor.

From what source did his Lordship derive his information?

He should have guarded most cautiously against falling into any errors of facts.

But Lord Durham has, unfortunately, proved himself insensible to the propriety of this prudent and politic course. For the consequence of his Lordship's acts, no party in this province is responsible, and it will be the duty (and your committee trust that the patriotism of the people will lead them to perform it) of all parties to unite in averting the new dangers and difficulties they are likely to produce.

No party in the province responsible for the consequences of his Lordship's acts.

It

It is impossible for any one to meet charges so general as those advanced by Lord Durham, but your committee may venture to remark, that although it is possible that some innocent individual may have been thrown into prison during the insurrection, and although it is also possible that some such persons may have been subjected to harrassing proceedings instituted by magistrates whose political leanings were adverse to them, such occurrences ought not to excite surprise, and assuredly ought not to be made the ground of general condemnation. It has never yet happened, your committee believe, that a political insurrection has occurred, in the suppression of which some innocent persons have not been subject to suspicion, and oftentimes falsely accused; but that the government or magistrates availed themselves of the occasion of the insurrection in this province to persecute and disable the whole body of their political opponents, cannot be asserted with any degree of truth; neither do your committee believe that any person of intelligence and character among the reformers will be found to say so.

Though some innocent persons may have been imprisoned during the late insurrection, it should not excite suspicion.

For a political insurrection never yet occurred, in which innocent persons have not been subject to suspicion.

Referring to the administration of justice in this province, Lord Durham remarks that, "it is true, it appears much better in Upper than in Lower Canada; courts of justice, at least, are brought into every man's neighbourhood, by a system of circuits, and there is still some integrity in juries." Why his Lordship should have permitted this paragraph to appear in his report is altogether incomprehensible; your committee do not believe that any man who had a regard for truth was to be found in the province so reckless as to attempt to throw discredit on the integrity of the learned judges of Her Majesty's courts in Upper Canada; and the equivocal terms used in referring to the juries are as offensive as they are unjust. Those who are concerned in the administration of justice desire no praise for doing their duty honestly and conscientiously; and your committee believe your honourable House might safely defy the High Commissioner to point out any portion of Her Majesty's dominions where these duties are performed with greater uprightness than in this distant colony of the empire.

Notice of his Lordship on administration of justice in these provinces.

His Lordship's insinuation on administration of justice repudiated.

Your committee will next advert as briefly as possible to that part of Lord Durham's report in which he endeavours to disparage and bring discredit upon your honourable House, and directly to impeach the integrity of those loyal and independent men by whom the majority of the Assembly were chosen. His Lordship states, that "the circumstances under which they were elected were such as to render them peculiarly objects of suspicion and reproach to a number of their countrymen."

That part of the report referred to which endeavours to disparage the House of Assembly.

As in the instance of the charges insinuated in that part of the High Commissioner's report which relates to the insurrection, his Lordship adduces no fact in support of allegagations which your committee are bound to declare have been unjustly made; while, on the other hand, evidence which did not depend upon the mere assertion of your honourable House, but which was established and confirmed by documents and facts that defied contradiction, were within his Lordship's reach, and would have prevented him, had he been disposed to consult them, from making the unfounded charges which he has rather chosen to give currency to, that "in a number of instances the elections were carried by the unscrupulous exercise of the influence of the government, and by a display of violence on the part of the Tories, who were emboldened by the countenance afforded to them by the authorities," and that "the Tories succeeded in carrying more than one seat by means of the violence of the organized mob (referring to Orangemen) placed at their disposal." It will not be expected that your committee should go over the evidence which has already been laid before the people of this province and the British nation repudiating these statements. There is no necessity for doing so as regards the electors of Upper Canada, and Her Majesty will receive every necessary information from the report adopted by your honourable House at its first session, on the petition of Charles Duncombe, addressed to the House of Commons. It would seem, indeed, from a perusal of his Lordship's report, that he had received and adopted, as true, the statements made by this now fugitive traitor, wholly disregarding the ample refutation they received in the report referred to. With respect to the degree of confidence that may be reposed in your honourable House by your constituents, it becomes not your committee to speak; but they feel a great satisfaction in knowing, that in whatever light their conduct may be viewed by those to whom they are responsible, and before whom they must soon and are ready to appear, they have endeavoured faithfully to do their duty to their Sovereign and their country, and they are well satisfied that the great bulk of the inhabitants of Upper Canada, of all parties and creeds, will be ready and willing to shield them from unmerited calumny and reproach.

No facts adduced in support of allegations.

The elections declared by his Lordship to have been carried by an undue exercise of government influence.

It appears as though he received and adopted, as true, the statements made by the traitor Duncombe.

Your committee have not overlooked the apparent injustice done in permitting the statements made by the High Commissioner, so injurious to your honourable House, to be made public, when their refutation was in the hands of Her Majesty's Ministers; but your committee feel it right to explain that the whole report of his Lordship appears to have obtained currency in a most irregular manner, and without the concurrence or sanction of the Government.

The apparent injustice done to the House, in making public certain statements in Lord Durham's report, has not been overlooked.

Your committee will here close their remarks on the various allegations in the report of the High Commissioner that appeared to them to require particular animadversion. If, in the course of their remarks, they have been betrayed into too strong an expression of reproach or indignant refutation, they trust that it will not be ascribed to a wanton indifference to that courtesy and respectful deference that should mark the proceedings of a public body towards those of high rank and station; and, on the other hand, they trust that they will not be denied the credit of having forborne to apply animadversions of far greater severity than they have used to many parts of a report which they can truly affirm, and which they believe they have clearly proved to be most unjust and unfounded, and which are calculated to have a most mischievous influence on the future destinies of these colonies.

Committee close their remarks on the allegations of the High Commissioner.

Committee vindicate themselves on the manner of treating the Report of Lord Durham.

Antidote to the effect intended by his Lordship's report, taken from the report itself.

Lord Durham professes to submit to Her Majesty and the British nation a true and faithful account of the state and condition of this, as well as of the other British North American provinces, and there is no doubt that it will be promulgated throughout the country by those who are gratified at finding their political principles and theories advocated and sustained by his Lordship, that there is nothing in his report that admits of contradiction, and that whatever discredit may be attempted to be cast upon it, must proceed from disappointment or vindictive feelings. In refutation of this attempt to pervert the truth, if it should be made, your committee invite the attention of the independent yeomanry and hardy husbandmen of Upper Canada to the following paragraph. Having first described the surpassing prosperity of the United States for the purpose of contrasting it with the poverty and inferiority of these colonies, his Lordship proceeds to state: " On the side of both the Canadas, and also of New Brunswick and Nova Scotia, a widely scattered population, poor, and apparently unenterprising, though hardy and industrious, separated from each other by tracts of intervening forests, without towns and markets, almost without roads, living in mean houses, drawing little more than a rude subsistence from ill-cultivated land, and seemingly incapable of improving their condition, present the most instructive contrast to their enterprising and thriving neighbours on the American side."

Lord Durham's contrasting picture of the British provinces, and their American neighbours.

Appeal to the farmers residing on the St. Lawrence, on the truth of the above contrast.

Let the farmers of all political parties residing in the districts fronting on the St. Lawrence, the owners of the extensive, beautiful and well-cultivated lands on the Bay of Quinte, in the district of Newcastle, the Home, Gore, Niagara, London, and Western Districts, read this degrading account of them, and ask themselves whether they would feel perfectly safe in submitting their future political fate, and that of their children, to the dogmas of a man who has so grossly mis-stated their character and condition. If Lord Durham, after travelling up and down the river St. Lawrence, and along the Niagara frontier, seeing, as he must have seen, even within this limited field of observation, farms of unsurpassed beauty and fertility, occupied and excellently worked by yeomanry, who enjoyed every comfort, and whose wealth and independence placed within their reach almost every luxury that could be desired by man, could deliberately pen or promulgate a paragraph such as has been just quoted from his report, surely the people of the country may well hesitate before they place implicit confidence in any statement or opinion that he may advance on any other subject.

Motives of High Commissioner in the above statements not easily understood.

Nor is it easy to understand what could have been the motives which induced the High Commissioner to give this character to the rural population of the country. Its inaccuracy could not have proceeded from ignorance or want of information; neither could his Lordship be insensible to the injury it was calculated to bring on this country, by diverting emigration to other shores—perhaps to the highly and extravagantly admired shores of the neighbouring Republic! Your committee, unwilling to entertain this opinion, will pursue the inquiry no further.

