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CANADA.

# CORRESPONDENCE

RESPECTING THE RECENT

# FENIAN AGGRESSION

UPON

# CANADA.

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*Presented to both Houses of Parliament by Command of Her Majesty.  
February 1867.*

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**DESPATCHES FROM THE GOVERNOR-GENERAL.**

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## Despatches from the Governor-General.

No. 1.

No. 1.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the  
Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 1, 1866.

(Received June 14, 1866.)

(No. 43.)

SIR,

(Answered, No. 56, June 16, 1866, page 77.)

I HAVE the honour to inform you that a body of 600 Fenians entered this Province this morning. They crossed the Niagara River at Black Rock, near Buffalo, in the State of New York, and established themselves in the village of Fort Erie in Canada. I am now occupied in taking measures for meeting the emergency.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

No. 2.

No. 2.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the  
Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 4, 1866.

(Received June 18, 1866.)

(No. 45.)

SIR,

(Answered, No. 63, June 22, 1866, page 77.)

REFERRING to my despatch (No. 43)\* of the 1st June, I have the honour to state for your information, that the body of Fenian conspirators who crossed the frontier from Buffalo to Fort Erie on the morning of Friday, June 1st, proved to be between 800 or 900 men, and seem to have been well armed.

\* See above.

I had previously had information that some such attempt would shortly be made and a party of volunteers had been stationed at Port Colborne in anticipation of an attack.

I have not yet had time to receive official accounts of the military operations, but from telegraphic reports which have reached me I am able to give the following statement of what occurred which I think may be considered authentic.

Immediately on the receipt of the intelligence of the invasion, Major-General Napier pushed on by rail to Chippewa, a force consisting of artillery and regular troops under Colonel Peacocke, 16th Regiment. Chippewa is about nineteen miles from Fort Erie, and there is no railway communication between the two places. On arriving at Chippewa, Colonel Peacocke moved on in the direction of Fort Erie. On the morning of Saturday, June 2nd, the body of volunteers stationed as already mentioned at Port Colborne, left that place by rail which runs parallel to the shore of Lake Erie and went in the direction of Fort Erie as far as a place called Ridgway; here they left the railway and proceeded on foot, apparently with the intention of effecting a junction with Colonel Peacocke and his force.

They came upon the Fenians encamped in the bush and immediately attacked them, but were outnumbered and compelled to retire on Port Colborne. This occurred some time on Saturday June 2nd.

Colonel Peacocke in the mean time was advancing in the direction of Fort Erie from Chippewa along the banks of the Niagara river, but was not able to reach the former place before night-fall.

The Fenians however did not await his arrival, but re-crossed the river during the

'night between the 2nd and 3rd June, to the number of about 750 men, and as appears from the accompanying telegram from Mr. Consul Hemans, were immediately arrested by the authorities of the United States.

I am happy to be able to inform you that the officers of the United States Government appear to have exerted themselves to prevent any assistance being supplied to the invaders. I transmit copies of telegrams received on this subject from Mr. Consul Hemans.

We have sixty-five prisoners in our possession who have been by my direction committed to the common gaol at Toronto to await trial.

I think it is creditable both to the military and militia authorities in Canada, that they were in a position within twenty-four hours after the invasion of the Province at a point of the enemy's own selection, to place opposite to him such a force as compelled his precipitate retreat without even risking an engagement.

I shall not fail to send you more full particulars when I shall have received the official reports from the officers engaged, but the main facts are as I have stated them above.

The Right Hon. Edward Cardwell, M.P.  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Incl. 1 in No. 2.

Inclosure 1 in No. 2.

TELEGRAM from Buffalo to Viscount MONCK, Ottawa.

June 3, 1866.

WHOLE Fenian force, about 850 strong, evacuated Canada at 3 A.M., 700 of them, with the leaders, lying at this moment in arrest under guns of Michigan war-steamer.

(Signed) H. W. HEMANS.

Incl. 2 in No. 2.

Inclosure 2 in No. 2.

TELEGRAM from Buffalo to Viscount MONCK, Ottawa.

June 2, 1866.

FENIANS broke up encampment at 2:30 A.M., and marched about four miles down river, said to be half-starved and much demoralized. Possession of six guns is undoubted. River patrolled all night by armed tug-boats chartered by United States' Attorney. Several captures made, and no reinforcements believed to have crossed over. Have uniformly telegraphed to General Napier.

British Consul,  
(Signed) H. W. HEMANS.

Incl. 3 in No. 2.

Inclosure 3 in No. 2.

TELEGRAM from Buffalo to Viscount MONCK, Ottawa.

June 3, 1866.

FRONTIER from Erie to Oswego placed by General Grant in charge of General Barry, of United States' Artillery to-day: thirteen companies under his command, with power to add according to emergencies. A revenue cutter just arrived to patrol river. A British gun-boat much wanted in those waters.

(Signed) H. W. HEMANS.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 8, 1866.

(No. 47.)

(Received June 23, 1866.)

SIR,

(Answered, No. 67, June 23, 1866, page 77.)

\* Page 1.

IN continuance of the narrative contained in my despatch No. 45\* of the 4th of June, I have the honour to report that no further invasion of Canadian territory has taken place on the part of the Fenians.

I am still without official reports of the proceedings at Fort Erie, but the circumstances of the last week have called so largely on the time of the military officers as to render correspondence very difficult.

I have no reason to doubt the substantial accuracy of the account which I sent you in my last despatch.

Immediately after the first news of the invasion reached me the whole Volunteer force of the Province was placed on active duty.

I have the utmost satisfaction in reporting to you the admirable spirit in which the exigencies of the moment were met both by the administration and the population of the Province. The former placed unreservedly at my disposal, for employment by the officers of Her Majesty's forces, the entire resources of the country. The latter responded instantaneously to the call to arms, and I am sure I do not exaggerate when I say that, within twenty-four hours after the issue of the order, 20,000 men were under arms; and that within forty-eight hours after the same time, they, in combination with the regular troops, were disposed by the Lieutenant-General Commanding in positions which rendered the Province secure from attack.

With the assistance of the officers and men of the ships of war now in the St. Lawrence, a flotilla of steamers has been chartered by the Provincial Government, and fitted up as temporary gun-boats for service both on the River St. Lawrence and the Lakes.

I am happy also, to be in a position to inform you that the Government of the United States is exerting itself in an energetic manner to arrest the further progress of the Fenian movement within its territories.

I inclose a copy of a Proclamation which has been issued by the President, and of an order addressed by the Attorney-General of the United States desiring the arrest of all prominent persons connected with the conspiracy.

This latter has been acted on, as I am informed, but not officially, by the arrest of General Sweeney and by the stoppage on the railroads of members of the Fenian conspiracy who are proceeding northwards.

Under the circumstances of our own complete state of preparation, and of the steps which are being taken by the Government of the United States, I am persuaded that all real danger is at an end, unless the force of Fenians assembled on the frontier should betake themselves to acts of plunder which I do not anticipate.

Parliament is to assemble this day, and it is intended at once to suspend the Habeas Corpus Act, and to extend to Lower Canada the Act at present in operation in Upper Canada (Consolidated Statutes, Upper Canada, cap. 99), providing for the trial by Militia Courts-martial of the prisoners.

The Right Hon. Edward Cardwell, M.P.,

I have, &c.  
(Signed) MONCK.

&c. &c. &c.

Inclosure 1 in No. 3.

Incl. 1 in No.

A PROCLAMATION.

WHEREAS it has become known to me that certain evil-disposed persons have, within the territory and jurisdiction of the United States, begun and set on foot, and have provided and prepared, and are still engaged in providing and preparing means for a military expedition and enterprise; which expedition and enterprise is to be carried on from the territory and jurisdiction of the United States, against Colonies, districts, and people of British North America, within the domain of Great Britain and Ireland, with which said districts, and people, and Kingdom, the United States are at peace. And

whereas the proceedings aforesaid constitute a high misdemeanor, forbidden by the laws of the United States, as well as by the laws of nations. Now, therefore, for the purpose of preventing the carrying on of the unlawful expedition and enterprise aforesaid, from the territory and jurisdiction of the United States, and to maintain public peace, as well as the national honour, and enforce obedience and respect to the laws of the United States. I, Andrew Johnson, President of the United States, do admonish and warn all good citizens of the United States against taking part in or in any way aiding, countenancing, or abetting said unlawful proceedings, and I do exhort all Judges, Magistrates, Marshals, and officers in the service of the United States, to employ all their lawful authority and power to prevent and defeat the aforesaid unlawful proceedings therein, and pursuant to the Act of Congress in such case made and provided. I do furthermore authorize and empower Major-General Geo. G. Meade, Commandant of the military and naval forces of the United States, and the Militia thereof, to arrest and prevent the setting on foot and carrying on the expedition and enterprise aforesaid.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 6th of June, in the year of our Lord 1866, and independence of the United States the ninetieth.

(Signed)

ANDREW JOHNSON.

(By the President.)

Incl. 2 in No. 3.

Inclosure 2 in No. 3.

Attorney-General's Office, Washington, June 5, 1866.

BY direction of the President you are hereby instructed to cause the arrest of all prominent or conspicuous persons called Fenians who you may have probable cause to believe have been or may be guilty of violation of the neutrality laws of the United States.

(Signed)

JAMES SPEED, Attorney-General.

No. 4.

No. 4.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 11, 1866.

(Received June 25, 1866.)

(No. 51.)

(Answered, No. 72, June 30, 1866, page 78.)

SIR,

(Answered further, No. 4, July 7, 1866, page 79.)

I HAVE the honour to inclose four copies of the official Canada Gazette, containing copies of two Acts assented to by me in Her Majesty's name: "An Act to authorize the Apprehension and Detention until the 8th day of June, 1867, of such Persons as shall be suspected of committing Acts of Hostility or conspiring against Her Majesty's Person and Government;" "An Act to Protect the Inhabitants of Lower Canada against Lawless Aggressions from Subjects of Foreign Countries at peace with Her Majesty."

I have, &c.

The Right Hon. Edward Cardwell, M.P.,

(Signed) MONCK.

&c. &c. &c.

Incl. 1 in No. 4.

Inclosure 1 in No. 4.

(No. 3,200.)

CAP. I.

AN ACT to authorize the apprehension and detention until the eighth day of June, one thousand eight hundred and sixty-seven, of such persons as shall be suspected of committing acts of hostility or conspiring against Her Majesty's Person and Government.

[Assented to 8th June, 1866.]

WHEREAS certain evil disposed persons being subjects or citizens of foreign countries at peace with Her Majesty, have lawlessly invaded this Province, with hostile intent, and

whereas other similar lawless invasions of and hostile incursions into the Province are threatened ; Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

1. All and every person and persons who is, are, or shall be within prison in this Province at, upon, or after the day of the passing of this Act, by warrant of commitment signed by any two Justices of the Peace, or under capture or arrest made with or without Warrant, by any of the officers, non-commissioned officers or men of Her Majesty's Regular, Militia or Volunteer Militia Forces, or by any of the officers, warrant officers, or men of Her Majesty's Navy, and charged ;

With being or continuing in arms against Her Majesty within this Province ;

Or with any act of hostility therein ;

Or with having entered this Province with design or intent to levy war against Her Majesty, or to commit any felony therein ;

Or with levying war against Her Majesty in company with any of the subjects or citizens of any foreign State or country then at peace with Her Majesty ;

Or with entering this Province in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any act of felony therein ;

Or with joining himself to any person or persons whatsoever, with the design or intent to aid and assist him or them, whether subjects or aliens, who have entered or may enter this Province with design or intent to levy war on Her Majesty, or to commit any felony within the same ;

Or charged with high treason or treasonable practices, or suspicion of high treason, or treasonable practices ;

May be detained in safe custody, without bail or mainprize, until the eighth day of June, one thousand eight hundred and sixty-seven, and no Judge or Justice of the Peace shall bail or try any such person or persons so committed, captured, or arrested without order from Her Majesty's Executive Council, until the eighth day of June, one thousand eight hundred and sixty-seven, any law or statute to the contrary notwithstanding ; provided, that if within fourteen days after the date of any warrant of commitment, the same or a copy thereof certified by the party in whose custody such person is detained, be not countersigned by a clerk of the Executive Council, then any person or persons detained in custody under any such warrant of commitment for any of the causes aforesaid by virtue of this Act, may apply to be and may be admitted to bail.

