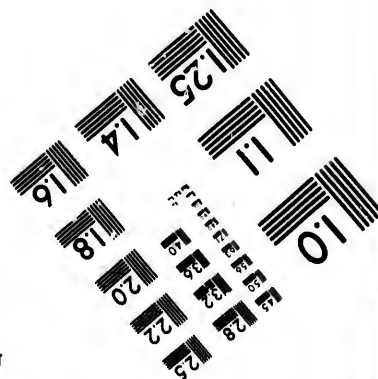
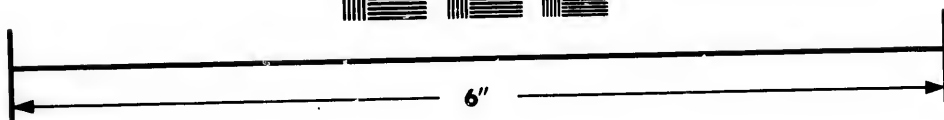
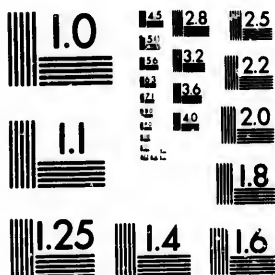


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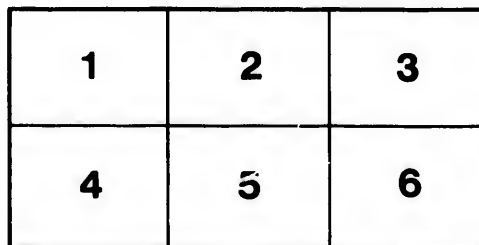
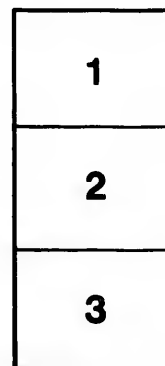
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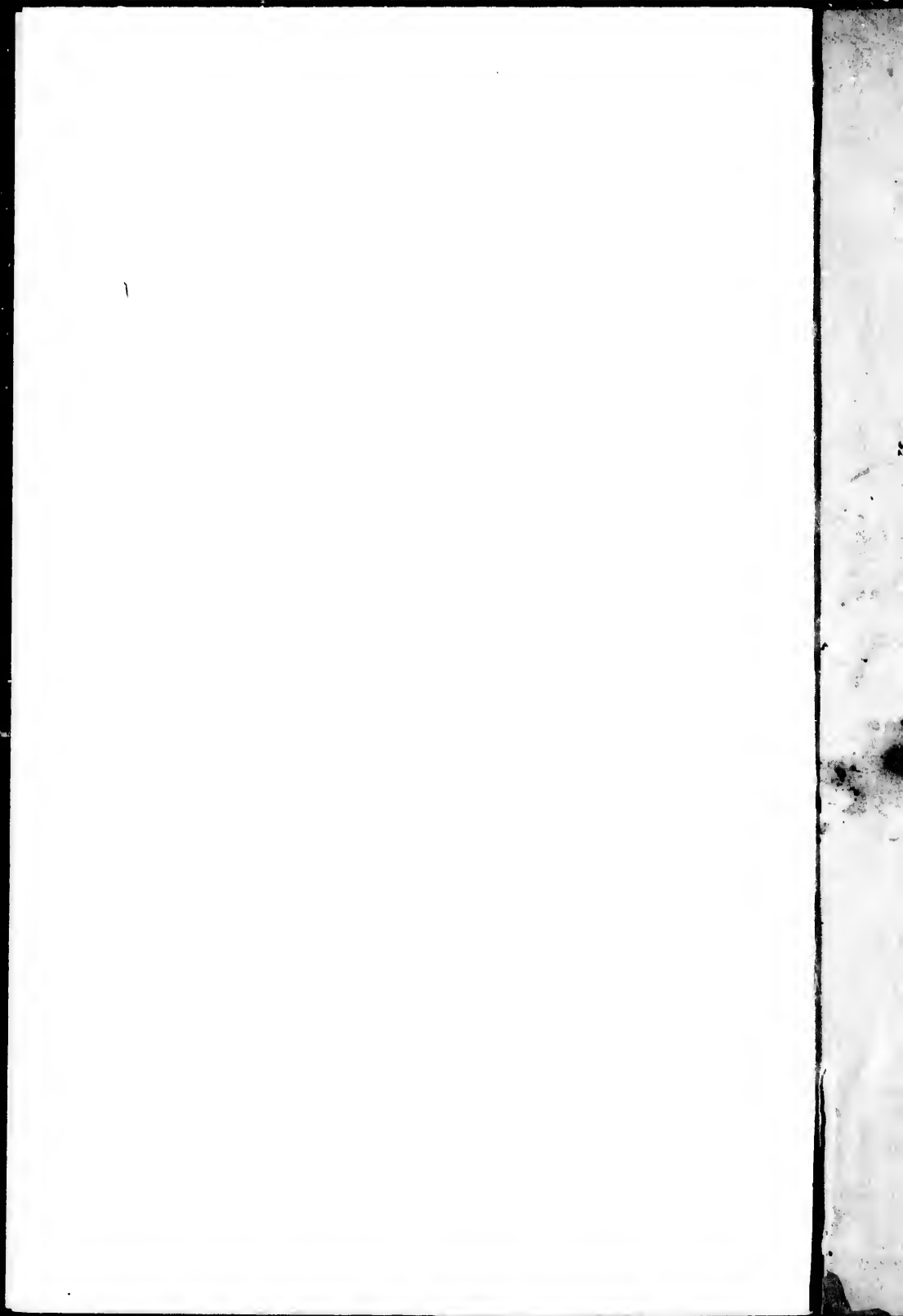
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# DOCUMENTS,