Having thus adverted to those portions of the High Commissioner's Report which appeared to your committee most obviously to require explanation and remark, they will bring the duty assigned to them by your honourable House to a close, by briefly stating the plan recommended by his Lordship to be adopted for the future government of these provinces.

Plan proposed for the future government of these provinces.

It is this: that the provinces of Upper and Lower Canada be forthwith united under one legislature, and that the act of the Imperial Parliament intended to effect this object should contain provisions by which any or all the other North American colonies may, on the application of their legislatures, be with the consent of the two Canadas admitted into the Union.

Representation to be settled according to numbers of the population.

The existing endowments of the Catholic Church in Lower Canada to be guaranteed.

Provision by law for the Protestant Church to be taken away, by a repeal of the clauses of the Constitutional Act which relate to the clergy reserves.

All the revenues of the provinces, except those arising from lands, to be at the disposal of the legislature, upon condition of providing an adequate civil list.

The revenues and disposal of the Crown lands to be confided to the Imperial authority.

The independence of the judges to be secured by giving them the same tenure of office and security of income as exists in England.

In the practice of the government his Lordship advises that no money votes should be allowed without the previous consent of the Crown; and that responsibility to the united legislature of all officers of the government, except the Governor and his Secretary, should be secured by every means known to the constitution.

The Governor, as representative of the Crown, to be instructed that he must carry on his government by heads of departments, in whom the united legislature shall repose confidence; and that he must look for no support from home in any contest with the legislature, except on points involving strictly Imperial interests.

His Lordship recommends these changes to be made without referring to the provinces previously.

And these several changes his Lordship recommends should be forthwith made, and without any previous communication with this or the other province.

The two main points have been already discussed in the Legislature.

If it were properly within the instruction of your committee to discuss the several propositions of his Lordship for the future government of Her Majesty's subjects in Canada, they would feel themselves in a great degree relieved from doing so. The two points of most importance, viz., the legislative union of the provinces, and the responsibility of the officers of Government to the legislature, have already undergone the most careful investigation, and received the deliberate judgment of your honourable House. The first has, under certain specified conditions, been assented to; the second has been pronounced inconsistent with the dependence of these provinces as colonies upon the mother country. If, in

disregard

disregard of your recorded opinions, these two measures should be proposed to and receive the concurrence of Her Majesty and the Imperial Parliament, it would be of little consequence to attempt to resist or even to discuss the other suggestions, which, whether they be objectionable or not, are comparatively of minor importance.

Your committee, however, are not willing to believe that the great nation to which these provinces belong, and which has hitherto extended to them its powerful, its parental protection, will hastily, and without the most full and ample information, adopt the opinions and act upon the recommendations of any individual, however high his rank, or great his talents, that involve the future destinies of Her Majesty's faithful subjects in these provinces.

Committee have confidence that England will not hastily adopt the opinions of Lord Durham.

Your committee, however, are well convinced that some great change is about to take place in the system of government in Upper and Lower Canada, but they do not believe that it will involve any departure from the principles of the British Constitution, so far as they can be made applicable to a colony.

Your committee submit with their report the draft of an Address to Her Majesty, which they beg to recommend to the adoption of your honourable House.

Address to Her Majesty recommended.

All which is respectfully submitted.

C. A. Hagerman.
John Prince.
Henry Sherwood.
John A. H. Powell.
W. B. Robinson.
W. Chisholm.
R. Rollo Hunter.

Committee Room, Commons House of Assembly,
the 30th day of April 1839.

(No. 107.) — No. 7. —

EXTRACT of a DESPATCH from Major-general Sir *George Arthur*, K.C.H., to the Marquis of *Normanby*, dated Upper Canada, Toronto, 13 May 1839.

No. 7.

Sir G. Arthur to the Marquis of Normanby, 13 May 1839.

IN the last paragraph of my despatch, No. 91, of the 17th ultimo, I did myself the honour to inform your Lordship that it was my intention to submit to you some observations upon the Earl of Durham's Report.

I have deferred, however, this unpleasant duty from an extreme reluctance to touch the subject at all if I could avoid it; but I am compelled to do so, because in the Report the execution of the two persons convicted of treason is adverted to in terms highly distressing to my feelings; and whilst the course of policy strictly prescribed by the instructions of Her Majesty's Government has been openly impugned by direct implication, this government is reflected on for its adherence to it.

Before I left England, Lord Glenelg personally impressed very strongly upon me that the general tenor of Sir Francis Head's administration was entirely approved by her Majesty's Government. I was to make this known on my arrival in Upper Canada, and to explain that no change of measures was intended by the change of Governors. I was to pursue the same general line of policy as my predecessor, and to give my countenance to that constitutional party which had supported him, and by which the majority of the present House of Assembly had been returned. A strict adherence to the same system was also distinctly and emphatically prescribed to me, in the Secretary of State's despatch, No. 9, of the 29th of December 1837, to which I beg to call your Lordship's particular attention.

Accordingly, on my first assuming this government, I made it the rule of my duty to follow, with some modifications, the course of policy which my immediate predecessor had pursued, to the avowed entire satisfaction of Her Majesty's Ministers.

I lauded the conduct of the loyal constitutional party which had just triumphed over those who had endeavoured to subvert the institutions of the country; more especially on those occasions when I was required to express Her Majesty's gracious approval of the behaviour of the militia; while, on the other hand, I allowed no seasonable opportunity to escape me of reasoning with their opponents, and endeavouring to convince them, that the prosecution of their measures had been alike injurious to themselves and to the community at large.

Two only of the leaders in the insurrection, whose conduct had been marked by circumstances of peculiar atrocity, suffered the extreme penalty of the law. A limited number of culprits was selected for transportation; and the utmost plenitude of mercy that the executive government could yield, without exciting the dangerous resentment of the loyalists, was progressively extended to the rest of the offenders.

The result of this proceeding was that the constitutional party, though at the time much disappointed, was eventually satisfied, and the great body of those who had been concerned in treasonable practices expressed themselves most thankful and grateful for the extreme lenity and forbearance which had been manifested towards them. Except the ultra republicans, the parties, indeed, who had joined in the insurrection, became sensible that they had done their fellow-subjects a very great injury, by the extreme measures to which they had resorted; bringing, as they had brought, upon this beautiful and once prosperous province, repeated invasions from without, and extreme misery and desolation within.

On this view of the past, which I have endeavoured on all occasions strongly to impress upon those who were implicated in the unnatural rebellion, I have reposed my hope that a better and more kindly feeling would gradually display itself; and, to an extent, my expectations have certainly been realized.

* * * * * * *

Her Majesty's High Commissioner has taken, I observe, a view altogether different. His Lordship has evidently regarded the party whose practical loyalty has been so warmly eulogised by Her Majesty's Government to be politically the most culpable, and the unsuccessful faction to be the injured party; upon the treatment of the latter the Report, indeed, contains such strictures that those very persons who have hitherto considered themselves as the recipients of mercy must henceforward be expected loudly to declaim against the injustice to which they have been subjected, and, as an inevitable consequence, renewed bad feeling and angry struggles for political influence must speedily ensue.

I am quite aware that by some means or other the Report so got into circulation as to preclude the exercise of a discretionary power by Her Majesty's Government to preserve particular passages of it from the public eye; but I cannot avoid expressing how deeply I deplore the publication, among other parts, of those paragraphs in particular at pages 59 and 60, to which the marginal notes "difficulties of adjustment increased by late events," and "irritation excited," are respectively affixed.

Even were the statements contained in those paragraphs strictly correct, their circulation within this province would be much to be regretted; but, inaccurate as they really are, it is lamentable to consider the degree of mischief which is likely to result from their appearance.

It is not the imputation that the Lieutenant-governor of the province has unnecessarily deprived two fellow-creatures of life, in opposition, as the Report represents, to the general sympathy of a large body of the community, painful as the reflection is to my feelings, and to those of my friends in England, that will produce the worst mischief to be anticipated, but it is the impression that the government has deliberately sanctioned an arbitrary and reckless course of proceeding towards a class of persons whose political crimes have been so reviewed as to leave it doubtful to the reader of the Report whether they had been guilty of any real offence; or, at the worst, that they had been goaded into disloyalty and invited to rebellion; and that, consequently, the cause, if it did not justify, at least was some excuse for their violent proceedings.