2. In cases where any person or persons have been, before the passing of this Act or shall be during the time this Act shall continue in force, arrested, committed, or detained in custody by force of a warrant of commitment of any two Justices of the Peace for any of the causes in the preceding section mentioned, it shall and may be lawful for any person or persons to whom such warrant or warrants have been or shall be directed to detain such person or persons so arrested or committed, in his or their custody in any place whatever within this Province, and such person or persons to whom such warrant or warrants have been or shall be directed, shall be deemed and taken to be to all intents and purposes lawfully authorized to detain in safe custody, and to be the lawful gaolers and keepers of such persons so arrested, committed or detained, and such place or places where such person or persons so arrested, committed, or detained, are or shall be detained in custody, shall be deemed and taken to all intents and purposes to be lawful prisons and gaols for the detention and safe custody of such person and persons respectively ; and it shall and may be lawful to and for Her Majesty's Executive Council, by warrant signed by a clerk of the said Executive Council, to change the person or persons by whom and the place in which such person or persons so arrested, committed, or detained, shall be detained in safe custody.

3. The Governor may, by proclamation, as and so often as he may see fit, suspend the operations of this Act, or within the period aforesaid again declare the same to be in full force and effect, and, upon any such proclamation, this Act shall be suspended or of full force and effect as the case may be.

4. This Act may be altered, amended, or repealed during the present session of Parliament.

(No. 3,201.)

CAP. II.

AN ACT to protect the inhabitants of Lower Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty.

[Assented to 8th June, 1866.]

FOR the protection of the inhabitants of Lower Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty: Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. In case any person, being a citizen or subject of any foreign state or country at peace with Her Majesty, be or continues in arms against Her Majesty within Lower Canada, or commits any act of hostility therein, or enters Lower Canada with design or intent to levy war against Her Majesty, or to commit any felony therein, for which any person would, by the laws of Lower Canada, be liable to suffer death, then the Governor may order the assembling of a Militia General Court Martial for the trial of such person, agreeably to the Militia laws; and upon being found guilty by such court-martial of offending against this Act, such person shall be sentenced by such court-martial to suffer death, or such other punishment as shall be awarded by the Court.

2. If any subject of Her Majesty, within Lower Canada, levies war against Her Majesty, in company with any of the subjects or citizens of any foreign state or country then at peace with Her Majesty, or enters Lower Canada in company with any such subjects or citizens with intent to levy war on Her Majesty, or to commit any such act of felony as aforesaid, or if with the design or intent to aid and assist, he joins himself to any person or persons whatsoever, whether subjects or aliens, who have entered Lower Canada with design or intent to levy war on Her Majesty, or to commit any such felony within the same, then such subject of Her Majesty may be tried and punished by a Militia court-martial in like manner as any citizen or subject of a foreign state or country at peace with Her Majesty, is liable under this Act to be tried and punished.

3. Every citizen or subject of any foreign state or country who offends against the provisions of this Act, is guilty of felony, and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried before "The Court of Queen's Bench" in the exercise of its criminal jurisdiction in and for any district in Lower Canada, in the same manner as if the offence had been committed in such district, and upon conviction shall suffer death as a felon.

No. 5.

No. 5.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

(No. 52.)

Government House, Ottawa, June 13, 1866.

SIR,

(Received June 27, 1866.)

I HAVE to transmit herewith, for your information, a copy of a despatch which I addressed to Her Majesty's Minister at Washington, in reference to the proclamation of the President of the United States relative to the Fenian organization.

I have, &amp;c.

The Right Hon. Edward Cardwell, M.P.,

(Signed) MONCK.

&amp;c. &amp;c. &amp;c.

Viscount MONCK to Sir F. BRUCE.

SIR, Government House, Ottawa, June 11, 1866.

I HAVE learnt from the public press the terms of the proclamation which the President of the United States of America has promulgated against the hostile designs of the Fenians on the Province the government of which I have the honour to administer.

I have also, by the same means, been made acquainted with the orders issued by the Attorney-General of the United States and other officers of the Administration of that country for the apprehension of the persons of Fenian conspirators and the stoppage and seizure of arms and other supplies intended to be used by them against Canada.

As these proceedings of the Government of the United States have materially tended to defeat the hostile purposes of the Fenians against this Province, I shall feel much obliged if you will convey to the Secretary of State for the United States my acknowledgments of the course which has been adopted by that Government in reference to this matter.

His Excellency the Hon. Sir F. Bruce, G.C.B., I have, &c.  
&c. &c. &c. (Signed) MONCK.

No. 6.

No. 6.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 14, 1866.

(No. 53.)

(Received June 27, 1866.)

SIR, (Answered, No. 71, June 30, 1866, page 78.)

I HAVE the honour to transmit for your information the reports\* to the Lieutenant-General commanding Her Majesty's Forces of the several officers whose names are noted in the margin relating to the proceedings connected with the late Fenian invasion at Fort Erie, Canada West.

I think these documents substantially corroborate the accounts which I gave you, from telegraphic and other information, in my despatches Nos. 43, 45, and 47 of the 1st, 4th, and 8th instant.

From all the information I have received, I am now satisfied that a very large and comprehensive plan of attack had been arranged by the party which is popularly known as the Sweeney-Roberts section of the Fenian Brotherhood.

This plan of invasion, in addition to the attempt on the Niagara frontier—the only one which actually occurred—appears to have embraced attacks on the line of the Richelieu and Lake Champlain, and also on the frontier in the neighbourhood of Prescott and Cornwall, where I have reason to think the principal demonstration was intended.

For the latter object, large bodies of men sent by railroad from almost all parts of the United States were assembled at a place called Malone, in the State of New York, and at Potsdam, also in the State of New York; and, with a view to the former, St. Albans and its neighbourhood, in the State of Vermont, was selected as the place of assemblage.

Large supplies of arms, accoutrements, and ammunition were also attempted to be forwarded by railroad to these points; but, owing to the active intervention of the authorities of the United States, as soon as it became apparent that a breach of international law had been committed by these persons, a very large portion of these supplies never reached their destination.

It is not easy to arrive at a trustworthy estimate of the number of men who actually arrived at their different points of rendezvous.

It has been reported at times that there were at Potsdam, Malone, and the intervening country as many as 10,000 men, and similar rumours have been from time to time circulated of the force at St. Albans and its neighbourhood.

From the best opinion I can form, however, I should be inclined to think that the

\* Lieutenant-General Sir J. Michel to the Secretary of State, June 8; Colonel Peacocke, June 4; Lieutenant-Colonel Booker, June 2, 1866. Lieutenant-General Sir J. Michel to the Secretary of State, June 8, 1866; Statement of Naval Force; Return of Troops. Lieutenant-General Sir J. Michel to the Secretary of State, Montreal, June 11; Lieutenant-Colonel Dennis, June 4; Captain Akers, June 7; Colonel Lowry, June 4, 1866. Lieutenant-General Sir J. Michel to the Secretary of State, Montreal, June 11, 1866.

number of Fenians in the vicinity of St. Albans never exceeded 2,000 men, and that 3,000 would be a fair allowance for those assembled at Potsdam, Malone, and the surrounding country.

The men have been represented to me as having, many of them, served in the late civil war in the United States, to have had a considerable amount of small arms of a good and efficient description. I have not heard of their possessing any artillery, and I am informed that they were deficient in the supply of ammunition, and totally destitute of all the other equipments of an organized force.

They appear to have relied very much on assistance from the inhabitants of the province, as the force which invaded Fort Erie brought with them, as I am told, a large quantity of spare arms to put into the hands of the sympathizers whom they expected to join them.

I have in my former despatches noticed the measures which were adopted by the Provincial Government, in order to place at the disposal of the Lieutenant-General commanding Her Majesty's forces the provincial resources available for defence both by land and water.

The Reports of the officers of the army and volunteers, which I transmit, will acquaint you with the manner in which these means were used by the officers in command.

I am happy to be able to bear my tribute to the energy and good faith exhibited by the American Government and its officials in checking all infraction of international obligations on the part of any portion of its citizens from the moment that it became evident that an invasion of the Province by the Fenians had actually taken place. The determination of the Government of the United States to stop the transportation of men and supplies to the places of assembly rendered even temporary success on the part of the Fenians impossible, while the large forces which the Lieutenant-General commanding was able to concentrate on each of the points threatened, had the effect of deterring from an attack the portion of the conspirators who had already arrived at their places of rendezvous.

No invasion in force occurred, except at Fort Erie, a slight incursion took place at a place called at St. Armand, about thirteen miles from St. John's, on the borders of the County of Missisquoi, which ended in the capture of about sixteen prisoners without any loss on our side.

The latest accounts I have received announced that the men who had congregated at the different points of assembly were being transmitted to their homes at the expense of the Government of the United States, most of the leaders having been arrested and held to bail to answer for their conduct.

Although I deplore the loss which the Volunteer force engaged on the 2nd June, at Limestone Ridge, has suffered amounted to six killed and thirty-one wounded, I think it is a matter for congratulation that a movement which might have been so formidable has collapsed with so small an amount of loss, either of life or property.

I think it is also a source of satisfaction that such strong proofs have been afforded of the spirit which animates the Canadian people, of their loyalty to the Throne, of their appreciation of the free institutions under which they live, and of their readiness at all times to prove their sense of the value of those institutions by incurring expense and personal risk in the defence of them.

The period of the year at which the people has been called on to make these sacrifices of time by serving in the Volunteer ranks has been the most inconvenient that could be selected, yet I have never heard a murmur from any quarter at the necessity for suspending industrial occupation involving the risk of losing a whole year's production, while I have received information of a good deal of discontent on the part of those who were anxious to give their services, but whose presence in the ranks was not considered necessary.

I have to express my very high sense of the services performed by Lieutenant-General Sir J. Michel and the officers under his command in the able disposition of the troops both regular and volunteers. The officers of the Royal Navy stationed at Quebec and Montreal deserve the highest credit for the rapidity with which they extemporized gun-boats for the defence of the St. Lawrence and the Lakes.

I have already spoken of the admirable spirit displayed by the Volunteer force, both officers and men. I have every reason to believe that their conduct as regards discipline and order has entitled them to as much commendation as does their spirit of patriotism and self-reliance.

I desire particularly to bring before your notice the ability and energy exhibited by Colonel Macdougall, Adjutant-General of Militia, with a view to having his services specially mentioned to His Royal Highness the Commander-in-Chief.

This officer has not yet been one year in Canada, yet so admirable is the system of organization which he has established, that he is able within a few hours to assemble on any given point over a line of more than 1,000 miles, masses of Volunteers, who at the time the order was given were scattered over the country pursuing their ordinary avocations.

While I attribute full credit to the excellent spirit of the people for its share in this effect, I think the administrative ability which has given practical operation to the good feeling of the population ought to have its meed of praise, and in the interests of the public service on some possible future emergency ought not to be left without official record.

There are prisoners in our hands to the number of about 150. I have not yet received official returns of them, whose trial will be proceeded with at an early day.

I confidently expect within a few days to be able to dismiss to their homes the great majority of the Volunteers, and my firm conviction is, that this disturbance will produce beneficial effects by discrediting Fenian enterprises, exhibiting the futility of any attempt at invasion of the Province, and showing the absence of all disaffection amongst any portion of the people of Canada.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Inclosure 1 in No. 6.

Incl. 1 in No. 6.

Lieutenant-General Sir J. MICHEL to the SECRETARY OF STATE FOR WAR.

MY LORD,

Head-Quarters, Montreal, June 8, 1866.

I HAVE the honour to forward Reports, as per margin,\* referring to operations from the 1st to the 4th of June, on the Niagara frontier.