SELECTED FROM SEVERAL OTHERS,

SHOWING THE SERVICES RENDERED BY

COLONEL FITZGIBBON,

WHILE SERVING IN UPPER CANADA,

BETWEEN THE YEARS 1812 AND 1837.

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WINDSOR:

PRINTED BY W. WHITTINGTON, PEASCOD STREET.

1859.

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TO THE  
RIGHT HONORABLE THE LORD STANLEY,  
FROM AUGUSTUS D'ESTE.

July 26th, 1842.

MY LORD,

Having been permitted to make known to your Lordship the important services which it was Colonel Fitz Gibbon's happy destiny to have had the opportunity of rendering to his adopted country, which services will cause his name to be remembered with respect and with admiration by the loyal inhabitants of Upper Canada as long as devotion to the Parent State, manly valour, and clear-sighted intelligence are admitted to be entitled to places in the catalogue of estimable qualities. Through your Lordship's favour, having been permitted to bring such services under the consideration of the Executive Chief of the British Colonies, I have to entreat your attention to the following narrative.

In the first place, that a previous knowledge of the claim to distinction exhibited by Colonel Fitz Gibbon long prior to 1837 may prepare your Lordship to appreciate his services at Toronto, I will request the perusal of the following Extract of a Despatch from General Vincent to Sir George Prevost, dated June 25th, 1813.

" I cannot but *particularize* the conduct of Lieutenant Fitz Gibbon, of the 49th Regiment, commanding a small detachment co-operating with the Indians, through whose address in entering into the capitulation, your Excellency will perceive, by Colonel Bisshopp's Report,

that the surrender of the American Detachment is to be attributed. I beg leave to recommend this officer to your *Excellency's protection*."

#### Number and Description of Prisoners.

1 Lieutenant Colonel	1 Surgeon
1 Major	25 Sergeants
6 Captains	464 Rank and File
13 Lieutenants	30 Mounted Militia
1 Cornet	

One Stand of Colours of the 14th United States Regiment.

Ordnance captured:—one 12-pounder, one 6-pounder, two cars.