Ordered by the House of Commons to be printed, 21 June 1838, No. 524.

Your Lordship will find in my despatch to Lord Glenelg, No. 4, of the 14th April 1838, a full report of the cases of the two men who were executed.

I did not mention in that despatch, but I may now with propriety do so, that just before his departure from Toronto, which took place a few hours after my arrival, Sir Francis Head informed me that the loyal people in the country required at the hands of the government that such examples should be made as would deter the disloyal from again bringing on the province a similar calamity to that which had occurred; and he was anxious I should understand that he had come to the determination, provided he should remain in the administration of the government, of allowing the infliction of capital punishment on seven or eight of the leaders of the rebellion.

Lount and Matthews were amongst the most active of the insurgents at the time when Colonel Moodie and George Smith were murdered. They were foremost in setting fire to Doctor Horne's and Mrs. Washburn's houses in the suburbs of Toronto, and in the attempt to destroy the Don bridge leading into the city; and both were most anxious to prevail upon their associates to rush into Toronto and set it in flames.

Such offenders were not likely to draw forth the compassionate sentiments of the bulk of the community which had defeated their designs, nor were such sentiments generally expressed in their behalf.

Instead of 30,000, as stated in the report, 4,574* was the actual number of petitioners who interceded that the lives of Lount and Matthews might be spared, as your Lordship will perceive by the accompanying certified statement from the clerk of the Executive Council; and when it is remembered that the criminals were among the most active of an extensive faction, which, in connexion with foreigners, had conspired to overturn the government, and that the petitions were in the course of circulation for some weeks, the number of the petitioners will be found to furnish ample proof that the manifestation of any sympathy which was really felt for them must have been limited to that class of excellent persons who are ever ready to intercede for the very worst criminals, to their personal friends, and to their immediate partisans in the rebellious enterprise.

* In my Despatch, No. 4, before referred to, it was erroneously stated that 8,000 persons had petitioned in favour of these men: the inaccuracy arose from my having been furnished with the aggregate number of petitioners in favour of *all* the prisoners then under sentence.

I have been the more surprised at finding the passage respecting Lount and Matthews in the High Commissioner's Report, from the circumstance that at my first interview with the Earl of Durham, in the presence of Sir John Colborne, his Lordship, when speaking of the ordinance which he had just before published, observed, "that the same course of proceeding which had been followed in the Upper Province could not be resorted to in Lower Canada, as they could get no juries to convict;" and I distinctly understood his Lordship to approve of what had been done; certainly he expressed nothing approaching to a different opinion upon the subject.

In regard to all the minor offenders, I took decisive measures, soon after my arrival in the province, for checking further committals, by causing it to be intimated to the law officers that it was my desire, unless in very flagrant cases, that they should file no further informations; and having, as quickly as possible investigated and considered the cases of all the parties who had been committed, I was enabled rapidly to reduce, in accordance with the advice of the Executive Council, the number of prisoners in confinement. My despatches at this period, and the minutes of Council which accompanied them, afford the fullest information upon this interesting subject.

Unquestionably the deepest excitement had existed in all parts of the province, and several individuals, it cannot be denied, were arrested upon the slightest evidence, and regarded as traitors. It was unfortunately a period when bad men of all parties could gratify base passions, and when good men of the triumphant party were too prone to demonstrate their loyalty by the measure of their zeal in the apprehension of real or supposed offenders; so that it would be by no means extraordinary that some unjust and irregular proceedings should have been the consequence. Nevertheless, upon a calm retrospect of the past, it has surprised me that the extent of mischief, in this respect, has been so limited as it has; and I sincerely believe that the occurrences of this nature which actually took place would have been forgotten at no distant period, had not the High Commissioner's Report revived past transactions, and placed the actors in them in a new and different relation towards each other from that which had previously been recognized.

From having made no special allusion to the subject, the Earl of Durham appears to have been less impressed than I should have expected with the hardships, the trials, and the sufferings of the loyal portion of this community, or, with the necessity imposed upon the government of maintaining a right feeling among them; for although, certainly, their views are in some respects too ultra, yet their energies, in the main, are rightly directed; and the High Commissioner must be aware that, if once this link of loyalty be broken, the provinces are lost to Great Britain.

* * * * * * * * * *

As the High Commissioner adverts to the discontent said to obtain among Her Majesty's Roman Catholic subjects in this province, at their alleged neglect by the government, I beg to enclose, for your Lordship's perusal, an address promulgated in December last, by the Bishop of Regiopolis; to which it is only necessary for me to add my belief that the Roman Catholic population is sensible that it has been my desire to make no distinction, on religious grounds, in my treatment of the claims of different parties in the community.

I do not presume to assert that, in the administration of this government, I have taken throughout a course free from error; but I have the satisfaction to reflect, that I have pursued a successful one, in spite of the damage which Lord Durham's Report and Sir Francis Head's "Narrative" have done me just at the very heel of the session. Both Houses of the Legislature have expressed unanimously, in

the warmest addresses, their entire concurrence in my measures; all the schemes of the disaffected here, and of their co-adjutors in the United States, have been signally defeated; some advance has been made towards the restoration of public confidence in the province; and certainly there are at length some indications of those better feelings towards us on the frontier, which I have been unceasing in in my efforts to produce among the more respectable class of citizens; while, on the other hand, that "wild any daring border population," to which the Earl of Durham alludes, has been thoroughly intimidated, at all events, for the present.

To the best of my judgment and ability, I have endeavoured under a most fearful responsibility, and under the most trying circumstances, to carry out the views of Her Majesty's Ministers, as I have understood them.

At the same time, I freely admit, that if the extreme sentence of the law has been unnecessarily carried into effect, in one single instance, my conduct merits condemnation; but, if the fact be otherwise, I am sure Her Majesty's Ministers will not suffer me to remain, without vindication, under the odious imputation of having needlessly allowed, and even in violation of public feeling, capital punishment to be inflicted.

It is possible, my Lord, that I may be too sensitive on this point; but could your Lordship be fully acquainted with the manner in which I have been exposed, through the violence of party prejudice, to the opposite charges of undue rigour and ill-timed clemency, you would cease to wonder at the soreness of my feelings at the Earl of Durham's comment on the case of Lount and Matthews.

Moreover, the proceedings of this government towards the brigands have attracted great attention in the United States; and it is of the utmost importance to myself, and I may truly add to the public interests of the country, that the opinion which has been formed and expressed by the respectable part of the American citizens, that justice has been administered with a great regard to mercy, should not be impaired.

Of the Earl of Durham's Report, in other respects, I will only state, that on many important points his Lordship has been much misinformed.

I have, &c.
(signed) *Geo. Arthur.*

Enclosure 1, in No. 7.

Encl. 1, in No. 7. MEMORANDUM of the Numbers of the PETITIONERS in favour of *Lount* and *Matthews*.

Isaac Webb, and 3,289 others, that a pardon may be extended to Samuel Lount -	3,290
Ann Henderson, and 787 others - - - - - - - - - - -	788
Jacob Gill, and 74 others - - - - - - - - - - - -	75
James M'Kay, and 66 others - - - - - - - - - - -	67
Samuel Bentley, and 196 others, that a pardon may be extended to Peter Matthews	197
John B. Warren, and 156 others - - - - - - - - - -	157
TOTAL - - -	4,574

Wm. H. Lee,
Senior and Confidential Clerk,
Executive Council.

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 William Henry Lee, esquire, whose name is subscribed to the foregoing Memorandum, is senior and confidential clerk, duly appointed in the Executive Council Office 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 eleventh day of April, in the year of our Lord one thousand eight hundred and thirty-nine, and of Her Majesty's reign the second.

By his Excellency's command, *Geo. Arthur.*
John Macaulay.

Enclosure 2, in No. 7.

THE ADDRESS of Bishop *Macdonnell* to the IRISH CATHOLICS of *Upper Canada.*

My dear Friends and Spiritual Children,

I THANK my God, and congratulate you and myself, that all the attempts and industry of the Radicals, disaffected, and the whole host of the enemies of the revered constitution of your country, and of your holy religion, to alienate your minds from the Government, and make you rebels, have been completely frustrated. How more prudent your conduct has been than that of your countrymen, who, in the years 1797 and 1798, allowed themselves to be deluded by cunning and designing men, who vainly thought to overturn the British Government in Ireland, and to climb up to power and distinction by the sacrifice of the blood and lives of their brave, but simple-hearted countrymen! No sooner did those wicked men find their chimerical plans impracticable, than they deserted the cause, and left their deluded followers to the mercy of a mercenary soldiery and a vindictive yeomanry. Encl. 2, in No. 7.