It appears by those Reports that Colonel Peacocke, of the 16th Regiment, with a force, as per margin,† arrived at Chippawa on the evening of the 1st of June, and that hearing a Fenian force was encamped at Black Creek, he endeavoured to arrange for the morning of the 2nd a combined movement with the Volunteer force, as per margin,‡ under Colonel Booker, at Port Colborne. During the night, however, the Fenians removed to Ridgeway, and circumstances did not permit Colonel Peacocke to move so early as the hour proposed. I may here incidentally state that some discrepancies exist between the reports of Colonels Peacocke and Booker as to the time named for junction, it will be seen by the slight sketch subjoined that the Fenians had moved during the night, three miles nearer Port Colborne, and three miles further from Colonel Peacocke's force.

The consequence of this was that the Volunteers came on the enemy unexpectedly; and although they attacked him with much gallantry, and suffered severely, as may be seen by the subjoined list of killed and wounded, were, from want of support, and from other causes connected with their state (as new to warfare), worsted by the enemy and forced to retire to Port Colborne, but without much molestation.

The enemy then turned their attention to a small party of Volunteers under Colonel Dennis, who had seized Fort Erie, to which place they had, in a steam-tug, on the morning of the 2nd proceeded.

Colonel Dennis' party, I believe, took some forty prisoners, but the report from that officer has not yet reached me.

Colonel Peacocke's column having been reinforced by Lieutenant-Colonel Villier's 47th Regiment with a force as per margin,§ arrived on the evening of the 2nd within two miles and a half of Fort Erie, and on the morning of the 3rd proceeded to that place.

The great body, however, of the enemy on the night of the 2nd had recrossed the river. They were immediately seized by the United States' authorities, and placed in arrest.

Colonel Peacocke in his march picked up a considerable number of prisoners,

Although the result of these operations, in a military point of view, were not so satisfactory to me as I could have wished, still I feel that from the total want of cavalry the change of the position of the enemy during the night of the 1st could not have been

\* Colonel Peacocke's, June 4; Lieutenant-Colonel Booker's; List of Killed and Wounded.

† 400 Regulars, 6 guns.

‡ 840 Volunteers.

§ 150 Regulars, 750 Volunteers; total, 900 Infantry.

discovered, nor Colonel Peacocke's change of hour for operations to commence have been made known to Colonel Booker, and therefore that the partial failure must be attributed to one of those mischances in warfare, which it is difficult to provide against, and only possible when all the appliances of war are within our grasp.

I have, &c.

(Signed) J. MICHEL, Lieutenant-General,  
Commanding the Forces in British North America.

The Right Hon. the Secretary of State for War,  
War Office, London.

Incl. 2 in No. 6.

Inclosure 2 in No. 6.

Colonel PEACOCKE to Major-General NAPIER.

SIR,

Fort Erie, June 4, 1866.

I HAVE the honour to make the following report of my operations in the field since the 1st instant:—

In compliance with a telegram received from you, I joined at 2 o'clock, at Hamilton, with 200 men of my own battalion; the force proceeding from Toronto to St. Catherine's consisting of one battery of Royal Artillery, under the command of Lieutenant-Colonel Hoste, C.B., and 200 men, 47th Regiment, under the command of Major Lodder.

You had also placed under my command for the defence of the frontier seven companies of Volunteer force stationed at St. Catherine's, under the command of Lieutenant-Colonel Currie, the Queen's Own Regiment of Volunteers at Port Colborne and the 13th battalion of Volunteer Militia, commanded by Lieutenant-Colonel Booker at Dunnville, and you had informed me that I should be reinforced at St. Catherine's that evening by 800 men.

Your instructions were that I was to make St. Catherine's my base, to act according to my own discretion as to advancing on Clifton or elsewhere, and to attack the enemy as soon as I could do so with a force sufficient to ensure success.

On arriving at St. Catherine's, I received telegrams to the effect that the Fenians, about 800 strong, were marching on the suspension bridge, and were actually two or three miles from Chippewa. I pushed on immediately to the bridge, leaving orders for all troops arriving at St. Catherine's to follow me as soon as possible.

On reaching the bridge I heard the enemy had not yet reached Chippewa; and being anxious to save the bridge over the creek, I pressed on with the four hundred Infantry in the train, preceded by a pilot-engine, the battery marching by road in consequence of the reported want of platform accommodation at the Chippewa station. It was dark when we arrived at Chippewa. We bivouaced there that night.

I here received numerous reports from scouts sent out by Mr. Kirkpatrick, the reeve. They agreed generally in the statement that the Fenians had entrenched themselves roughly a little below Fort Erie, at Frenchman's Creek, and had sent on a party towards Chippewa. Their strength was variously estimated from 800 to 1,500.

I resolved on effecting a junction with the force at Port Colborne, to which place I had already ordered the battalion from Dunnville.

With this object in view, I selected Stevensville as the point of junction, and having explained to Captain Akers, Royal Engineers, who accompanied the force from Toronto, what my object was, and that this point was chosen because, judging from the information received, we could not be anticipated at it till the evening.

I dispatched that officer at 12 o'clock to communicate with the officer commanding at Port Colborne, to make him conversant with my views, and to order him to meet me at Stevensville between 10 and 11 o'clock next morning, informing him that I should start at 6 o'clock.

I continued to send out scouts during the night, and to receive reports which made me believe that my information was correct, and that the enemy had not left their camp.

At about 2 o'clock I received a telegram from Colonel Booker, despatched before he was joined by Captain Akers, informing me that he had given order to attack the enemy at Fort Erie.

At about half-past 3, I received another one from Captain Akers, despatched after he had reached Port Colborne, saying that the enemy is at French Creek, and proposing that Lieutenant-Colonel Booker's force should advance on Fort Erie, and join us at Frenchman's Creek.

At about half-past 4 o'clock I was joined by the seven companies of Volunteer force

from St. Catherine's, formed into a battalion 350 strong, under Colonel Currie, and by the expected reinforcement under Lieutenant-Colonel Villiers, 47th Regiment, which consisted of 150 men, 47th, and of the 10th Royals, 415 strong, under Major Boxall.

The Volunteers, being unprovided with means of carrying provisions and of cooking them, had not been able to comply with an order I had sent the previous evening, that they were to bring provisions in their haversacks.

I saw that the absolute necessity of furnishing them with some would cause a delay, and I telegraphed to Port Colborne that I should be one hour later in starting.

We marched at 7 o'clock, leaving the garrison Volunteer battery from St. Catherine's under Captain Stoker, to hold Chippawa.

The day was oppressively hot, and our guides took us by a road much longer than necessary. When about three miles from Stevensville, at about 11 o'clock, I received a few lines from Lieutenant-Colonel Booker, written at half-past 7 o'clock, to the effect that he had just received my telegram, but that he was attacked in force by the enemy at a place three miles south of Stevensville; at the same time I received information that he had retired on Ridgway. I encamped a mile further on at a place called New Germany, across a road leading due south to Stevensville.

At about 4 o'clock, having gathered information that the enemy was falling back on Fort Erie, I left everything behind which would encumber the men and started to follow them.

At the moment of starting we received an important accession to our strength by the arrival of the Cavalry Body Guard of his Excellency the Governor-General, fifty-five strong, under Major Denison.

We marched until dark, and halted two miles and a half from Fort Erie, the men sleeping on their arms and due precaution being observed.

During the night I sent out scouts to collect information. It appeared that the Fenians on retiring had posted themselves at once near the Old Fort, some said they had been reinforced, some that they were attempting to recross into the United States.

I also heard that three companies 16th Regiment, and three companies 60th Rifles, had arrived at our vacated camp at New Germany, and that a force had reached Black Creek, also that ten more companies of Volunteer Militia had arrived at Port Colborne.

The Volunteer garrison battery which I had left at Chippawa joined me during the night.

Anxious to prevent the escape of the Fenians, I sent word to the officers commanding at those three places that I was going to attack Fort Erie and asked when they would be able to co-operate.

Subsequently fresh reports of attempts of the Fenians to escape having reached me, I determined on advancing at once.

We were about to move when Lieutenant-Colonel the Honourable Hillyard Cameron came into camp and informed me that they had escaped.

This intelligence caused great mortification in my little force. I desired Major Denison to scout the country and enter the town, he sent me a message that he was informed that there were still a body of Fenians about the Old Fort.

We at once marched in that direction skirmishing through the woods, and though Major Denison soon informed me that they really had escaped, as many scouts and farm people assured us they had not escaped. We took a long sweep through the woods, our right on Lake Erie, a few stragglers were seen and four reported shot.

On entering the Old Fort, traces were found of its having been recently occupied.

During the short operation which extended only over forty hours, the troops under my command underwent very great fatigue, and bore it with the best spirit and great cheerfulness.

I received all possible support and co-operation from officers of all ranks, the conduct of the men was excellent, a great number of private individuals rendered me services various ways, and the inhabitants generally displayed a good and loyal feeling.

Mr. Swinyant, Manager of the Great Western Railroad, gave me the benefit of his services in person, he placed at my disposal the resources of the railway, and the officials on the line exerted themselves to render these available.

I have the honour to enclose a report of Lieutenant-Colonel Booker of his operation on the 2nd instant.

(Signed) GEORGE PEACOCKE,

Colonel and Lieutenant-Colonel, 1st Battalion 16th Regiment.

Major-General G. Napier, C.B.,

Commanding 1st Military District, Toronto, Canada, West.

## REPORT of Lieutenant-Colonel BOOKER.

SIR,

Port Colborne, June 2, 1866.

I HAVE the honour to report that, in accordance with instructions received from Colonel Peacocke, through Captain Akers, I proceeded by train at 5 A.M. to-day, to Ridgeway station, on the B. and L. W. railroad with the Queen's Own, of Toronto, Major Gilmor, say 480 men, of all ranks; the York Rifles, Captain Denis; the Caledonian Rifles, Captain Jackson, and the 13th battalion, of Hamilton, together about 360 men, total of all ranks, say 840 men, in order to form a junction with Colonel Peacocke, at Stevensville at 9 to 9.30 A.M. On arriving at Ridgeway I sent the Great Western train away, and as I could not obtain a horse or waggon in the place for the conveyance of stores, I was compelled to leave without the stores, and sent them back to Port Colborne. At a little before 8 A.M. we were feeling our way upon the Stevensville road, and were about three miles from that village, when our advanced guard felt the enemy. Major Gilmor extended the Queen's Own in skirmishing order, in admirable style; the men advancing in good spirits, they were supported and relieved as required by the 13th of Hamilton, and the Rifle Companies from York and Caledonia. After Major Gilmor had expended much ammunition, he reported to me that his ammunition was failing, at 9.30, after being engaged under a hot fire for an hour and a half, I observed the enemy throwing back his right and reinforcing his left flank, I immediately ordered up two companies, in support, to counteract the movement; at this moment, I received a telegram by the hands of Mr. Stovin, Welland railroad, on the field, informing me that Colonel Peacocke could not leave Chippawa before 7 o'clock, instead of 5 A.M. the hour named by Captain Akers, on his behalf. The enemy was strongly posted in the woods, on the west of the garrison road, the road forming an entrance as it were, to a *cul-de-sac*. We outflanked him, when he brought up his centre reserves, and outflanked us, we drove them in the first place, over a mile, and held possession of their rifle pits. A cry of cavalry from the front, and retreat of a number of men in our centre on the reserves, caused me to form a square, and prepare for cavalry. This mistake originated from relieved skirmishers doubling back. I immediately reformed column and endeavoured to deploy to the right; a panic here seized our men, and I could not bring them again to the front; I regret to say we have lost several valuable officers and men, I estimate the strength of the enemy as greater than ours, and from the rapid firing they were evidently armed with repeating rifles.

I have, &amp;c.

(Signed) A. BOOKER, Lieutenant-Colonel,  
Commanding Volunteer Militia.

P.S.—We are destitute of provisions here.

A. B.

If I had only one gun of artillery I feel sure the result would have been different.

A. B.

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**List of Killed and Wounded in the Engagement at Ridgeway, on the 2nd June, 1866.**
**13th Infantry Battalion.****Killed.**—None.**Wounded.**—Lieutenant Routh, dangerously; 6 privates.**Queen's Own Rifles****Killed.**—Ensign McEachun; 5 privates.**Wounded.**—Captain Boustead, Lieutenant Berau, Lieutenant Campbell, Ensign Fahay, 1 Colour Sergeant, 3 Sergeants, 2 Corporals, 15 Privates.**Missing.**—1 Private.