In consequence of the preceding Report the following appeared in General Orders.

Extract of a General Order, issued by his Excellency Sir George Prevost, dated Kingston, June 28th, 1813:—

"The Commander of the Forces has great satisfaction in announcing to the Army that a Report has been received from Brigadier-General Vincent of a most judicious and spirited exploit, achieved on the 24th instant, by a small Detachment of the 49th Regiment, amounting to 46 rank and file, under Lieutenant Fitz Gibbon, and a band of Indian Warriors, which terminated in the defeat and entire capture of a considerable Detachment of the American Regular Army, under the command of Colonel Boerstler, of the 14th United States Regiment, after sustaining considerable loss."

For this enterprise, evincing no less intelligence than gallantry, Lieutenant Fitz Gibbon received a Company.

Passing over intermediate years and their services, I will proceed at once to the events of 1837.

All the regular troops which composed the garrisons of Upper Canada having been *willingly* despatched by Sir Francis Head to the Lower Province, the rebel Mackenzie, assisted by sympathising vagabonds from the United States, congregated a force, formidable from its numbers, at a tavern on the High Road called Yonge Street, some miles north of Toronto, with the ultimate

view of plundering and of burning that city ; in which, at that time, *besides stores of ammunition*, there were *some pieces of ordnance, six thousand stand of muskets*, and *more than one hundred thousand pounds in gold and silver in the bank*.

Rebellion raging in the Lower Province, I entreat your Lordship to picture to yourself what would have been the consequence had Mackenzie possessed himself of the Capital of the Upper Province, together with the ordnance, the stores of ammunition, the six thousand stand of muskets, and the scarcely less efficient sinew of war—money—namely the one hundred thousand pounds in gold and silver which was in the bank. Reflect, my Lord, Mackenzie being in possession of the seat of the Provincial Government, with arms to arm—with money to pay—what a flood of sympathisers, answering to his invitation, would have poured from out of the adjacent states into Upper Canada; which, *with its governor's concurrence*, had been denuded of all its regular troops? Having drawn a picture of the consequences of such a consummation of the Rebel's daring, answer, my Lord, IF ONE MAN, by his persevering and well-judged precautions, anterior to the crisis—by his well-judged and gallant conduct, as the Commander, when the crisis did arrive—IF ONE MAN did avert such calamities from actually taking place, and from being recorded in the pages which must chronicle the events of the present reign; *if he* did this, has he not rendered *most important service* to his Sovereign, to the loyal of his fellow-subjects in the Colony, and to the Parent State? by saving it the *immense sums* of money which *must* have been expended to regain possession of the (for a time) lost province. That Colonel Fitz Gibbon *was such* a man, and that *he did* render *such service*, the following Documents will, to your Lordship's conviction, clearly prove.

The first document is the Thanks of the Legislative Council to Colonel Fitz Gibbon and to Colonel Macnab.

“ *Legislative Council Chamber, 2nd of January, 1838.*

“ Resolved—That the Thanks of this House be presented to Colonel

Fitz Gibbon, late Adjutant-General of Militia, and to the Honourable Colonel Macnab, Speaker of the House of Assembly, for their distinguished services in defence of the Province."

Attest (signed) GRANT POWELL, Clk, L. C.

The second document is an extract from a Report of a Select Committee of the Honorable the Legislative Council of Upper Canada, dated 13th February, 1838; and is as follows:—

"The hand of a merciful Providence was most signally displayed in a number of favorable circumstances which it would be impiety to ascribe to chance, and which combined to give to the inhabitants of Toronto, at the hour of midnight, an opportunity to arm in their defence and to make such preparations, *under the directions of a most vigilant and gallant officer, Colonel FITZ GIBBON, late Adjutant-General of Militia, as served to avert the threatened danger.*"

The third document is the Resolution by the *House of Assembly* to address Her Majesty to make a Grant of Land to Colonel Fitz Gibbon, as a mark of Her Majesty's royal favour; and is as follows:—

Extracts from the Journal of the House of Assembly,  
dated January 23rd, 1838.