Your loyalty and general good conduct, my friends, have obtained for you the approbation and confidence of Government, notwithstanding the attempt that was made to create a general prejudice and raise an alarm in the province, on the arrival of the first batch of Irish Catholic emigrants in the settlement of Perth. They were reported as riotous, mutinous, and what not. An application was made for a military force to put them down, and this report was sent to the Home Government.

Being at the time on the Continent, the Colonial Minister, Earl Bathurst, wrote to me to hasten my return to Canada, as the Irish Catholic emigrants were getting quite unruly. On coming to London, and calling at the Colonial Office, I assured Lord Bathurst that if fair play were given to the Irish Catholics, and justice done to them, I would pledge my life their conduct would be as loyal and as orderly as that of any of His Majesty's subjects. Mr. Wilmot Horton, the under-secretary, who happened to be in the office at the time, requested that I would give him that assurance in writing, in order to take it to the council, which was just going to sit.

Yes, my friends, I pledged my life for your good conduct; and during the period of 15 years which have elapsed since that pledge was given, I have had no cause to regret the confidence I placed in your honour and your loyalty.

At the last general election, you rallied round the government, and contributed in a great degree to turn out the avowed enemies of the British constitution, the major part of whom have become since rebels, and are now proscribed traitors by the laws of their country.

It is alleged that the loyalty and attachment to the British constitution of some of your fellow-colonists are but conditional; that is to say, they are loyal and submissive to the government so long as the government will befriend them and support their institutions; and it cannot be disguised that the protracted struggle for the clergy reserves has damped the ardour of many a loyal subject in the province; be that as it may, I am sure that your loyalty is uncompromising, and based on the principles of honour and the sacred obligations inculcated by your holy religion.

I am aware that the enemies of Catholicity will urge in contradiction to this assertion the Irish rebellion of 1798, and the Canadian rebellions of last winter and this fall; but if we consider who were the promoters of the Irish rebellion, we will be convinced that it was rather a Protestant than a Catholic rebellion, because it was devised, planned and concocted by Protestants. Napper Tandy was a Protestant, Hamilton Rowan was a Protestant, the Sheares, the Harveys, the Grogans, the Orrs, the Tones and the Emmets, who formed the secret committees and framed the machinery of the rebellion, were Protestants, and Lord Edward Fitzgerald, who was selected as the main spring of action, was a Protestant.

Those designing men knew well the enterprising, brave, but credulous character of their countrymen; they buoyed them up with the hopes of a speedy relief from the galling yoke of tithes and taxes, and other obnoxious burthens, under which the Catholics of Ireland groaned at the time; while the floggings, pickettings, pitch caps, and other cruelties exercised on them by the Beresfords, the Browns, the Trenches, the Clares, the Carhamptons and others, who expected a general confiscation of catholic property, determined them at once to throw themselves into the arms of those who promised to deliver them from such inhuman treatment; and certainly had not the clemency of the just and humane Cornwallis interfered, such of the Irish Catholics as would not have been exterminated would undoubtedly have been stripped of all their property and reduced to beggary. How different has been the conduct of the leaders of the Irish rebellion of 1798, from that of the present champion of Irish liberty! Observe with what care, although backed with seven millions of the stoutest hearts the world ever produced, he has prevented an appeal to arms, because, in his eyes, the life of an Irishman is of incalculable value. Fortunate would it be, for his fame, in the estimation of future ages, had he exhibited the same friendly feelings towards the liberty and religion of catholic Spain.

In exculpation of the Canadian rebellion little can be said: the Canadians had no real grievances to complain of; they paid no tithes but to their own clergy; no taxes or any other burden but what was imposed upon them by laws of their own making; their religion was not only free and uncontrolled, but encouraged and protected by the government, when threatened to be shackled by their own catholic assembly; parishes were multiplied by the consent of government, and subscriptions were raised by Protestants, and even by the representatives of His Britannic Majesty, to build their churches; in a word, the French Canadians lived freer, more comfortably, and more independently, than any other class of subjects,

perhaps, on the whole surface of the globe; and they were perfectly contented, and seemed quite sensible of the blessings they enjoyed under the British Government, until the folly and madness of irreligious Papineau, atheistical Giraud, and camelion O'Callagan, whose religion is as changeable as the colours of that animal, of the Protestant Nelsons, Browns, Scots and others of that kidney, who, taking advantage of the ignorance and simplicity of the unfortunate *habitans*, made them believe that they were groaning under a galling yoke, which they did not feel but in imagination, and succumbing under unsupportable burthens, which had never been laid upon them; that they were to found a glorious Canadian republic, which was to surpass those of Greece and Rome, and even the overgrown mammoth of our own days.

An unfledged gang of briefless lawyers, notaries and other pettifoggers, and a numberless horde of doctors and apothecaries, like the locusts of Egypt, spread themselves through the land, and by working upon their prejudices against the British, and flattering their vanity with the hopes of the distinguished situations which they were to occupy in the new republic, they unfortunately succeeded in seducing but too many of the credulous Canadians.

Had these infatuated people reflected for a moment that their intended republic (had they even succeeded in establishing it) could not be supported without an army, without fortifications and garrisons; that armies and fortifications could not be maintained without great expenses; that to defray those expenses and other appendages of government, money must be raised or extorted from them,—they would pause before allowing themselves to be thus led astray by their seducers, who, miserably poor themselves, for the most part, expected to become rich and great at their cost. They never took into their calculation the power and strength of Great Britain to keep in subjection a rebellious province, and they never penetrated the treacherous designs of an all-grasping and unprincipled people, who, like the tiger, or a monstrous boa-constrictor, crouch and hide themselves until their unsuspecting prey approach near enough to spring upon it. The most inexcusable part, however, of the conduct of the Canadians was, not to listen to the advice of their clergy, who knew well the intention of Papineau and his associates was to destroy their influence and extinguish the Catholic religion, which he publicly declared to be absolutely necessary before liberty could be established in Lower Canada.

Two causes contributed greatly to work into the hands of the leaders of the Canadian rebellion: the first was the abuse and reviling poured upon the Canadians by the ultra loyalists, and the utter contempt in which they were held by persons of different extraction. Jean Baptiste was hardly allowed to belong to the human species, and no animal was so vile and contemptible as he; but Jean Baptiste had his pride and his vanity like other mortals; and when smarting under the irritation of wounded feelings, he listened with pleasure to the harangues of the preachers of sedition and rebellion, and was delighted with those parts of their speeches which promised to expel all foreigners from the soil of Canada, and confine the entire possession of it to the children of the soil. (Enfans du sol!)

The second cause of the rebellion in both the Canadas was the system of economy which had been adopted. Had two or three provincial corps been kept on permanent duty in the disturbed parts of the country, they would have prevented most effectually the last outbreak that took place, and a few corps raised in Lower Canada, under loyal commanders, and employed in this province, would, with our own militia, have saved us from all the alarms, trouble and expense we have been at. Thus did the late Sir George Prevost, of much-injured memory, secure the attachment of the Lower Canadians, during the last war, by raising the voltigeurs and two other Canadian corps, whose loyalty and bravery were found and acknowledged to be of essential benefit.

I have said that your loyalty is based on the sacred obligations of your holy religion. The Apostle commands us to "obey and be submissive to the powers that be;" that is to say, under the government of a king, we must honour and obey the king, and give to Cæsar the things that are Cæsar's; and under a republican government, obey and be submissive to the laws and existing authorities of that government.

In searching, however, the records of antiquity, we find, that in the most powerful and flourishing republics that ever existed in the world, the duration of peace, happiness and tranquillity has been short, indeed, in comparison to that of turbulence, storms and hurricanes in which they have been at last overwhelmed, and finally swallowed up. And if we look at those which have sprung up in our own days, we find the picture truly disheartening and melancholy. Behold the fruit of the much-boasted liberty given to South America! Travel through Mexico, Columbia, Guatemala, Buenos Ayres, Chili and Peru, and see if you can meet with that happiness and tranquillity which the treacherous phantom of Liberty had promised to the deluded inhabitants. On the contrary, you will meet with nothing but revolution succeeding revolution, one ambitious chief rebelling against and upsetting another, and he in his turn overcome and destroyed by his more daring and enterprising rival; and thus those ill-fated regions have become the scene of bloodshed, slaughter and desolation; even the grand paragon of perfect and uncontrolled liberty in our own neighbourhood, observe how fairly it verges towards confusion and anarchy; and what security does it hold out to life and property?