(Signed) G. NAPIER, Major-General.

The return I received from the Queen's Own, does not, as you will perceive, state the nature of the wounds, I will send for another properly filled in to-morrow.

(Signed) G. NAPIER, Major-General.

Toronto, June 6, 1866, 10.30 A.M.

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Lieutenant-General Sir J. MICHEL to the SECRETARY OF STATE FOR WAR.

MY LORD,

Head-Quarters, Montreal, June 8, 1866.

I HAVE the honour to forward a statement of the naval force which has been placed on the St. Lawrence and Lakes within the last week, chiefly owing to the valuable and extraordinary exertions of Captain Hood of Her Majesty's ship "Pylades."

This flotilla is more valuable than any number of troops, and quite places the line of the St. Lawrence in our hands.

Also a return showing the number and position of our troops.

The Proclamation just issued by the President of the United States has had already very great effect.

The United States Government and Military authorities, are acting with good faith, vigour, and promptitude.

I have, &c.

(Signed) J. MICHEL, Lieutenant-General,  
Commanding the Forces in British North America.

The Right Hon. the Secretary of State for War,  
War Office.

Inclosure 5 in No. 6.

Inclo. 5 in No. 6.

MEMORANDUM of Naval Arrangements.

These have been made under authority of his Excellency the Governor-General.

Those at Montreal have been carried out under Captain Hood, of Her Majesty's ship "Pylades," who has supplied the accompanying tabular statement.

At Toronto the steamers "Magnet" and "Rescue," have been taken up; crews, armaments, and stores for them reached Toronto on 5th proximo, from Her Majesty's ship "Aurora," Captain de Horsey, which is at Quebec.

The "Rescue," Lieutenant Heron Maxwell, R.N., has passed into Lake Erie and is now at Windsor, C.W.

The "Magnet," Lieutenant Fairlie, R.N., is at Toronto, C.W.

The "Watertown," a ferry boat, has been taken up at Kingston and armed with a 24-pounder brass howitzer, and 9-pounder brass gun; she is manned by Royal Artillery and a Volunteer Naval Company.

Vice-Admiral Sir J. Hope was to arrive in Her Majesty's ship "Duncan" at Quebec this morning, with the 17th Regiment on board from Halifax.

He has been telegraphed.

By command,  
(Signed) WM. EARLE, Lieutenant-Colonel,  
Military Secretary.

June 8, 1866.

(Signed for the Lieutenant-General, who has gone to St. John's.)

Inclosure 6 in No. 6.

REPORT of Steamers Hired and Fitted as Gun-boats, for Service in the St. Lawrence.

Name.	Length.	Beam.	Horse-power.	Draft of Water.	Speed.	How Armed.	How Protected.	How Manned.		Service on which Employed.
								Officers.	Men.	
"Royal," paddle-steamer	Feet. 150	Feet. 38	80	Ft. in. 6 6	Knots. 11	With two 12-pounder Armstrong's; and one 12-pr. howitzer.	Rifle-proof bulwarks have been built before and abaft paddle-boxes of pine, 6 ft. high, 9 in. thick, and lined with $\frac{1}{4}$ in. boiler-plate; a slit for rifles at intervals of 3 ft. in bulwarks. Ports are covered with boiler-plate when not engaged; Wheel-house protected by boiler-plate boarding, nettings in gangways.	Lieutenant Vidal. 1 Sub-Lieutenant. 1 Assistant Surgeon. 1 Midshipman. 1 Engineer.	30 Seamen and boys. 3 Stokers. 1 Carpenter. 6 Marines.	Head-Quarters, Cornwall, to protect that place and its vicinity, as far as Salmon River.
"Hercules," ditto	125	30	75	6 6	10	With one 20-pounder Armstrong; one 12-pounder howitzer; and one 6-pr. gun.	In exactly the same manner as the "Royal."	Lieutenant Douglass. 1 Sub-Lieutenant. 1 Assistant Surgeon. 1 Midshipman. 1 Engineer.	Same as "Royal."	Head-Quarters, Prescott, to protect that place and its vicinity.
"Canada," ditto	125	30	75	6 6	10	With one 24-pr. howitzer, and one 12-pr. howitzer.	Ditto ..	Lieutenant Hooper. 1 Sub-Lieutenant. 1 Midshipman. 1 Engineer.	Ditto ..	To watch between Salmon River and Bodet Bridge.
"St. Andrews," ditto	150	40	80	6 10	11	With one 20-pounder Armstrong; one 24-pounder howitzer; and one 12-pr. howitzer.	Ditto ..	Lieutenant Smith. 1 Sub-Lieutenant. 1 Assistant Surgeon. 1 Midshipman. 1 Engineer.	Ditto ..	"St. Andrews" is not yet finished; will sail about 4 P.M. on June 8. To watch between Kingston and Gananague.

Every Seaman and Boy is armed with rifle, revolver, and cutlass; Marines with rifles and revolvers. 2,000 rounds of rifle ammunition, and 100 rounds of pistol ammunition is supplied for each man and boy.

One hundred rounds of segment shell are furnished for each Armstrong gun; 100 rounds of common shell, diaphragm shell and case, for each smooth-bore gun.

Montreal, June 7, 1866.

(Signed) A. N. A. HOOD, Captain.

## RETURN showing Position and Number of Troops.

		Regulars.	Volunteers	Total.	Field Guns.	
Major General Napier .. .. .	Niagara frontier .. .. .	2,000	00	2,000	6	
Colonel Lowry, 47th Regiment .. .. .	London frontier .. .. .	800	2,000	2,800	10	Volunteer guns.
Colonel Hawley, 60th Regiment .. .. .	Montreal .. .. .	..	..	..	..	No Return.
Major-General the Hon. J. Lindsay .. .. .	Kingston .. .. .	460	1,370	1,830	3	3 Volunteer guns, 660 Volunteers, from the West.
Colonel Gibbon, Royal Artillery .. .. .	Prescott .. .. .	182	1,144	1,326	2	2 Volunteer guns, 50 Volunteers, available at Brockville.
Lieutenant-Colonel Atcherley, Volunteer Militia .. .. .	Cornwall .. .. .	900	1,000	1,900	8	
Colonel Pakenham, 30th Regiment .. .. .	Huntingdon District .. .. .	..	1,144	1,144	2	Volunteer guns.
Lieutenant-Colonel Smith, Volunteer Militia .. .. .	Isle aux Noix .. .. .	140	152	292		
Captain Heberden, Royal Artillery .. .. .	St. John's District .. .. .	1,180	980	2,160	10	
Colonel Ebrington, Rifle Brigade .. .. .	Montreal .. .. .	800	900	1,700	2	
Colonel Lord A. Russell, Rifle Brigade .. .. .	Quebec .. .. .	960	579	1,539	4	Volunteer guns.

The numbers are only approximate.

The 2nd Battalion of the 7th Regiment has come to Montreal from Quebec.

The 2nd Battalion of the 17th Regiment will arrive at Quebec to-day in the flag ship.

The Volunteers' numbers do not include Companies guarding detached points, or left at their native places.

(Signed) J. MICHEL, Lieutenant-General,  
Commanding Troops, British North America.

Montreal, June 8, 1866.

## Inclosure 8 in No. 6.

Inclo. 8 in No. 6.

Lieutenant-General Sir J. MICHEL to the MILITARY SECRETARY, Horse Guards.

SIR, Head-Quarters, Montreal, June 11, 1866.

IN continuation of my despatch of the 8th June, referring to affairs on the Niagara frontier, I have now the honour to forward copies of the reports of Lieutenant-Colonel Dennis, who commanded a party which proceeded in a tug from Port Colborne on the morning of the 2nd June, and seized Fort Erie, and of Captain Akers, R.E., who accompanied him.

The latter report will give His Royal Highness some insight into the want of preparedness of the Volunteer levies hurriedly called out. Nevertheless, these levies behaved very well, and, with very short experience in the field, would make good troops. Their heart is in their business, and they deserve much praise.

I have, &c.

The Military Secretary, (Signed) J. MICHEL, Lieutenant-General.  
Horse Guards.

## Inclosure 9 in No. 6.

Inclo. 9 in No. 6.

Lieutenant-Colonel DENNIS to Colonel LOWRY.

SIR, Erie, June 4, 1866.

AVAILING myself of the earliest moment, I have the honour to report for the information of his Excellency the Commander-in-Chief the following narrative of events connected with the late Fenian invasion at this place in which I was directly concerned subsequently to my leaving Toronto on the morning of Friday last.

My orders were on that occasion to proceed with the 2nd, or Queen's Own, 400, strong, to Port Colborne; occupy and, if necessary, intrench a position there, and wait for reinforcements and further orders before any attack was made on the enemy, who, it was represented, numbered some 1,500 men, and was advancing on that point. Although finding great excitement at the different stations along the Welland Railroad on the way up, at Port Colborne, where I arrived about noon, things were quiet; no definite news having reached there, in consequence of the Fenians having cut the wires at Fort Erie, out of which place they had driven the officials at 5 A.M. that morning. Report, however, said that they had some two hours subsequently sent a party up the track, and burnt a bridge crossing a small stream, known as Sarwine's Creek, six miles from Erie on the

See points A and B on diagram.

railway to Port Colborne. No news of any further approach having been brought in by any of the numerous scouts sent out by the villages during the forenoon, I proceeded to billet the men, in order to get them dinner; and then, before determining to commence the construction of any defences, I dispatched messengers across to Buck's Tavern and Stevensville, between Erie and the town of Welland, to ascertain and report any movement of the enemy in that direction, which I thought probable, as sufficient time had elapsed to enable him to reach Port Colborne, had that been his intention; and having, through the kindness of Mr. Larmonth, the superintendent of the line, obtained a locomotive, I started down the railway upon a reconnaissance, getting down to within six miles of Erie, the burning of the bridge mentioned preventing any closer approach. I then learnt that the bridge had been destroyed by a party of some seven men, who had come up at about 7 A.M., who, in addition, stole a number of horses from the farmers in the vicinity, and then went back towards the main body, which, from testimony I received, it appeared, had gone down the river about a mile below the Lower Ferry, and camped close to the River Road, on one Newbigging's Farm.

See point C on map.

Their numbers were variously estimated at from 450 to 1,200 men. This testimony was corroborated by the statement of the mounted scouts from Buck's Tavern and Stevensville, who returned in the evening, and went to show that, with the exception of parties out stealing horses, there had been no Fenians seen in that direction, and was rendered certain by the arrival about 10 P.M. of Mr. Graham, the officer of Customs at Fort Erie, who had been in their camp at 6 o'clock that evening. Shortly before this time, however, Colonel Booker, of Hamilton, had arrived with the 13th Battalion of Volunteers, and, being senior officer, took command, and continued the communication by telegraph which had been going on between Colonel Peacocke and myself, respecting position and strength of enemy, and best method of attacking him. Colonel Peacocke, then at Clifton, having at about 5 P.M. telegraphed me that he had ordered the International Railway steamer up to Port Colborne for me to put upon her a gun or detachment, in order to patrol the river from Fort Erie to Chippawa—she not having arrived at 10.30 P.M.—I ordered the "Robb," a powerful tug-boat, owned by Captain McCollum, down from Dunnville, for the purpose, intending to place upon her the Welland battery, without guns (the men armed with Enfield rifles), and received a reply that she would be down at 3 A.M. the following morning. This was the position of affairs when Captain Akers, R.E., arrived from Chippawa, sent over by Colonel Peacocke, to consult and to explain Colonel Peacocke's views as to the best mode of attack.

After due consideration between Captain Akers, Colonel Booker, and myself, a certain course was decided, arranging for an attack in concert on that morning, and Colonel Peacocke was telegraphed accordingly.

In accordance with this plan, Captain Akers and myself embarked on the tug\* (which did not arrive, however, till about 4 A.M., having been delayed in consequence of Captain McCollum wishing to bring with him his naval company from Dunnville), and proceeded down to reconnoitre the river and Fenian camp, arranging to meet the Port Colborne force back at the railway depôt, three miles above the enemy's camp, at 7, or, at the latest, half-past 7. On our way past the village of Fort Erie, we were brought to by the armed patrol tug-boat from the United States' steamer "Michigan," who, on finding out who we were, informed us that the Fenian camp on Newbigging's Farm had been broken up at 3 A.M. that morning, the enemy having marched down the River Road.