"Pursuant to notice, Mr. Merritt, seconded by Mr. Burwell, moves that this House do now resolve itself into a Committee of the whole, to take into consideration the expediency of addressing Her Majesty, praying Her Majesty to make a Grant of Land to Colonel Fitz Gibbon of the Militia, as a Reward for the Services rendered by him to this Province.

"Which was carried, and the House was put into Committee of the whole accordingly.

"Mr. Ferrie in the Chair.

"The House resumed.

"The Chairman reported that the Committee had agreed to two Resolutions, which he was ready to submit for the adoption of the House.

"The Report was received, and the Resolutions were adopted, *nem. con.*, as follow:—

“Resolved—That James Fitz Gibbon, Esquire, having rendered SIGNAL SERVICES to this Province, *in a military capacity*, on various occasions when he was an officer in the Regular Forces of the Empire during the late War with the United States of America, and subsequently in several Civil capacities, and also very recently as Colonel of Militia on the breaking out of the Rebellion in the Home District, it is *a duty incumbent on this House to recognise by some public expression, his brave and faithful conduct*, and to use such means as may be in its power to procure to be granted to him by his Sovereign some lasting token of the Royal Bounty, as an acknowledgment of the estimation in which those services are held by the People whom it represents.

“Resolved that this House do humbly address Her Majesty, praying that Her Majesty will be graciously pleased to grant to the said James Fitz Gibbon Five Thousand Acres of the Waste Lands in this Province *as a mark of Her Majesty's Royal favor, for the honorable, efficient, and faithful services of that Gentleman, during a period of twenty-six years.*

“Mr. Merritt, seconded by Mr. Burwell, moves that the foregoing Resolutions be amended, by inserting the word ‘*unanimously*’ after the word ‘Resolved.’ Which was carried.”

Truly extracted from the Journal.

(Signed) JAMES FITZ GIBBON,  
Clerk of Assembly.

Upon the above was founded the Address to the Queen, which was passed by *both* Houses, and transmitted by Sir Francis Head with the following Letter, which makes the Fourth document.

#### Document Fourth.

“To the Right Honorable the Lord Glenelg.

“Upper Canada, Toronto, 8th March, 1838.

“My Lord,

“I have the honor to transmit to your Lordship a joint Address to the Queen from the Legislative Council and House of Assembly of Upper Canada, praying that Her Majesty would be graciously pleased to grant to James Fitz Gibbon, Esquire, Five Thousand Acres of the

Waste Lands of the Crown in this Province as a mark of Her Majesty's Royal Favor, for the *honorable, efficient, and loyal services* of that Gentleman during a period of twenty-six years.

"I beg leave respectfully, but *most earnestly to join in this recommendation*, and I can assure your Lordship that a *braver, more loyal, and devoted servant* than Colonel FitzGibbon cannot exist in Her Majesty's dominions.

"In time of war, as well as in peace, he has *admirably performed his duties*, and I am confident that the boon which is solicited in his favor by the Legislature of this Province would be most gratefully acknowledged by Her Majesty's loyal subjects in Upper Canada.

"I have the honor to be, &c., &c., &c.,

"A true copy.

(Signed) "F. B. HEAD."

(Signed) "J. Joseph."

The next document is the notification to Colonel Fitz Gibbon, from Sir George Arthur, of the Answer to the Address to Her Majesty, and constitutes the fifth document.

Document Fifth. Letter to Colonel Fitz Gibbon from the Civil Secretary of Sir George Arthur.

"Government House, Toronto, June 23rd, 1838.