But let us, my friends, behold spectacles sufficiently wretched and pitiable nearer home. What heart-rending objects do the victims of delusion present to our eyes in a neighbouring province! Men who had every comfort around them, and did not know what want of any kind was, in search of the promised liberty and independence, have met with imprisonment, banishment, or the death of rebels, while their unfortunate wives and children have seen their houses

houses reduced to ashes, their property plundered and destroyed, and themselves helpless and exposed to the severity of a Canadian winter, without shelter, food or raiment, perishing with cold, and starving with hunger.

It is by viewing and reflecting on the misfortunes and miseries that generally follow in the train of disloyalty and rebellion that we can best appreciate the happy effects and blessings of a peaceable and loyal conduct. It is no small cause of exultation to you and to your friends, that hardly a Catholic has been found among the agitators to rebellion, or in the ranks of the rebels, in Upper Canada.

I am aware that those who are not acquainted with the Irish character, or are prejudiced against it, indulge in representing it as riotous and rebellious; but, in order to refute this unjust and vile charge, I shall produce the testimonies of protestant gentlemen, who had the best opportunities of knowing the Irish character, and whose veracity is beyond suspicion.

Sir John Davis, who had been Attorney-general in Ireland, and afterwards Chief Justice of the King's Bench in England, says, "The Irish are more fearful to offend the laws than the English, or any nation whatsoever; in the condition of subjects, they will gladly continue as long as they may be protected and justly governed without oppression."

His Excellency Sir John Harvey, the present Lieutenant-governor of New Brunswick, (whose achievements at Stoney Creek, Lundy's Lane, Chrysler's Farm and other places in this province, have erected monuments to his fame, which will last as long as the British power will be acknowledged in the Canadas, and remain engraved on the hearts of Canadians to the end of time,) in answer to the address of the Society of St. Patrick, says, "Gentlemen, your address is truly Irish; it goes direct to the heart, from whence it evidently proceeds: though not an Irishman myself, I passed many happy years in Ireland, and the circumstances in which I was placed, during my residence in that country, gave me peculiar facilities for correctly appreciating the worth of the Irish character. I publicly said upon a former occasion, treat an Irishman with strict justice and a little kindness, and you will attach him to you with all the ardour of his warm-hearted nature. Justice, he, in common with all classes of Her Majesty's subjects, feels a well-founded confidence of receiving under the protection of our unrivalled Constitution, in every part of the British dominions; and kindness, when needed, he feels equally assured of experiencing from the Throne. Hence his ardent loyalty to the one, and his devoted attachment to the other." I will also mention to you the substance of a conversation which took place between a Texan general who visited Kingston last summer, and two gentlemen of this town. One of these gentlemen, who had been formerly acquainted with the general in the Mississippi, amongst other questions, inquired of him what had become of the catholic Irish colony which had been settled in Texas for several years, and had possessed a fine tract of land in that country. The answer was, that they had been almost annihilated, for they had been the most formidable enemies the invaders had to encounter, and fought most desperately for the Mexican government; and this tallies pretty much with the declaration of an American citizen, who asserted not many weeks ago, in the court-house of this town, when questioned by one of our magistrates, "that the sympathisers had many friends of different denominations in this province, who would readily join them in the cause of liberty, but as to the Catholics, they had no dependence on them."

Thus have Catholics established their character of loyalty and fidelity to every government under which they live, not by declarations of loyalty and loyal addresses which we see crowding the columns of the public prints of the day, but by their actions and the general tenor of their conduct. In testimony of this truth, we see that the catholic Canadians of the western district, free from the pestiferous delusions of seducers, and listening to the admonitions of their pastors, exhibit full as much loyalty and bravery in encountering the brigands and invaders of their country, as any portion of their fellow-colonists.

It will be no small satisfaction to you, my friends, to be assured, that in no class of Her Majesty's subjects in Upper Canada does his Excellency, our present just and impartial Lieutenant-governor, Sir George Arthur, repose more trust and confidence than in Catholics, as is evidently shown by the fact, that at this moment no fewer than nine regiments of militia and volunteers are under the command of Catholics, besides the great number of Catholics who are appointed to companies in other regiments, and to other situations of high trust and honour.

That you may always deserve and possess the confidence and favour of your country and your Sovereign, and receive the reward of your loyalty and fidelity, with the blessing of Heaven, is the never-ceasing prayer of your spiritual father, your affectionate friend, and devoted humble servant in our Lord Jesus Christ.

(signed) *Alexander Macdonnell,*
Bishop of Kingston.

Kingston, 1 December 1838.

CANADA.

COPIES OR EXTRACTS

OF

CORRESPONDENCE

RELATIVE TO THE

AFFAIRS OF CANADA.

Ordered, by The House of Commons, *to be Printed,*
6 *June* 1839.

289.

CANADA.

COPIES OR EXTRACTS

OF

CORRESPONDENCE

RELATIVE TO THE

AFFAIRS OF CANADA.

(PRESENTED TO PARLIAMENT BY HER MAJESTY'S COMMAND).

Ordered, by The House of Commons, *to be Printed,*
10 *July* 1839.

392.

SCHEDULE.

No 1.—Extract of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to Lord Glenelg; dated Montreal, 31 January 1839 - - - - - - - - - - - p. 3

No. 2.—Copy of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to Lord Glenelg; dated Montreal, 15 March 1839; (One Enclosure) - - - - - - - - p. 3

No. 3.—Extract of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to the Marquess of Normanby; dated Government House, Montreal, 13 April 1839 - - - p. 5

No. 4.—Copy of a Despatch from Lieut.-General Sir J. Colborne, G.C.B., to the Marquess of Normanby; dated Government House, Montreal, 19 April 1839; (Three Enclosures,) p. 5

CANADA.

No. 1.

— No. 1. —

(No. 24.)

EXTRACT of a DESPATCH from Lieut.-General Sir *J. Colborne*, G.C.B., to Lord *Glenelg*, dated Government House, Montreal, 31 January 1839.

My Lord,

I BEG leave to state to your Lordship that I am persuaded that the most important remedial measures required in the present situation of the country are those which would tend to the reconstruction and enlargement of the judicature, to the establishment of registry-offices, to the commutation or abolition of the lods-et-ventes, particularly in towns, and the other oppressive incidents of the feudal tenure, to the continuation and completion of local improvements, and to the introduction of a well regulated system of district police.

With returning tranquillity it is justly expected that the measures to which I advert will be speedily carried into effect preparatory to the changes of a more difficult nature which may be proposed for the permanent government of this province. Lord Durham, I am aware, appointed commissioners to report upon several of the subjects in question, and had, I believe, framed Ordinances for the consideration of Her Majesty's Government to authorize a commutation of the lods-et-ventes in Montreal, and the establishment of registry-offices; but I imagine that the reforms which he was desirous of introducing were not finally determined on, and I have therefore requested the Executive Council to collect such information as will enable me either to promote the views of my predecessor, or to propose measures for reconstructing the Court of Appeal and the judicature of the province, if the alterations which may be suggested can be effected through the legislative power granted to the Special Council.

* * * * * *

Most of the measures to which I have thought it right to draw your Lordship's attention as being of a character to demand the prompt interposition of Her Majesty's Government, or of the Special Council, might, if found to be practically beneficial, be subsequently embodied in an Imperial Act, providing for the future government of the province. I have no doubt that they are immediately required to impress a conviction of the efficacy of the law in parts of this province where justice has been hitherto imperfectly administered, to repair in some degree the evils under which the loyal inhabitants have long laboured, and relieve all classes from burthens which they have reluctantly borne, and to deprive the disaffected of that influence which acknowledged grievances, speciously exaggerated, have unhappily obtained for them.

— No. 2. —

(No. 39.)

No. 2.

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

Government-House, Montreal,
15 March 1839.