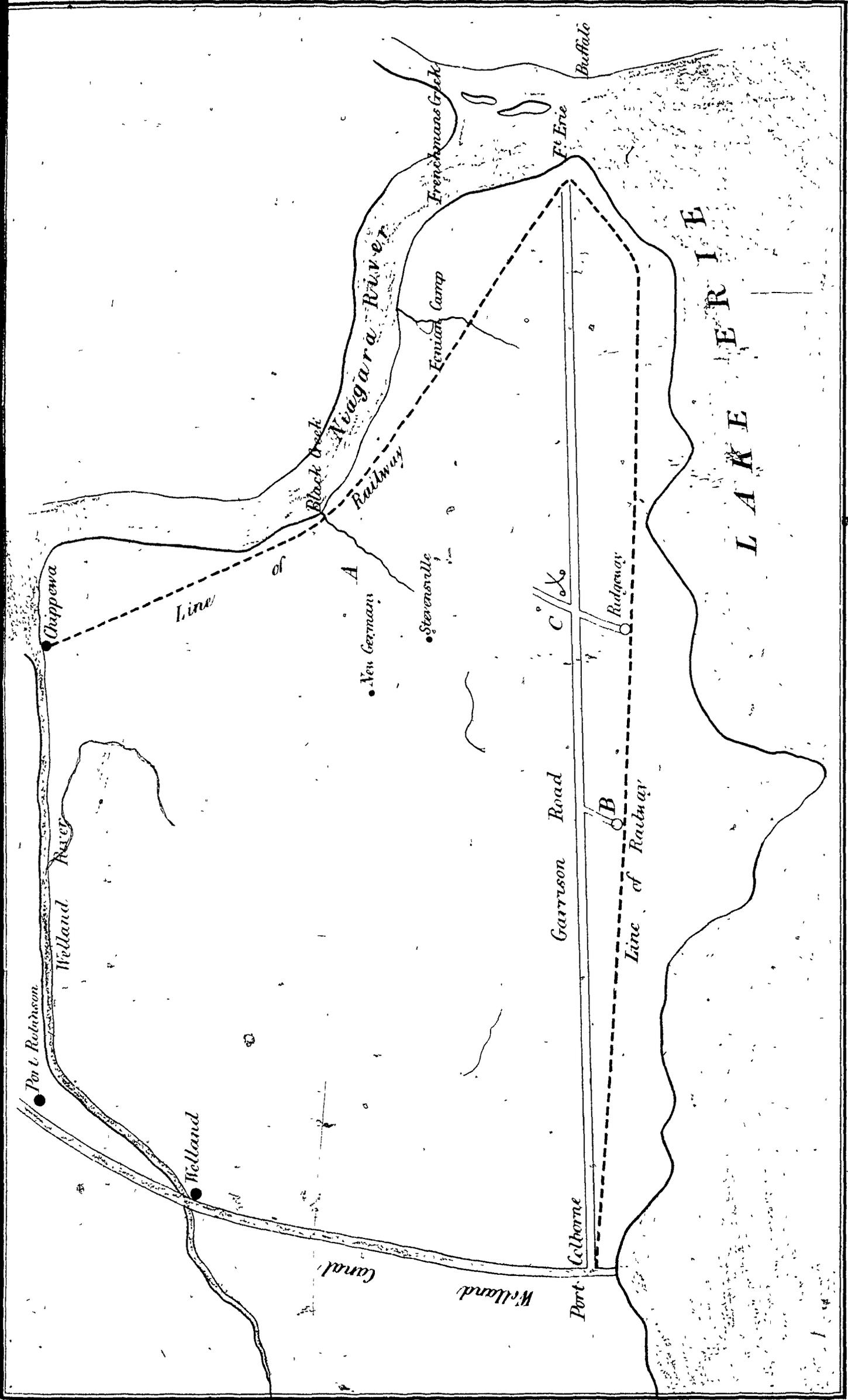
We proceeded down the river to the mouth of the Black Creek, eight miles above Chippawa, where we learnt that they had turned off the river to the west, a short distance above, and were there, at a point two miles directly in rear of a place called New Germany. A messenger was at once sent off to Colonel Peacocke, presumed then, under previously-concocted arrangements, to be near there moving up; and we returned with the tug, in accordance with that arrangement, to meet Colonel Booker and the Port Colborne force at the Upper Railroad Depôt at Fort Erie.

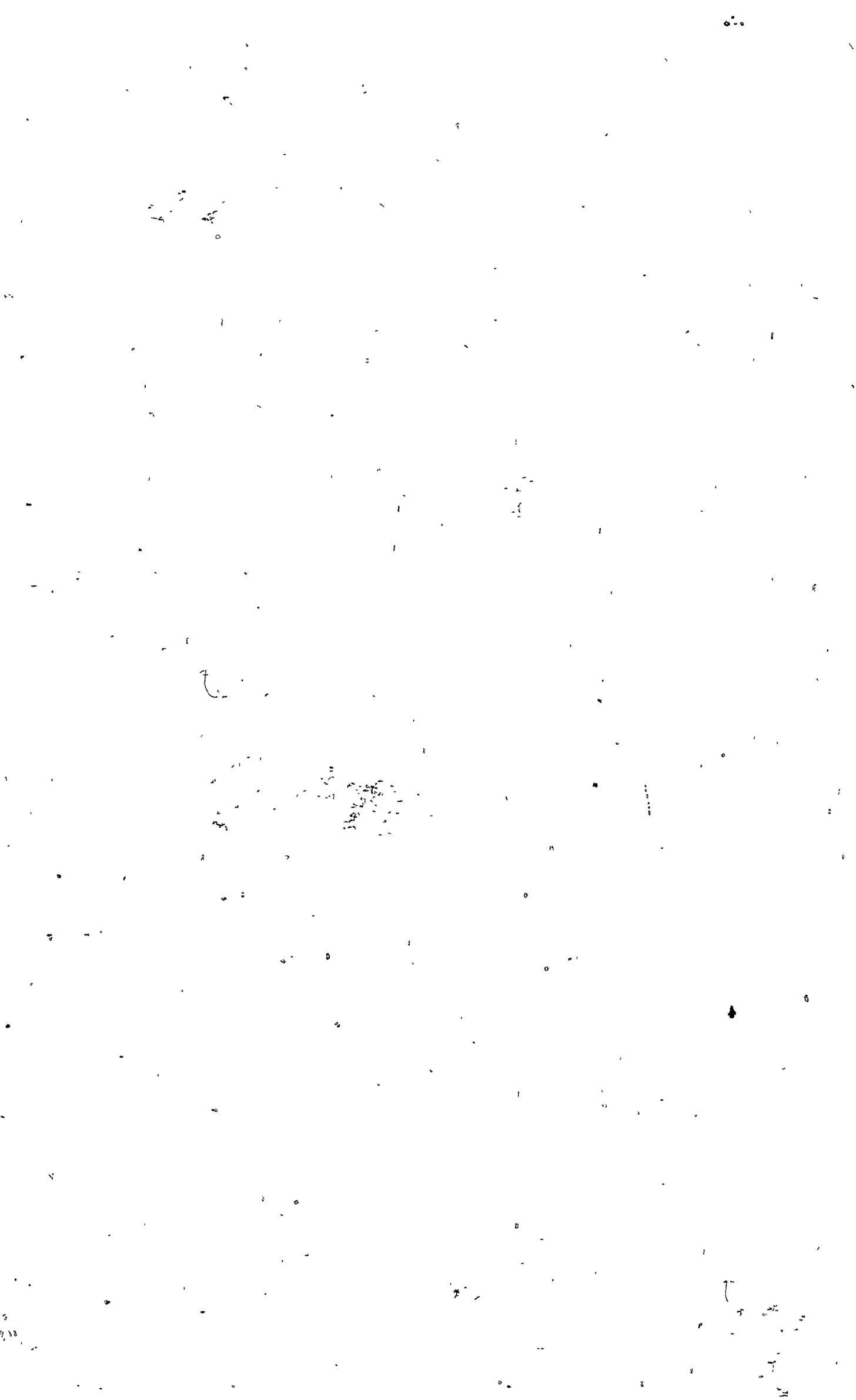
See point E on sketch.

On our arrival there we could see or hear nothing of them. This was accounted for subsequently by the fact that Colonel Booker had received, after we left, an order from Colonel Peacocke directing him to turn off the railroad at Ridgway, some eight miles above Fort Erie, and cross the country in order to meet and attack in concert.

This being the case—presuming a combined attack would be made in the course of the day, of the result of which we could have no doubt, I considered, as I could not then join my proper force, that important service could be rendered by patrolling the river to intercept and capture fugitives, and to prevent by every possible means the escape across the river of any large body of the enemy.

\* Our object in this was to ascertain definitely the position of the enemy's camp as preliminary to the attack.





This having been determined on, Captain Akers and myself were engaged all day in patrolling the shore and scouring the woods along the river as far down as Black Creek, arresting in all, including six prisoners made about 9 o'clock in the morning at Fort Erie, some twenty-three men; during the course of the afternoon we learned through some of the prisoners that an engagement had taken place at some point in the interior, in which the Fenians had been utterly dispersed. This I was quite prepared to believe, as I had from the steamer observed Colonel Peacocke with a strong force on his way up from Chippawa turn in from the river-road towards New Germany, and I knew that Colonel Booker's force was coming down upon him from the south.

Concluding that the action which had been known to come off had resulted in the capture of the enemy, I returned to Fort Erie about half-past 5 o'clock P.M., proposing to get what information I could about the position of our troops, and to telegraph for instructions as to what should be done with the prisoners, who had amounted now, including those taken in the village and neighbourhood during the day also, to some sixty or sixty-five men. The numbers I cannot give precisely, as I had only got as far as those names given in the margin,\* making out a memorandum of each case, and (having in the meantime made up my mind to send the prisoners by the tug to Welland Gaol) had brought down and embarked those in confinement in charge of the Reeve, when the alarm was given that the Fenians were entering the town in force. In fact, the first messenger had hardly delivered the news, when a second came in to say that they were within a quarter of a mile, coming down the street along the river. I went over from the pier to satisfy myself, and saw them in numbers, as judged about 150, advancing upon the street indicated. Supposing them to be of the material and the same miserable character physically as the prisoners we had been taking all day, I thought the detachment I had with the boat, even if we had to resort to the bayonet, sufficient to do for them, and concluded that my duty lay in making a stand against them.

This detachment consisted, as before mentioned, of the Welland Field Battery, 54 men and 3 officers, and of a portion, some 18 men and 1 officer, exclusive of the guard over the prisoners on the boat, of the Dunnville Naval Company.

I first took the precaution to put the prisoners under hatches, and then advancing to meet the enemy about 150 yards, drew up my little command across the street; as they came within about 200 yards they opened fire on us, when my detachment, by order, fired a volley from each of the companies, upon which a severe flank fire was opened on us from the west, and on looking in that direction I observed for the first time two considerable bodies of the enemy, running northerly parallel with the river, evidently with the intention of cutting us off and getting possession both of us and the steamer at the same time. Under the circumstances, as I considered if we tried to escape by the tug the enemy might be there as soon as we and so achieve his double object, and I therefore concluded that my duty lay in saving the prisoners we had on board and preventing the enemy from getting possession of the vessel, what I knew, and he probably also, was his only means of escape; and I therefore ordered the captain to cast off and get out in the stream, and ordered my men to retreat and do the best they could, and to get away, each man for himself.

During this time a heavy fire was kept up on us both front and flank, and I had the grief of seeing several of my men fall. We retreated down the front street under a very heavy though comparatively ineffectual fire; several of the men, contrary to my advice, taking shelter in a house the door of which stood open as they passed.

There being little or no cessation in the fire upon us in retreat, I had no desire to remain under it longer than was necessary, and accordingly turned into the premises of a friend in the lower part of the village, where I lay concealed although the premises were searched twice, the ruffians stating their intention to come a third time, and threatening if I were not given up, as they had seen me enter the gate, that they would destroy the property. Two of my men, one of them wounded, had previously taken shelter in the house, whom they captured.