"I am directed by the Lieutenant-Governor, as it is a matter in which you are particularly interested, to inform you that he has received a Despatch from the Right Honorable the Secretary of State, acknowledging the receipt of the Joint Address to the Queen from the Legislative Council and Assembly of this Province, praying that a Grant may be made to you of 5,000 Acres of the Waste Lands of the Crown; and stating, that on its being laid at the foot of the Throne, Her Majesty had been pleased to express her gratification at the honorable testimony borne to your services by both branches of the Provincial Legislature.

"His Lordship adds, that *if* it shall be the pleasure of the Two Houses to mark the sense of your services by a PECUNIARY GRANT, it will afford Her Majesty much satisfaction to give her Assent to any Act which may be passed for that purpose; but Her Majesty is advised that *consistently with the terms of a recent Provincial Act* on the subject

of the alienation of the Waste Lands of the Crown, and the principles on which that Act proceeds, Her Majesty could not make you the proposed compensation in the form of a Grant of Land.

" I have the honor to be, Sir,

" Your most obedient humble servant,

(Signed) " JOHN MACAULAY.

" Colonel Fitz Gibbon,  
&c., &c., &c."

The Home Government having refused to ratify the Grant of Land to Colonel Fitz Gibbon, prayed for by both the Branches of the Provincial Legislature, and having cited the Provincial Act, the 7th of William the IVth, cap. 118, as the cause of its refusal, the Provincial Legislature in their very next session, effectually to do away with the ground of the objection which had been pleaded, *unanimously* passed a subsidiary act, specifically to enable Her Majesty, in her grace, to confirm the original Grant of Land which had been prayed for.

This Bill was reserved for the signification of Her Majesty's pleasure thereon. Sufficient time having been allowed for its transmission to London, and for the receipt of the notification of its consequence, on the 8th of January, 1840, the Commons House of Assembly addressed the following communication to the Governor-General, Charles Poulett Thompson, Esquire.

" Commons House of Assembly, January 8th, 1840.

" May it please your Excellency,

" We, Her Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly pray that your Excellency will be pleased to inform this House if the Royal Assent has been given to the Bill passed last session, entitled, 'An Act to enable Her Majesty to make a Grant of Land to James Fitz Gibbon, Esquire.'

(Signed) " ALLAN N. MACNAB,  
" Speaker."

In answer to the foregoing, the following communication was received on the 14th of January, 1840, from his Excellency the Governor-General.

" Toronto, January 14th, 1840.

" In answer to the Address from the House of Assembly, of the 8th instant, the Governor-General desires to inform them, that after a full consideration of the subject, *Her Majesty's Government* have come to the conclusion that *THEY could not advise Her Majesty to confirm the Bill passed by the Provincial Legislature* during the last Session, but reserved for Her Majesty's confirmation, *to enable Her Majesty to make a Grant of Land to James Fitz Gibbon, Esquire.*

" *Her Majesty's Government, sensible of the long and valuable services of Mr. Fitz Gibbon, came to this decision with much reluctance, but they felt that the confirmation of such an Act would be inconsistent with the principles laid down for the Disposal of the Waste Lands of the Crown in the British Colonies, and confirmed in that Province by an Act of the Legislature, and that it would establish a very inconvenient precedent.*

" If, however, the Legislature of Upper Canada should desire to mark their sense of Mr. Fitz Gibbon's services by a Pecuniary Grant, the Governor-General would have much satisfaction in recommending such a Grant for Her Majesty's approval."

By the preceding communication it is curious to learn the impolitic pertinacity with which the original objection to the Grant of Land was persisted, notwithstanding the whole of the Provincial Legislature, by their Bill to enable Her Majesty to confirm their Grant, had distinctly proved, that their judgment and wishes remained unchanged in favor of that mode of public remuneration.

The language of the then Government in regard to this business, in plain English, was " We acknowledge the *long and valuable* services of Colonel Fitz Gibbon, but, it appearing that the Provincial Act, the 7th of William the IVth, chapter 118, may be construed as opposed to the Grant of Land, we will maintain the objection, and, notwithstanding our acknowledging the *length and value* of his services, we will bestow *no* honorary nor substantial acknowledgment upon the man; nor will we allow the Provincial Legislature to testify its gratitude and its gene-

rosity in the manner which it may prefer ; but we will prescribe the way."