My Lord,

WITH reference to Lord Durham's despatch of the 16th of June, No. 10, respecting an additional power being granted to authorize the Special Council to provide means for improving the province, and enabling municipal bodies to carry on and complete the public works now in progress, I beg to transmit to your Lordship the accompanying copy of a Report of the Executive Council upon this subject. I have adverted, in my despatch of the 31st January, No. 24, to the benefits of extending the system of police, which has been introduced into the cities of Quebec and Montreal, to the rural districts. The continuance, however, of the police already established must depend on the enlargement of the powers of the Special Council, which can alone adequately provide for its support. Among other measures connected with local improve-

CANADA.

ments, which in the present situation of the country are highly desirable, and which must be deferred till the Special Council is invested with the authority to raise loans applied for by Lord Durham, are the establishment of inferior tribunals in every district, for the summary trial of petty offences, which may obviate the evil and inconvenience of bringing complainants and witnesses from remote distances; and the erection of court-houses and gaols.

Whatever may be the restrictions which it might be deemed expedient to impose upon the exercise of the required important power by the Special Council, I cannot but express my opinion that to promote the future tranquillity of the province, and to deprive the influential factious individuals who have long exercised a dangerous control in several sections of this province, the speedy concession of this additional power is indispensable.

I have, &c.

(signed) *J. Colborne.*

Enclosure in No. 2.

Encl. in No. 2.

TO His Excellency Lieutenant-General Sir *John Colborne*, G.C.B., G.C.H., Governor General of British North America, &c. &c. &c.

REPORT of a Committee of the whole Council.—Present: The Hon. Mr. Stewart, Mr. Heney, Mr. Pemberton, Mr. Sheppard, Mr. Daly, Mr. Commissary-general Routh, Mr. Pothier, Mr. M'Gill, and Mr. de Rocheblave.

May it please your Excellency,

THE committee have read and adopted the following Report made by the sub-committee on the subject matter of your Excellency's reference in Council of the 26th January last, whether it may be necessary to propose to Her Majesty's Government to grant additional powers to the Special Council to provide means for improving the province, and establishing an efficient police, and to enable municipal bodies to carry on and complete their local works, and how far it may be desirable to raise funds by imposing taxes, or by borrowing on the security of the Provincial Government.

REPORT of the Sub-Committee.—Present: The Hon. Mr. Stewart, Mr. Heney, Mr. M'Gill, and Mr. de Rocheblave.

THE sub-committee have not failed to give to his Excellency's reference that deliberation which its importance so justly merits, and being of opinion that an enlargement of the powers of the Governor and Special Council would essentially tend to the improvement of the province and the development of its resources, they humbly recommend the repeal of so much of the Imperial Act of the 1st Vic. c. 9, which prohibits the imposition of "any tax, duty, rate or impost, save only in so far as any tax, duty, rate or impost which at the passing of this Act is payable within the said province may be thereby continued," and which enacts that "no appropriation to be made by such law or ordinance of monies aforesaid in respect of the public service for any one year shall exceed the total amount of the sums appropriated by law within the said province for the public service thereof for the year 1832."

And that the Governor and Special Council be empowered to impose taxes for purposes altogether local, such as the maintenance of a police force, the lighting and paving of streets, and for otherwise improving towns and villages, and to increase or reduce local rates already existing, and further to pass ordinances for the under-mentioned purposes, viz.

For the inspection of produce, and to impose rates of inspection; for authorizing companies or individuals to construct railroads, canals, bridges, and other internal communications, and to impose tolls and rates of transport thereon; for the borrowing of money for internal improvements on the security of the revenues of the province; and the committee beg leave to state that they consider that the negociation of a loan would be greatly facilitated were the Treasury to lend their aid by becoming responsible for the regular payment of the interest in London, a measure which could not in any manner involve the parent State, inasmuch as the provincial revenues would be equally answerable for both principal and interest.

Before closing this Report, the sub-committee may be permitted to state, that under existing circumstances, they cannot propose, as recommended in the despatch of the Earl of Durham to Lord Glenelg, No. 10, dated 16th June 1838, to give the municipal bodies the power of taxation.

All which is respectfully submitted to your Excellency's wisdom.

By order.

Council Chambers, Government House, Montreal, 7 Feb. 1839.

(signed) *J. Sewart*, Chairman.

Certified,

G. H. Ryland.

— No. 3. —

(No. 55.)

No. 3.

EXTRACT of a DESPATCH from Lieutenant-General Sir *J. Colborne*, G. C. B., to the Marquis of *Normanby*; dated Government-House, Montreal, 13 April 1839.

THE Ordinance to incorporate the ecclesiastics of the seminary of St. Sulpice, to confirm their title, and to provide for the general extinction of seigniorial rights and dues within their fiefs and seigniories, I trust will be sanctioned by Her Majesty's Government as soon as possible, and be authorized by an Imperial Act, to be continued in force till repealed or revoked by competent Legislative authority in the province The provisions of this Ordinance appear to give satisfaction generally to the inhabitants of Montreal, and also to the superiors and ecclesiastics of the seminary, but certainly demand the confirmation of the Imperial Parliament with reference to the extensive interests which would be affected by any doubt as to the permanency of the arrangements proposed.

— No. 4. —

(No. 62.)

No. 4.

COPY of a DESPATCH from Lieutenant-General Sir *J. Colborne*, G. C. B., to the Marquis of *Normanby*.

Government-House, Montreal,
19 April 1839.

My Lord,

I HAVE the honour to acknowledge the receipt of your despatch of the 11th ult., and to transmit to your Lordship the accompanying copies of three Reports of the Executive Council, upon the several subjects to which I adverted in my despatch of the 31st January last.

The measures recommended by the Council for the enlargement of the judicature, the formation of a new court of appeal, and the establishment of registry offices, have been laid before the Special Council; and if the Ordinances which have been framed on the Reports of the Executive Council can be so modified and improved as to afford satisfaction generally in the province, I shall assent to them, with the conditional clause that they are not to go into operation till the sanction of Her Majesty's Government may be obtained.

With respect to the Report on the Lods et Ventes, the projects which have been laid before me having in view their commutation, are considered objectionable; but I hope that some measure may yet be proposed, which will enable the seigneurs to make an arrangement with their censitaires for the extinction of this prejudicial right, without injuring their interests.

I have, &c.

(signed) *J. Colborne.*

Enclosure 1, in No. 4.

Monday, 11 February 1839.

Encl. 1, in No. 4.

At the Council Chamber in the Government House at Montreal; present, the Hon. Mr. Stewart, Mr. Heney, Mr. Pemberton, Mr. Sheppard, Mr. Daly, Mr. Commissary-general Routh, Mr. Pothier, Mr. M'Gill, and M. De Rocheblave.

Mr. Heney, the chairman of the sub-committee to which was referred those parts of his Excellency's Reference in Council of the 26th of January last, which relate to the establishment of a court of appeals, and alterations in the judicature of the province, having laid before the Board the Report of the sub-committee on these subjects, the same was ordered to lie on the table for consideration.

CANADA.

Report to his Excellency Lieutenant-general Sir John Colborne, G.C.B., G.C.H., Governor-general, &c. &c. &c.

Report of a Committee of the whole Council; present, the Hon. Mr. Stewart, Mr. Cochran, Mr. Heney, Mr. Pemberton, Mr. Mondelet, Mr. Sheppard, Mr. Daly, Mr. M'Gill, and M. De Rocheblave.

May it please your Excellency,

The Committee having resumed the consideration of the Report of the sub-committee, submitted by Mr. Heney, on the subject-matter of your Excellency's Reference in Council of 26th January last, have, after discussion, agreed to adopt the same as their Report, and which they now annex.

All which is respectfully submitted to your Excellency's wisdom.

Council Chambers, Government House, Montreal, 19 February 1839.

By Order,
(signed) *J. Stewart*, Chairman.

Government House,
Committee-room of the Executive Council,
Montreal, 9 February 1839.

Present the Honourable Mr. Heney, Mr. Pemberton, and Mr. Mondelet.

In special committee on that part of his Excellency's reference in Council of the 26th January 1839, relative to the establishment of a court of appeals, in which the duties of the judges appointed to decide on appeals shall be limited to cases brought into that court, and alterations in the judicature of the province and the establishment of circuits; having read the order of reference, and extracts from different despatches accompanying the same, the Committee adjourned to the call of the president.

The special committee having met frequently, and carefully examined the subject referred to it, agreed to submit the following Report to the Committee of the whole Council.