Fearing another search, I dressed in disguise furnished by my friend, and then came out and remained in the village till nightfall, when I got through the lines and struck across the country in search of Colonel Peacocke. Finding his camp out about five miles back of Fort Erie; arriving there at 3 o'clock A.M. I then accompanied his force back to this place, during its operations later in the day, of all which, as also of the escape of the enemy during the night, that officer's report will doubtless inform you.

\* 1. Dan. Drummond; 2. Pat O'Nally; 3. Berig. Perry; 4. Jno. Corney; 5. John Mahony; 6. W. Madigan; 7. Jno. Hughes; 8. W. H. Harden or Shavin; 9. Denis Lanahan; 10. Jno. Murphy; 11. Owen Kennedy; 12. Francis Miles; 13. J. A. Heckman; 14. W. Baker; 15. W. Orr; 16. Jno. Maxfield; 17. Terin McCarthy; 18. Michael Rilfather; 19. Jno. Gray; 20. Rev. Jno. Lumoden.

On my return I was able to learn, for the first time, something of the casualties in the affair of the previous evening.

I feel rejoiced not to have to report any loss of life in my detachment, although I was given to understand that there were some five wounded in the Welland Battery, three of them so severely as to result in each case in the loss of a leg; among which cases I regret to say Captain King of the Welland Battery, and one man of the Dunnville Naval Company; none of the officers excepting Captain King were wounded. A Return of the casualties is appended hereto.

The enemy suffered more severely. Three of his number were killed outright and four were mortally wounded, two of whom died yesterday morning; the other two had been allowed, under the circumstances, by the Reeve Dr. Kempson, with the permission as I understood of Colonel Lowry, to be taken to the Buffalo Hospital.

Mr. Scholfield, the Lieutenant of the Welland Battery having gone to Welland to get his men together again, some of them having escaped across country to their homes during the night, is ordered without delay, when in a position to do so, to prepare an accurate list of the casualties in the battery.

I have detained this report somewhat in order to get his return.

Should there prove to have been any casualties not as yet reported I will lose no time in sending forward a list of the same.

I append the report of Captain Mc Collum, commanding Dunnville Naval Company, and owner of the steam tug referred to, to whom particularly, as also to his Lieutenant, W. Robb, the sailing master of the steamer, I have to express my obligation for their zealous and efficient assistance during the operations of Saturday.

I have also the gratification of saying that the other officers and men forming my little command, behaved most nobly in the affair during the afternoon at Fort Erie. I firmly believe that had I not ordered them to retreat they would have remained steady and fought until shot down in their tracks.

I have, &c.

(Signed)

J. STOUGHTON DENNIS, Lieutenant-Colonel,

Commanding Detachment on Saturday 2nd June.

Colonel Lowry,  
Commanding Niagara Frontier.

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Inclosure 10 in No. 6.

Inclo. 10 in No. 6.

Captain Mc COLLUM to Lieutenant-Colonel DENNIS.

SIR,

AT your request I have the honour to make the following report :—

On Saturday last 2nd of June, between the hours of 3 and 4 P.M., after your departure, I retreated down the river under a galling fire, a distance of about three miles, with two men of Naval Brigade and thirteen men of the Welland Canal Field Battery, the rest having been cut off, and consequently taken prisoners, including the following officers, viz., Second Lieutenant Macdonald of Naval Brigade, and Lieutenant Scholfield, and Ensign Nimmo of Field Battery being wounded, and one man of the Naval Brigade, Lieutenant Robb, with steamer "Robb" commanding boats, and took us on board. I then held consultation with Lieutenant Robb as to future proceedings, we then determined, on account of being encumbered with so many prisoners on board, fifty-seven in number, and so very few men left to guard them, to run to Port Colborne and send the prisoners to a place of safety. In passing Fort Erie up the river, we, for a distance of a mile's run were under a heavy fire of musketry from the Canada shore, we passed without any casualties worth mentioning, and arrived safely at Port Colborne at half-past 6 P.M. of same day, and delivered the prisoners over to Lieutenant-Colonel McGiverin, with commitment and names inserted.

All which is respectfully submitted.

(Signed)

L. Mc COLLUM,

Captain, N. B., Dunville.

Lieutenant-Colonel Dennis,  
Fort Erie,

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RETURN of Casualties in action at Fort Erie on the afternoon of the 2nd day of June, 1866.

Rank and Names.	Where Wounded.	Remarks.
Captain R. S. King .. ..	Through the leg, below the knee..	Required amputation; doing well.
Gunner John Bradley .. ..	" " above the knee..	" " "
" F. Scholfield .. ..	" " below the knee..	" " "
" George Harrison .. ..	Through the leg .. ..	Doing well.
" R. Thomas .. ..	Through the thigh .. ..	"
(Above, all belong to the Welland Company, N Battery, Dunnville Naval Brigade)		
Nelson Bush .. ..	Bayonet wound in chest ..	Slight wound; doing well.

(Signed) J. STOUGHTON DENNIS,  
Lieutenant-Colonel Commanding Detachment.

Head-Quarter Force, Fort Erie,  
June 7, 1866.

Inclosure 12 in No. 6.

Inclo. 12 in No. 6.

Captain AKERS to the Commander of the Royal Engineers in Canada.

SIR, Montreal, June 7, 1866.

IN accordance with the orders of Major-General Napier, C.B., I reported myself to Colonel Peacocke at Hamilton, on Friday 1st June, and proceeded with him to Chippawa.

The same night about midnight, I was directed by Colonel Peacocke to proceed to Port Colborne to arrange with Colonel Dennis for making a combined attack on the enemy supposed to be entrenched on Black Creek, about three miles down the River Erie, seven miles from Chippawa, and two from Stevensville.

Colonel Peacocke was to move on Stevensville, so as to arrive there about 9.30 A.M. Colonel Dennis to move along the railway to Ridgeway, as far as the state of the railroad would permit, and march from thence to meet Colonel Peacocke at Stevensville at the above hour, and from thence the combined forces were to march on the supposed position at A arriving at Port Colborne at about 2 A.M. I found the whole force under arms and in the cars.

Colonel Booker being senior to Colonel Dennis had taken over the command.

They had obtained from a Custom-house officer arrived from Erie, exact information as to the position of the Fenian camp; this was on Frenchman's Creek, about half-way between Black Creek and Fort Erie. The officer who had been in the camp at 6 o'clock, considered there were not more than 700 men, that they had been drinking hard during the day, and might fall an easy prey to a sudden attack.

Colonel Dennis was anxious to move off at once to the attack, and Colonel Booker was prepared to carry out the proposal if properly authorized.

Knowing Colonel Peacocke's anxiety to combine his forces with the Volunteers, before attacking the enemy, I could not in his name authorize the movement, nor did I think it prudent, as from the accounts we had received it appeared probable that the enemy's forces would be doubled during the night.

Having ascertained, however, that the railway bridge at Ridgeway, partially burnt in the morning, had been repaired, and that the line to Erie was opened, I arranged a somewhat different plan of attack, subject of course to Colonel Peacocke's approval.

The plan was as follows:—Colonel Booker to proceed by rail to Erie with the quarter part of his force, to arrive at Fort Erie at 8 A.M. Colonel Dennis and myself to go round the coast in a steam-tug, taking a company of Volunteer Artillery, to reconnoitre the shore between Fort Erie and Black Creek, and to return to Fort Erie in time to meet Colonel Booker at 8. Should Colonel Peacocke approve of this, he would march by the river round from Chippawa and make a combined attack with Colonel Booker at some point between Fort Erie and Black Creek, cutting off the enemy's retreat by the river. The tug to be employed cruising up and down the river, cutting off any boats that might attempt to escape, and communicating between the forces advancing from Chippawa and from Erie. I communicated this proposed change to Colonel Peacocke both by letter and telegraph, omitting however, I think, to mention the use proposed to be made of the tug.

The plan was merely a modification of that proposed by Colonel Dennis, who wished to move at once with the Volunteers without arranging a junction with Colonel Peacocke.

Before receiving any answer from Colonel Peacocke, I went off in the tug with Colonel Dennis, and the company of Artillery, leaving word with Colonel Booker to take care and obtain Colonel Peacocke's approval to the proposed change before acting on it, and explaining the plan previously determined on in case of Colonel Peacocke should desire him to adhere to it.

We arrived at Fort Erie about 5 A.M. Steamed along those, and past Frenchman's Creek, where we saw the enemy's camp apparently deserted. After carefully examining the shore from Erie to Black Creek, and seeing no sign of any armed force, we went ashore at Black Creek, and were informed that the enemy had broken up their camp during the night.

A party was seen by the inhabitants moving along the river in the direction of Chippawa, and the remainder to have turned inland at Black Creek.

As far as I could make out from the size and appearance of their camp, and from the reports of the people, their combined force could not have exceeded 700 or 800 men.

I then returned with Colonel Dennis by water to Fort Erie as appointed with Colonel Booker. That officer not having arrived, I became aware that Colonel Peacocke had acted on his original plan, but from the information I had gained was of opinion that he would not have more than 400 or 500 men to contend with. Colonel Dennis then landed the company of artillery, and I proceeded with it, patrolling the road and heights between Fort Erie and Black Creek. Between thirty and forty prisoners were taken by the company or handed over by civilians and put on board the tug at Black Creek.

Seeing nothing more to be done at Fort Erie, I drove up to the railway station on the line to Colborne to ascertain whether telegraphic communication had been opened, and obtain what information I could.

This station is about half a mile from Erie and to the westward of the high road from Colborne, I had hardly entered the station when I heard a cry that troops were coming down the hill between myself and the town. I jumped into my conveyance and turned towards Erie to give the alarm to the company of Volunteers left there. Finding the approach to Erie cut off, and the enemy's skirmishers stealing round to surround me, I turned round and drove to the shore in the direction of Colborne, near Ridgeway I turned up towards the high road and passing the railway bridge found it on fire; I stopped and got some buckets from a neighbouring farm, and with the assistance of the driver managed to put out the fire. I then went on to the Garrison Road where I heard an account of the engagement with Colonel Booker's force, and of its retreat to Colborne. I found two wounded men at a roadside house, one of them I took into Colborne, the other was too badly hurt to move.

I arrived at Colborne between 6 and 7 in the evening. The force had been increased since the previous day, and now consisted of the 7th, with four companies of the 22nd Oxford, and the Dunnville company attached, two companies of Home Guard, the Caledonian company, and the Queen's Own, and 13th, in all about 1,400 men. The garrison was in the greatest state of confusion, and the troops that had been engaged in the morning considerably exhausted from want of rest and food. Many of the men had no ammunition, others but a few rounds. A comparatively small proportion had their pouches full, and there was no reserve to replenish them. No arrangements had been made for obtaining either provisions or ammunition, for securing the post from attack, or for further offensive operations.

I rendered what assistance I could to Colonel Booker, who appeared quite overcome with fatigue and anxiety. He begged me to undertake all necessary arrangements, and later in the evening requested me to take the command out of his hands. Finding this was also the wish of the other Volunteer officers of superior rank to myself, I telegraphed for instructions, and was desired by Colonel Lowry to take the command. I posted a line of outlying pickets at a radius of one mile from the town, extending from the shore to the Welland Canal, with strong supports in rear, and ordered the remainder of the troops to lie down and get what rest they could. I telegraphed in various directions for food and ammunition, and by 2 A.M. Sunday the 3rd had an ample supply of both.

About 1 o'clock the alarm was sounded, and officers and civilians rushed up informing me that the enemy was marching on us in force, and within 500 yards west of the town, where I had placed no pickets.

The alarm was entirely without foundation, but had the effect of depriving the troops of the few hours rest they might have had. All through the night reports were coming in of large forces being landed on the shore between Colborne and Erie, also

entirely without foundation. I sent the tug-boat, however, still kept at our service by its owner Mr. Mc Collum, to watch the shore between Colborne and Erie, and called on some of the civilians to act as scouts, and keep me informed of any movements in the neighbourhood.