I will now beg to lay before your Lordship the Proceedings to which the House of Assembly had recourse upon the receipt of the Governor-General's answer.

Further Extracts from the Proceedings of the House of Assembly of the 25th January, 1850.

" Pursuant to the order of the day, the House was again put into Committee of the whole on that part of the Message of His Excellency the Governor-General, of the 14th instant, which relates to the Bill to grant Land to James Fitz Gibbon, Esquire.

" Mr. McDonell in the Chair.

" The House resumed.

" The Chairman reported that the Committee had agreed to a Resolution, which he was directed to submit for the adoption of the House.

" The Report was received.

" The Resolution was put, and CARRIED, as follows :—

" Resolved, *That it is expedient to pass a Bill REPEALING the Act 7th William IVth, chapter 118, entitled " An Act to provide for the disposal of the Public Lands in this Province, and for other purposes therein mentioned," so far as to enable Her Majesty to make a Grant of 5,000 Acres of Land to James Fitz Gibbon, Esquire.*"

Upon this Resolution a second Bill was passed and reserved, but to which no official answer had been published up to the 18th of January, 1842, on which day the copies of all the preceding documents were dispatched from Kingston to London.

I entreat your Lordship to consider the light in which, in this transaction, the Provincial Legislature and the Home Government present themselves. The Provincial Legislature stedfast in its persevering gratitude, and staunch in its desire to reward loyalty, valor, and intelligence: the Home Government obdurate in its recusance to sanction gratitude in others or to originate aught that was generous itself.

On the 30th of May, 1842, the following communication reached me from the Canadas.

Communication from Sir Charles Bagot in Council, to Colonel Fitz Gibbon.

" Kingston, Executive Council Chamber,  
March 28th, 1842.

" Upon the Petition of James Fitz Gibbon, Esquire, praying that means may be adopted to carry out the intentions of the Houses of the Provincial Parliament of Upper Canada in his favor, expressed by a JOINT Address of the Legislative Council and House of Assembly to Her Majesty recommending the Petitioner for a Grant of Five Thousand Acres of Land, and by a Bill passed by both Houses to enable Her Majesty to make such Grant to Colonel Fitz Gibbon in consideration of his *honorable, efficient, and able PUBLIC SERVICES during a period of twenty-six years.*

" His Excellency in Council being *fully impressed with the value of the meritorious and faithful services* of Colonel Fitz Gibbon, and fully concurring in the wishes of the Legislative Council and Assembly of Upper Canada as expressed in the said Address and Bill is desirous of taking such measures as will procure for that Officer the proposed Reward, without again incurring the objections made by Her Majesty's Government to Grants of Wild for such a purpose ; and is of opinion that *an issue to Colonel Fitz Gibbon of LAND SCRIP to the amount of the Government price of Land, which he might have procured HAD the afore mentioned Bill received Her Majesty's Assent* would not only be available to Colonel Fitz Gibbon but would be free from the objections made to the Bill becoming a Law.

" His Excellency by and with the advice of the Executive Council is pleased to direct that Colonel Fitz Gibbon be informed that it is his Excellency's intention to recommend his claim to the most favorable consideration of the Houses of the Provincial Parliament, to the end that his Excellency may be legally authorized to direct the issue to Colonel Fitz Gibbon of Land Scrip *to the amount of Two Thousand Pounds* Provincial currency.

Certified.

(Signed) " W. LEE,  
Clerk Executive Council."