The special committee, knowing that the subject referred to it had for a long time, and at various intervals, occupied the attention of the provincial legislature, believed it to be its duty to have recourse to the labours of the Legislative Council and the House of Assembly on the subject.

It took more particularly into consideration the last Bill of this nature submitted to the legislature then existing, and passed by the House of Assembly on the 18th January 1836, and by the Legislative Council on the 7th March of the same year; that Bill having this advantage over all those that preceded it, that it had been agreed to and adopted by both branches of the legislature.

The special committee having most carefully examined this Bill, and assuming it as the basis of its labours, has deemed it advisable to suggest the following alterations :

Court of Appeals.

The Bill in question fixes the number of judges of appeal at four, and provides for those cases where the judges shall be equally divided in opinion, or legally recused; your Committee is of opinion, that by increasing the number of judges to five, every inconvenience will be obviated. It therefore recommends that this court shall be composed of five members; that the chief justice of the province shall be the president, and in his absence the senior member; it also recommends that one of the judges of this court shall reside in the town of Three Rivers; it recommends further that this court shall be charged with making uniform rules of practice for the different courts of civil jurisdiction in this province.

Criminal Court.

Your Committee, while it preserves the greatest part of the Bill in question as regards criminal courts, recommends nevertheless that the chief justice of the province, and the four other judges of the court of appeals, shall alone and exclusively be charged with this department, in addition to being a court of appeals.

Your Committee does not think it advisable to preserve in the new Judicature Bill the clause (B), added by an amendment of the Legislative Council, and which regards the establishment of a criminal court for the district of St. Francis; it is not within the knowledge of the Members of this Committee that this measure is required by the wants of this district; and if from some unforeseen circumstance such a necessity should arise, it seems to your Committee that the most simple mode of providing for such an exigence would be to name a court of oyer and terminer.

The establishment of this court for a small number of days, as provided for by this clause, would render necessary the appointment of a number of officers of justice, the calling together of a large number of grand and petty jurors who would be taken away from their occupations without any sufficient necessity, and without the public interest demanding it imperatively. Besides, the Acts which establish the district of Saint Francis being temporary, the Committee does not think it would be advisable for the present to extend to this district the provisions of a Judicature Bill, which ought to be permanent.

Court of King's Bench.

Your Committee, after having carefully examined this part of the Judicature Bill already cited, is of opinion, that the greatest part of the same may be preserved, with the essential difference already recommended in the first part of this Report; namely, that the judges of this court should have no connexion whatever, either with the court of appeals or the criminal court.

Your Committee, while it approves of the establishment of circuit courts, is of opinion, that some advantageous changes may be made in the places where the same are, by this Bill, appointed to be held. By the Bill in question, the judges in circuit are authorized to take and receive verdicts of juries. This is an important part of the Bill; but the Act of the Provincial Parliament 2 Will. 4, c. 22, which fixed the mode of summoning jurors having expired, and there being now no other law in force on this subject than the old Ordinances of the Legislative Council, your Committee deems it of the highest importance to regulate this matter by an express law, without which there would be great risk of losing the advantages expected from a new Judicature Bill.

Certified,
G. H. Ryland.

Enclosure 2, in No. 4.

TO His Excellency Lieutenant-general Sir *John Colborne*, G.C.B., G.C.H., Governor General, &c. &c. &c.

Encl. 2, in No. 4.

REPORT of a Committee of the whole Council.—Present: The Hon. Mr. Stewart, Mr. Cochran, Mr. Daly, Mr. M'Gill, and Mr. De Rocheblave.

May it please your Excellency,

THE Hon. Mr. Stewart, the chairman of the sub-committee, to whom was referred that part of your Excellency's Reference in Council of the 28th January 1839, "whether it may not be desirable to propose a compulsory arrangement respecting a commutation for lods et ventes," having laid before the board their report on the subject, the same being read, it was approved and adopted as the report of the committee of the whole Council, and it is hereunto accordingly annexed.

All which is respectfully submitted to your Excellency's wisdom.

By order,

Council Chamber,
Government House, Montreal,
1 March 1839.

(signed) *J. Stewart*, Chairman.

Executive Council Chamber, Government House, Montreal, 27th February 1839.—Present in Sub-committee: The Hon. Mr. Stewart, Mr. Cochran, Mr. Pothier, Mr. M'Gill, and Mr. De Rocheblave.

THE special committee of the Executive Council appointed to report upon his Excellency's reference of the question, "whether it may not be desirable to propose a compulsory arrangement respecting a commutation for lods et ventes, particularly in towns," have at different meetings deliberated on this important and extensive subject, and have now to report their opinion:

Firstly, That it would not be expedient to compel the inhabitants of this province holding real property in the censive of seigniories to submit to a commutation of tenure; but that it should be made compulsory upon the seigniors of such property throughout the province to grant a commutation and release of all feudal and seigniorial dues, duties, and burthens to any censitaire who shall at any time hereafter apply for the same, such seigniors receiving a compensation for such commutation and release in the manner hereinafter mentioned.

Secondly, That, as a part of the indemnity or compensation to the seignior, it would be advisable that the Crown should, by proclamation, declare its intention to surrender the future quints which might otherwise accrue to it upon all those portions of any seigniory of which a change of tenure shall have been obtained from the seignior by the censitaire.

Thirdly, That the amount of the commutation or indemnity to be paid or given to the seignior by the censitaire upon such change of tenure should be settled by experts, to be appointed one by each of the parties, and a third, being a disinterested person, to be named by such experts in case of difference between them; or if they cannot agree in such nomination, or shall neglect to make it, then such third expert or umpire shall be named by a judge of the Court of King's Bench, or other superior court of civil jurisdiction.

Fourthly, That the rate of commutation should not in any case exceed two mutation fines, where the real property is situated without the city or banlieue of Quebec, or the city of Montreal, or the town or banlieue of Three Rivers; or one-tenth of the estimated value of the property, if situated within those limits.

Fifthly,

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Fifthly, That the seignior shall not in any case be bound to grant such commutation of tenure until all arrears of seigniorial dues and duties are discharged or satisfied by the censitaire applying for the same.

Sixthly, That the amount of the price, indemnity, or compensation, estimated and allowed by such experts, may remain charged upon the property of which the tenure shall have been changed as a redeemable rentcharge (rente foncière rachetable), with the like hypothèque et privilege in favour of the seignior as he now has by law in respect of his seigniorial dues and rights.

Seventhly, That in cases where the property, of which the tenure shall be changed, lies within a seigniory under entail (substitution), the price, indemnity, or compensation, estimated by the experts, shall not be paid to the seignior tenant in tail (grevé de substitution), but shall remain charged upon the property whereof the tenure shall have been changed, as a rentcharge, not redeemable (rente foncière non rachetable) during the lifetime of such seignior, but shall be redeemable (rachetable) when the heir in tail (substitué) shall come into possession of the seigniory (quand la substitution sera ouverte).

(signed) *J. Stewart*, Chairman.

(Certified.)

G. H. Ryland.

Enclosure 3, in No. 4.

Encl. 3, in No. 4.

TO His Excellency Lieutenant-general Sir *John Colborne*, G. C. B., G. C. H., Governor General, &c. &c. &c.

REPORT of a Committee of the whole Council.—Present: The Hon. Mr. Stewart, Mr. Cochran, Mr. Daly, Mr. M'Gill, and Mr. De Rocheblave.

May it please your Excellency,

THE Hon. Mr. Cochran, the chairman of the sub-committee, to whom was referred that part of your Excellency's reference of 28th January last, relative to the establishment of registry-offices, having laid before the board their report thereon, it was read and adopted as the report of the committee of the whole Council; and the same is accordingly annexed.

All which is respectfully submitted to your Excellency's wisdom.

By order,

Executive Council Chamber, Montreal, 2 March 1839.

(signed) *J. Stewart*, Chairman.

Friday, 1 March 1839.

AT the Council Chamber, in the Government House, Montreal.—Present: The Hon. Mr. Cochran, Mr. Daly, Mr. M'Gill, and M. De Rocheblave.

In sub-committee on that part of his Excellency the Governor-general's Reference in Council of the 26th January last, relative to the establishment of registry-offices.