Réveille was sounded at 3, and I immediately made what arrangements I could for serving out rations and ammunition. Owing to the want of all brigade or regimental staff or organization, and the utter want of discipline that prevailed among the men, it was a long time before I could accomplish this, and get the men under arms and ready to move. The men having no haversacks could carry scarcely any food with them. I filled their pouches and their pockets with ammunition, and got them under arms and in the cars by 5 o'clock; sending a pilot-engine in front, I moved by rail towards Erie, taking the whole of the troops, except the 13th, whom I left to guard Fort Colborne. Hearing that the enemy were posted near Ridgeway, and finding a favourable position for forming up the troops (at B in sketch) on a road known as Skirk's Crossing, I disembarked the men, threw out a line of skirmishers with four supports from the 7th, with orders for the flank supports to wheel outwards and extend at once, in case of any sign of a flank attack. In this order, and with a strong rear guard, I advanced from B to the Garrison-road, and from thence towards Fort Erie. On coming to the scene of the previous day's engagement at C, I ascertained that the enemy had attempted to cross the river during the night, and that Erie was in possession of our troops.

After halting the men for about an hour at this spot, I marched them quietly in to Erie, where I reported myself to Colonel Lowry. On the following morning I was relieved from my command.

The Commander of Royal Engineers  
in Canada.

I have, &c.  
(Signed) CHAS. S. AKERS,  
Captain, R.E.

Inclosure 13 in No. 6.

Inclo. 13 in No. 6.

Colonel Lowry to the Major of Brigade.

SIR,

Fort Erie, Canada West, June 4, 1866, 6 P.M.

IN accordance with your orders I left Toronto per train at 2 P.M. on the 2nd instant with four field guns, &c., under command of Captain Crowe, R.A., and accompanied by Colonel Wolseley, A.Q.M.G., by Lieutenant Turner, R.E., by Lieutenant Dent, 47th, and by Colonel Cumberland, Provincial A.D.C. to the Governor-General and Managing Director of the Great Western Railway, who had kindly placed his services at my disposal. There were also two gentlemen, Mr. Clarke and Mr. Kingsmill, possessing considerable knowledge of the country through which we were to pass, attached to me by order of the Major-General, and Mr. Hunter, telegraphic operator.

On arrival at Oakville, I was joined by its company of Rifle Volunteers, fifty-two rank and file, under Captain Chisholm.

On arrival at Hamilton, I requiring information telegraphed to officer commanding at Port Colborne asking to know the state of affairs there, and requesting an answer to St. Catherine's.

At the Hamilton Station I learned that the detachment of the 60th Royal Rifles and 1/16 Regiments which had been at first ordered to join me there, had already proceeded by railway to re-inforce Colonel Peacocke; who, the Superintendent of the Great Western Railway said, had twice telegraphed for reinforcements.

Under these circumstances, and finding at St. Catherine's no answer from Port Colborne, and that difficulty and delay would be occasioned in getting the train from the Great Western Railway to the line of the Welland Railroad, I determined to proceed to Clifton, and thence to the support of Colonel Peacocke *en route* to Fort Erie.

I arrived at Clifton about 8 P.M., and was there a few hours after joined by Colonel Stephens with a Volunteer force to the number of 350, which had been dispatched by steamer from Toronto to Port Dalhousie to meet me at St. Catherine's.

At Clifton I received pressing telegrams urging me to proceed to assume command at Port Colborne, whence I also received urgent requests for rations and ammunition, reported exhausted.

Believing early arrival at Fort Erie to be most important, I dispatched all the rations and ammunition I could spare to Port Colborne.

I telegraphed to Colonel Peacocke to send Lieutenant-Colonel Villiers, if possible,

across the country to Port Colborne to command the Volunteers at that place, but soon finding that impossible, telegraphed to Captain Akers, R.E., to assume that duty, adding that I did not anticipate pressure at that point.

Having waited for the Erie Railway line to be clear of obstructions, I proceeded at 3:40 A.M. 3rd instant, to Black Creek, at which place I had telegraphed to officers commanding detachments of 60th Rifles and 1st battalion of 16th Regiment, if not in communication with Colonel Peacocke, to meet me at daybreak.

After some delay I was joined by 200 rank and file of the 60th, under Captain Travers, and by 140 rank and file of the 1st battalion 16th Regiment, under Captain Hogge.

As the railway line had not been previously open for transport, I awaited its examination by Major the Honourable J. H. Cameron, who had joined me at midnight at Clifton from some point in advance, and who proceeded with a locomotive engine for that purpose. On Major Cameron's report that the road was passable, I proceeded to a point about three miles north of Fort Erie, called Frenchman's Creek, said to be the nearest point to where the Fenians were reported skirmishing, and fast escaping across the river.

Here unloading the force from the railway cars, I advanced with some Volunteer companies, the detachments of the 1st battalion 16th Regiment and 60th Royal Rifles towards the Niagara River, throwing out an advanced guard and a few skirmishers in the woods on either flank. As soon as two field-guns could be got out, they were pressed to the front, but on opening on the river Colonel Wolseley, who had passed on horseback to the front, found we were too late, and that Fenian prisoners to the number apparently of some 500 or 700, were in a large barge made fast astern of the United States' war steamer "Michigan," lying in the centre of the stream.

I reached Fort Erie at about 8:15 A.M., and found that the whole village had been abandoned.

Soon afterwards I was joined by the force under Colonel Peacocke, who had come up through the woods to the right, bringing in some prisoners.

The whole force was now hurriedly placed in position on the rising ground at the rear of the long village of Erie, and shortly afterwards a small steamer having been sent from the United States' ship "Michigan" with a proposal that I should communicate with its Commander and Her Britannic Majesty's Consul then with him, accompanied by Colonel Wolseley, Captain Crowe, R.A., and Lieutenant Turner, R.E., I proceeded on board, and had an interview with Captain Bryson, United States' Navy, M. Dant, United States' District Attorney, and Mr. H. W. Hemans, Her Majesty's Consul at Buffalo, and subsequently with General Barry, commanding United States' troops in the Erie and Ontario districts of the State of New York.

These officers, in expressing their reprehension of the infraction of international law, said that nothing in their power had been or would be neglected to arrest such infraction; that such were their orders; and that they had prevented many reinforcements from getting across to the British territory on the two previous nights.

In the course of the afternoon Captain Akers, R.E., with a Volunteer force of about 1,000 men, arrived from Port Colborne, making the number of my command about 3,000 of all arms.

In compliance with telegraphic orders I despatched to Kingston at 7 P.M. the troops as per margin,\* sending twenty-two Fenian prisoners by the same train under escort of the 47th Regiment.

Further telegraphic orders directed me to send forward to London without delay, the detachment of the 60th Royal Rifles, the London Companies of the 1st battalion 16th Regiment, and the London Volunteers.

In consequence of the difficulty of procuring the necessary railway transport, that order could not be carried out till 10:30 to-day, when about 800 men were forwarded by Great Western Railway viâ Clifton to Hamilton.

Any delays in transport of troops, so far as relates to the service of the Great Western Railway have arisen chiefly from the fact that on the Erie and Ontario Railway (being but a single line of track, &c., with sidings still incomplete), there were no means of shunting or of passing trains; whilst that part of the line approaching Fort Erie is still in a very unfinished and unserviceable state. It was impossible, therefore, even with the most prompt assistance afforded by Mr. Swynyard, the manager, and all the subordinate officials of the Great Western Railway, to secure the desired rapidity of movement.

From the Grand Trunk Railway I have received no communication or practical assistance, and have as yet been unable to find any person in local authority.

\* Captain Crowe's Field Battery, 4 guns, and 200 men of the 47th Regiment, under Major Lodder.

The weather during the last few days has been uninterruptedly fine.

The force at present encamped here is a little over 2,000 men, and considering the nature of the emergency, and of the place itself, the troops are pretty well supplied.

I telegraphed to Colonel Dennis (with 450 men) to halt at Suspension Bridge. One company of Volunteers is at Chippawa, and more than 250 men are at Port Colborne, under Major Skinner.

In concluding my report of the last forty-eight hours, a report which should, but for the nature of the duties and the pressure of telegraphic communication, have been submitted before, I have the honour to state the following:—

That I have received greater benefit than I can well express from Colonel Wolseley's indefatigable energy, judgment, and promptitude of resource.

That Lieutenant Turner, R.E., has proved the greatest assistance to me night and day, working with a thorough spirit and most wise forethought.

That Colonel Cumberland, Aide-de-camp, has spared no trouble or exertions to give me information, and to render valuable assistance in every way, in matters connected with railway transit; his knowledge has proved specially useful.

The untiring nature of the exertions made by the Honourable J. Hillyard Cameron, M.P., also deserves cordial acknowledgment.

Officers and men, whether of the Regulars or Volunteer service, did all in their power to reach and re-occupy Fort Erie at the earliest moment, and to arrest the flight which had been almost completed before our arrival.

All appears quiet at present on this frontier.

I find that I have forgotten to state that General Barry, United States' army, offered to furnish me with the earliest notice of any intended movement of importance which might come to his knowledge among Fenians in the States.

Captain Bryson, Commander of the United States' war-steamer "Michigan," apprised me that he had telegraphed to Washington for instructions as to the disposal of his 700 prisoners.

I replied that that was a matter for settlement by our respective Governments.

(Signed) R. W. LOWRY, Colonel,  
Commanding Field Force on Niagara Frontier.

The Major of Brigade.

Inclosure 14 in No. 6.

Inclo. 14 in No. 6.

Lieutenant-General Sir J. MICHEL to the SECRETARY OF STATE FOR WAR.

MY LORD,

Montreal, June 11, 1866.

I HAVE the honour to report that, by the latest accounts, bodies of Fenians are still assembled at Malone and at Buffalo, but watched by United States' officers and troops.

No further landing has, however, taken place in Canada West, and there has been no attempt on the line of the St. Lawrence.

A body of Fenians having crossed the border at St. Allan's, into Missisquoi county, C.E. I ordered Colonel Ebrington, commanding at St. John's, to drive it out and to post his troops so as to prevent its return.

I have not received the report of his movements, but he has informed me that, as far as he can learn, there are now no Fenians in his front between St. Armand and Frelighsburg, at which points, and at Pigeon Hill he has posted troops.

Sixteen-(16) prisoners have been sent into Montreal and handed over to the Civil power.

Colonel Ebrington further reports that he has no information of the number of Fenians in his front on the United States side of the frontier, and that a party of Volunteer Cavalry returned from a patrol at 1.30 P.M. yesterday, and reported the country all clear.

In reference to the whole subject, I may remark that the United States Government is now acting all along the frontier most decisively, by the seizure of vast quantities of arms, by arresting leaders, by transporting to their homes bodies of Fenians, and by preventing trains laden with Fenians arriving at their destinations.

This, combined with the appearance of the prisoners taken, and their only half-armed condition, makes me believe that in a few days the danger of even small raids will have passed away.

I have, &c.

(Signed) J. MICHEL, Lieutenant-General.

The Secretary of State for War.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the  
Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 14, 1866.

(No. 54.)

(Received June 27, 1866.)

SIR,

(Answered, No. 69, June 29, 1866, page 78.)

I HAVE the honour to transmit, for your information, copies in paraphrase of a telegram in cypher received by me from Sir F. Bruce on the 12th instant, and of my answer to him; also copy of a telegram which I dispatched to Sir John Michel immediately on the receipt of Sir F. Bruce's message.

With reference to the portion of Mr. Seward's note to Sir F. Bruce, which alleges that British troops entered unwarrantably on the soil of the United States, I have the honour to transmit copies of reports from the officers whose names are noted in the margin,\* which negative, as far as these officers are concerned, the reports made on this subject to Major-General Meade.

You will observe from Lieutenant-Colonel Earle's letter that further reports have been called for; and when I receive them I shall not fail to transmit copies to you.

I have already sent copies of these reports to Sir Frederick Bruce.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Inclo. 1 in No. 7.

Inclosure 1 in No. 7.

PARAPHRASE of a Telegraphic Message in cypher received from Sir F. BRUCE at  
2 o'clock A.M., June 12, 1866.