The preceding being the last document which I desire to trespass upon your Lordship's time, in conclusion, permit me to entreat that you will call to remembrance the long interval of time which ungenerously and ungratefully has been allowed to intervene between the rendering of the services by Colonel Fitz Gibbon (which was during December, 1837) and their being acknowledged by some remunerative act of the government; the first step towards which was taken by Her Majesty's Representative, the Governor-General, *only* on the 28th of March, 1842: and let me beg of you to bear in mind the obdurate pertinacity with which your Lordship's predecessors hindered the gratitude of the Canadian Legislature from reaching and benefiting the brave and loyal officer whose services it desired to reward; and lastly, let me submit for your consideration, whether it will not be for your own fame to prove, by conferring some boon upon Colonel Fitz Gibbon, that the Government, of which you are so distinguished a member, both appreciate and *reward* services which their predecessors in office not only allowed to remain without recompence, but hindered from receiving *that* reward to which, in the judgment of the Legislature of Upper Canada, they were so strongly entitled.

Trusting that the devoted loyalty, the valor, and the talent, so universally exhibited by my friend, may touch kindred chords in your Lordship's breast, and influence both your heart and mind in his favor,

I have the honor to subscribe myself

With the greatest consideration,

My Lord,

Your Lordship's much obliged and very obedient servant,

(Signed) AUGUSTUS D'ESTE.

LETTER FROM THE BISHOP OF TORONTO  
TO COLONEL FITZ GIBBON.

23, Sackville Street, London, August 15, 1839.

My dear Sir,

I have received from Chief Justice Robinson a letter, which I enclose, in the hope that it may be useful to you in the present crisis of your affairs.

*I concur most heartily in the statements it contains, and shall have much pleasure in adding my testimony, at any time, to their correctness; as well as to the great satisfaction with which any measure on the part of Her Majesty's Government to reward your valuable services would be received in Upper Canada.*

I remain, my dear Sir, with great regard,

Yours sincerely,

JOHN TORONTO.

Extract of a Letter from CHIEF JUSTICE ROBINSON  
to the BISHOP OF TORONTO.

" Brighton, August 14th, 1839.

" My dear Bishop,

" I think Colonel Fitz Gibbon may feel assured that the Government has a just sense of his faithful and valuable services. If I had any doubt of this I would most readily repeat in writing what I have already taken occasion to say to the Secretary of State on that subject. During the many years that Colonel Fitz Gibbon has resided in Upper Canada *his resolute character, his ardent loyalty, and his active and intelligent mind* have led him, and have enabled him to render *important services to the Government* and to the *Province*, and upon several occasions when I think it would have been difficult to have found any one else, who could have discharged the same duty so efficiently.

" With regard to his services in December, 1837, *I have no doubt*, and I should be happy to state this on every occasion where

it could be useful to him, that his earnest conviction, before the outbreak, that violence would be attempted, and the measures of precaution which he spontaneously took in consequence of that impression, were the means of saving the Government and the loyal inhabitants of Toronto from being, for a time at least, at the mercy of the rebels, and I believe that the most disastrous consequences would have followed the surprise which Colonel Fitz Gibbon's vigilance prevented. His conduct also when the crisis did occur was most meritorious. The Provincial Legislature has shown a strong sense of his service, and a great desire to reward it; and I am persuaded that no one would receive more pleasure than the present Lieutenant-Governor of Upper Canada, and his predecessor, from any measure of Her Majesty's Government which should have the effect of recompensing Colonel Fitz Gibbon in such manner as may be most agreeable and useful to himself."

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Extract of a Letter from CHIEF JUSTICE ROBINSON  
to COLONEL FITZ GIBBON,

Dated Toronto, 5th June, 1843.

"I have great pleasure in learning Sir Charles Metcalfe's most considerate and generous conduct towards you. It does him infinite honor. He did you the justice to believe what I have no doubt he had heard, and what beyond question is true, that by the vigilance you exerted, and the steps you took, on the 4th of December, 1837, and a short time before, unprompted by any one, and moved only by your own ardent zeal for the public good, you prevented calamities, public and private, which it is fearful even now to think of.

"To that conviction I have always adhered, and been always ready to bear testimony."