The special committee of the Executive Council appointed to consider his Excellency's reference respecting the establishment of register-offices, having given their best attention to this important subject, have agreed to the following report:

Although the establishment of offices of general registry of conveyances and incumbrances has been repeatedly under discussion in the legislative bodies of this province for nearly 20 years, it does not appear that any legislative measure has received the concurrence of the two branches of the Provincial Parliament, excepting as regards lands in the townships.

In 1823 the Assembly resolved to take into consideration the passing of a law for the public registration of instruments changing or affecting real property. In the close of the same year the Legislative Council passed a Bill, which was committed for consideration in the Assembly, to make provision for this purpose.

In 1825 the Assembly again came to a resolution declaring the expediency of making such provision; and in 1826 the same body, after adopting several resolutions still more strongly affirming the expediency and necessity of passing a law upon this subject, took into consideration a Bill for this purpose, introduced by Mr. Vallières, and adopting the leading provisions of the modern *code civil* of France on this subject, which passed to a second reading, but was dropped in that session, and though taken up again in the following session, was not proceeded with.

In the year 1826 the Legislative Council passed a Bill making provision for this object, which was not taken up in the Assembly, who had then Mr. Valliére's measure before them; and in 1836 the Legislative Council, after an inquiry in which they obtained the opinions of many persons of information, intelligence, and experience from all classes of the community engaged in the active pursuits of life, including several eminent practitioners in the legal and notarial professions, again passed a Bill which was intended to prepare the way for the introduction of a complete and general system of registry, by altering the existing system of law in those points which confessedly interfere with the establishment of such a system; but this measure also dropped in the Assembly.

From

From these various proceedings and efforts at legislation, the special committee find that the existence of the evil arising from the want of register-offices was fully admitted in the Legislature, and although the legislative bodies came to no agreement as to the details of the remedial measures to be adopted, there were some general principles respecting which there was no material difference between them.

The special committee have closely examined and considered Mr. Vallière's Bill of 1826, the Bill sent from the Council in that year, and that sent from the same body to the Assembly in 1836; and they have also had before them a Registry Bill, prepared by a legal gentleman connected with the administration of Lord Durham (founded, in a great measure, on Mr. Vallière's Bill, and modified, as the committee understand, after conferences with Mr. Vallière); and also another draft of a similar measure, compiled by an able member of the bar of Montreal, which, while it is similar in its general outline to that last mentioned, contains some new provisions, and more particularly some of those important but necessary alterations in the existing law, which the Legislative Council proposed to introduce by their Bill of 1836.

To these the special committee are desirous, in the first place, more particularly to advert.

The general or indeterminate mortgage, or hypothèque (that is, without specification of any particular property to which it is to attach), the customary dower, arising, without special contract, from the mere celebration of marriage, and descending as an inheritance with an indefeasible hypothèque to the children, and the legal or tacit mortgage arising from the offices of tutor and curator, which most persons may, by law, be compelled to undertake; these were circumstances in the existing state of the law which materially interfered with the adoption of an effectual system of registry, and seemed to present impediments which no system could entirely surmount while they continued to exist.

But from the evidence obtained from the Legislative Council, as well as from that laid before His Majesty's Commissioners of Inquiry in 1836, it appeared to be the opinion of the best-informed persons, that the general or indeterminate mortgage by notarial act should be abolished, and all such hypothèques be required to be special; that the customary dower should in like manner cease to exist, and the wife be endowed by special contract; and while there seemed to be a well-founded objection to the calling upon tutors and curators to give specific security on property for the due execution of their trusts, from the circumstance of their being compelled to undertake the office, the weight of opinion was yet strongly and decidedly in favour of such specific security being required.

Upon these various points the special committee have come to the conclusion that any Registry Bill, to be effectual, must either contain or be accompanied by legal provisions for abolishing general and indeterminate mortgages and customary dower, and for limiting the responsibilities of tutors and curators by special security on certain property, but providing at the same time that no person shall be compelled to accept those offices, and that tutors appointed by will, if they accept the trust, shall be admitted to the administration and guardianship without security.

With respect to the other leading features of the measure, there does not appear to be any essential difference between the Bill introduced by Mr. Vallières in 1826, and the two, more recently prepared, during and since Lord Durham's administration, which are in most respects improved modifications of the former, and the special committee having collated the whole together, have extracted from them the following general regulations, which they recommend to be adopted in any measure which may be brought forward.

1. All conveyances, instruments and proceedings (except as hereafter), by which real property may be in any way alienated, charged or incumbered, whether by deed, writing, devise, judicial proceeding, or by operation of law, shall be registered; or, if not, shall be void and null as against subsequent registered *bonâ fide* purchasers or incumbrancers for a valuable consideration.

Exceptions.

1st. Arrears of cens et rentes, for a period not exceeding five years, and other seigniorial dues (except arrears of lods et ventes).
2d. Arrears of rentes foncières, not exceeding five years.
3d. Arrears of rent of leasehold property, not exceeding two years.
4th. Costs of suit (frais de justice).
5th. Funeral expenses, and those of last sickness.
6th. Servants' wages, not exceeding two years.

2. That the privileges:

1st. Of the seignior for lods et ventes,
2d. Of the vendor or bailleur de fonds, or of the persons who shall have furnished monies for purchase of real estate, and have been subrogated to rights of vendor,
3d. Of co-heirs or co-partageants, for difference in shares, soulte et retour, or price of licitation,
4th. Of architects, builders, &c., and of those who have lent monies to pay them,
5th. Of creditors and legatees praying the separation of patrimony of deceased from immovables of heir,

shall be so registered within a certain time, and in a manner to be provided; if not so registered, to take effect as mortgages only from the time they are registered.

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3. Claims for accruing interest on securities for money, or claims for rent of any kind, shall not be an incumbrance on real property for more than three years after registration, as against subsequent *bonâ fide* purchasers, or incumbrancers for a valuable consideration, unless registered afresh as a principal sum, with assent of the person subject to payment.

4. Notarial instruments, or those under signature, wills or testamentary instruments, shall not carry mortgage or hypothèque, unless the real property intended to be affected is specified; and in judgments and acts of tutelle and curatelle, the amount for which real property is to be mortgaged shall be set forth.

5. No instrument, &c., shall carry mortgage on real property, unless at the time of registration such property be the actual *bonâ fide* property of the person intended to be affected.

6. The registration of an instrument of alienation shall be tantamount to delivery of possession.

7. Registration not to confer title upon, or confirm title derived from any person not having a good title to the real property registered, except as against prior purchasers or incumbrancers not registered.

8. Customary dower to be abolished.

9. Persons or corporations having or claiming, either in their own right, or as representing others, any title, claim or incumbrance upon real property, by any such assurance, instrument or proceeding, and wishing to preserve the same against subsequent *bonâ fide* purchasers, may after a certain day cause such assurance, &c. to be registered, and such registration shall preserve all rights appearing in or by such assurance, &c.

10. No such title, &c., shall be capable of being enforced as against third parties until so registered, except that judgments or judicial proceedings may be enforced by execution.

11. Sales and incumbrances to take effect and have priority from the time of registry.

12. Notice of a prior sale or incumbrance not registered not to vitiate a subsequent *bonâ fide* sale for valuable consideration, provided that subsequent purchasers, &c. having such notice give public notice to the prior purchaser, &c. to register his purchase, &c.

13. A person conditionally selling or incumbering, and such sale or incumbrance not being registered, may subsequently sell or incumber the same property subject to such prior conditional sale or incumbrance, which shall preserve the same valid.

14. Persons selling or incumbering the same property a second time, without disclosing the prior sale or incumbrance, if it shall not have been registered, shall be subject to an action by the first purchaser or incumbrancer for original consideration, interest or damages, notwithstanding any positive agreement to the contrary, and such person shall be deemed guilty of misdemeanor, and be punishable accordingly.

With respect to the future enactments necessary for carrying such a measure into effect, as to the manner of registering titles or claims, the manner of authenticating instruments not carrying evidence of authenticity in themselves, the manner of discharging or restricting registered hypothèques, the proper establishment of offices and officers, and the duties, responsibilities and emoluments of the latter, the special committee think it unnecessary to enter into these details; but they recommend that on these points the Bill prepared by Mr. Turton, as abridged and modified by Mr. Badgley, of the Montreal bar, and not essentially differing in its main outline from Mr. Vallière's Bill, should be adopted as a guide.

(signed) *A. W. Cochran*, Chairman.

Certified,
G. H. Ryland.

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