I HAVE received a letter from Mr. Seward couched in the following terms:—

"I am directed by the President to inform you that, according to statements which have been made to the General commanding the United States' troops on the frontier, the United States' territory has been entered by British soldiers in pursuit of the Fenians under Spear; that prisoners were captured in the State of Vermont, and that threats have been made by persons in the British service that the fugitives so taken, as well as Fenians made prisoners in Canada, would be summarily put to death without any forms of law. Though it is probable that these reports may not prove to be accurately true, the Government of the United States will be much disturbed if measures of needless rigour, not justified by existing laws, are taken against Fenian criminals; and the President desires me to say that he earnestly trusts that such persons will only be proceeded against in due course of law, and he even hopes that they will be treated with signal moderation. The United States' Government believe that the United States and Congress will agree completely with the sentiments which I have expressed."

I shall be much obliged to you if you will allow no proceedings to be taken against the Fenian prisoners until you hear from me.

(Signed) F. BRUCE.

Inclo. 2 in No. 7.

Inclosure 2 in No. 7.

PARAPHRASE of Answer.

IF British troops have violated the territory of the United States, they have done so against strict orders, and I much regret it. Any prisoners proved to be taken by them on the territory of the Republic shall be liberated at once.

The civil power holds all persons captured up to this time, and the wishes of the United States' Government cannot be permitted to interfere with the administration of justice in this Province.

That Government is entitled to my thanks, which I beg you will convey to them for vigorously and faithfully putting their laws in force against the Fenians after the invasion of Canada had actually taken place.

\* Captain Bunbury, 1st Battalion Rifle Brigade; Lieutenant Money, R. C. Rifles.

Inclosure 3 in No. 7.

Inclo. 3 in No. 7.

TELEGRAM to Lieutenant-General Sir J. MICHEL.

IT is reported to me from Washington that some of our troops have entered the territory of the United States at the quarter where Spear commanded the Fenians, and taken prisoners there. Please have this inquired into, and let me know the result. The disturbances are officially reported at an end by the authorities of the United States. I think the troops may be withdrawn to points well on our side of the border.

(Signed) MONCK.

Inclosure 4 in No. 7.

Inclo. 4 in No. 7.

Lieutenant MONEY to Major-General LINDSAY.

SIR,

Montreal, June 12, 1866.

I HAVE the honour to report, for the information of the Lieutenant-General commanding the forces in Canada, that, on Saturday the 9th June last, I accompanied the troop of mounted Guides, under command of Captain McDougall, which passed down the road leading from St. Armand Centre (or Cook's Corner) to the lines. We were fired at by a party of Fenians when about 300 yards from the lines; the men who fired at us immediately throwing their arms away and running down the road to the point where the United States' troops, under command of Lieutenant-Colonel Livingstone, were drawn up in line, so as completely to block the road.

We could easily have shot every one of these men down before they reached the lines, but our shots, had we fired, must have passed on and struck the United States' troops, who were directly in our front; we were only able, therefore, to overtake one man of the whole party; this man was taken fully fifty yards from the place where Colonel Livingstone's men were stationed.

I had had the pleasure of meeting Colonel Livingstone before, I therefore rode up and shook hands with him; whilst talking to him I saw that a party of the Rifle Brigade were advancing along a small bye-road, which would bring them in rear of the United States' troops. I called Colonel Livingstone's attention to this fact and then galloped on, by his permission to stop them. They had not then crossed the line. Finding that they had orders to go round by this road, I requested the officer commanding to halt his men until I could obtain permission from Colonel Livingstone for them to pass: this he at once and most readily accorded, ordering his men to fall back to either side of the road, so as to leave a free passage for our men.

I introduced Captain Bunbury, who was commanding the sub-division of the Rifle Brigade which was then passing to our own side of the lines, to Lieutenant-Colonel Livingstone; after doing this, and speaking to Colonel Livingstone for a few moments, I rode after our men, who were then entering the bush on our side of the lines in skirmishing order.

I have, &amp;c.

(Signed) ALBERT W. MONEY, Lieutenant,  
Royal Canadian Rifles.The Major-General Commanding  
2nd Military District, Montreal.

Lieutenant Money positively asserts no prisoners, to his knowledge were captured in United States' territory.

(Signed) JAS. LINDSAY, Major-General.

Inclosure 5 in No. 7.

Inclo. 5 in No. 8.

Captain BUNBURY to the Major-General Commanding the 2nd Military District,  
Canada East.

SIR,

Montreal, June 12, 1866.

I HAVE the honour to report, for the information of the Lieutenant-General commanding, that on the 9th June, 1866, I was ordered by Major Nixon, Rifle Brigade, commanding force detailed to attack Fenian encampment, to proceed with the Royal Guides and a sub-division of the 4th Battalion Rifle Brigade, to cover the right of the line proceeding from the United States' frontier towards Cook's Corner. There being a

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deep brook immediately in my front, Lieutenant Money, Royal Canadian Rifles, who was with me, rode forward and asked Colonel Livingstone, commanding United States' troops along that part of the frontier, to allow my detachment to cross over the bridge, by doing which we were supposed to pass through the United States' territory. Colonel Livingstone having given leave, I rode forward to see him, so as to be perfectly certain; he said I was at perfect liberty to pass; indeed, he said he was not certain it was United States' territory. After this I thought I was justified in crossing.

On Sunday, the 10th instant, I heard that a St. Albans' newspaper had stated that a regiment of British regulars had violated the United States' territory. I went to Colonel Livingstone that same day and told him. He said he would write to General Meade, commanding United States' troops on the frontier, to inform him that it was with his permission that a detachment had crossed.

The detachment that crossed is as per margin.\*

I have, &c.  
(Signed) C. J. BUNBURY,  
1st Battalion Rifle Brigade.

To the Major-General Commanding  
2nd Military District, Canada East.

Captain Bunbury states that no prisoners were taken in United States' territory by the party with whom he acted.

(Signed) JAS. LINDSAY, Major-General.

No. 8.

No. 8.

Copy of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

Government House, Ottawa, June 14, 1866.

(No. 55.)

(Received July 2, 1866.)

SIR,

(Answered, No. 7, July 11, 1866, page 79.)

I HAVE had the satisfaction, in other communications, to report to you the excellent spirit evinced by the resident population of Canada in connection with the late Fenian attack on the Province.

There has been in addition an exhibition of patriotism and devotion on the part of Canadians who happened to be domiciled, at the time of the disturbance, outside of the Province, which deserves, I think, special mention and praise.

Immediately after the news of the invasion of the Province reached Chicago, sixty young Canadians, who were resident there engaged in various employments, gave up their situations and repaired by railroad to Canada, to give their aid in defending the land of their birth.

These young men have been formed into a Volunteer company, and are now doing duty at Toronto.

I had also a communication from Her Majesty's Consul at New York, to the effect that a large number of Canadians, resident there, were prepared to abandon their occupations and come to assist in the repulse of the invaders of Canada, if I considered their services necessary.

I informed Mr. Archibald, by telegraph, that I did not require their aid, but begged him to express to them my gratitude for this exhibition of their loyalty.

Such conduct speaks for itself, and I would not weaken the effect of the bare relation of the facts by any attempt at eulogy on my part.

I have, &c.  
(Signed) MONCK.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

\* Captain Bunbury, 1st Battalion Rifle Brigade; Lieutenant Smith, 4th Battalion, ditto; Lieutenant Money, Royal Canadian Rifles; about 12 men of 4th Battalion Rifle Brigade; 2 Royal Guides. Total, 17.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

(No. 59.)

Government House, Ottawa, June 18, 1866.

SIR,

(Received July 2, 1866.)

I HAVE the honour to transmit for your information, copies of letters which have passed between myself and Mr. Potter, Consul-General of the United States at Montreal, respecting the case of a person named Kelly, representing himself as a correspondent of the "New York Tribune," who was captured by our troops during the late Fenian raid, in the neighbourhood of Philipsburg, Canada East. I have also the honour to inform you that Kelly has been released from custody, his story having on investigation, proved to be true.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

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Inclosure 1 in No. 9.

Inclo. 1 in No. 9.

Viscount MONCK to Sir F. BRUCE.

SIR,

Ottawa, June 16, 1866.

I HAVE the honour to transmit for your information, copies of two letters\* which I have received from Mr. Potter, Consul-General of the United States in this Province, together with copies of the answers which I directed to be sent to him relative to the case of one Joseph Kelly, who was taken prisoner in company with a number of Fenians near Philipsburg, in Canada East, some days ago.

His Excellency the Hon. Sir F. Bruce, G.C.B.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

P.S.—The following telegram was also sent to Mr. Potter:—

" June 14th.

"Colonel Ermatinger has been desired to enquire into the case of Mr. Kelly. Please lay any information you may have before him."

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Inclosure 2 in No. 9.

Inclo. 2 in No. 9.

Mr. POTTER to Viscount MONCK.

United States' Consulate-General British North American Provinces,  
Montreal, June, 13, 1866.

SIR,

IT is my duty to inform you, that among the prisoners brought to this city on Monday, the 10th instant, and now lodged in the gaol here, charged with having invaded the Province of Canada with hostile designs, is Mr. Joseph Kelly, a citizen of the United States, who was arbitrarily arrested at a place called Hancocks Hill, near the frontier in Canada East, by one Reynolds and two other persons, whose names are unknown, while engaged in his lawful business.

Mr. Kelly was both previous to, and at the time of his arrest, a reporter and correspondent for the "New York Tribune," a newspaper printed and published in the city of New York, in the United States. He came into Canada, not only without any hostile designs, but in the lawful discharge of his professional duties, as a reporter of the press.

I received a few hours since, a despatch from John Russell Young, Esq., the managing editor of the "Tribune," in which I am informed of these facts, and which are fully corroborated by other testimony in my possession.

Mr. Kelly was when taken, unarmed, and I am credibly informed that there is no evidence in the possession of the authorities of this Government, showing the slightest complicity on his part, in the attempted invasion, or any other breach of the laws of this

\* Mr. Potter to the Governor-General, Montreal, June 13, 1866; Mr. Godley to Mr. Potter, Ottawa, June 14, 1866; Mr. Potter to the Governor-General, Montreal, June 15, 1866; Mr. Godley to Mr. Potter, Ottawa, June 16, 1866.

Province. On the other hand, Mr. Kelly is ready to prove, and show most conclusively, the peaceful character of the business which induced him to come into the Province.

On learning of the facts in Mr. Kelly's case, I immediately called upon the committing Magistrate, but not finding him either at his place of business or at his residence, I proceeded to the gaol for the purpose of obtaining an interview with the prisoner, but was informed by the gaoler, that strict orders had been given him to admit no one without a permit. Receiving such permit this morning, I had an interview with Mr. Kelly, who made a written statement, sworn to before me, embodying the facts as above-mentioned. He further informed me, that he was not allowed the privilege of purchasing for his use, the necessary food which his wants require at the present time.

Under these circumstances, Mr. Kelly, as a citizen of the United States, has a right to demand and does demand, either his immediate release from arrest or an immediate examination, when he shall have an opportunity to prove his innocence.

I therefore request, on behalf of my Government, that his demand be complied with without any unnecessary delay.

I have, &c.

(Signed) JOHN F. POTTER,

United States' Consul-General, British North American Provinces.

His Excellency Viscount Monck,  
&c. &c. &c.

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Inclosure 3 in No. 9.

Mr. GODLEY to Mr. POTTER.

SIR,

Governor's Secretary's Office, Ottawa, June 14, 1866.

I AM directed by the Governor-General to acknowledge the receipt of your letter of the 13th instant, respecting Mr. Joseph Kelly, a citizen of the United States, who, you state, was arbitrarily arrested near the frontier while engaged in his lawful business.

His Excellency has ordered inquiries to be made into his case, and desires me to inform you that, if it turns out that Mr. Kelly was not guilty of any acts of hostility, he shall be set at liberty.

His Excellency would deeply regret should any peaceful citizen of the United States be subjected to inconvenience or hardship; but the possibility of such an occurrence is one of the inevitable incidents of an attack on Her Majesty's dominions by an armed force organized upon and issuing from the territory of the United States. If Mr. Kelly crossed the frontier with such a force, and was found on British territory in their company, he can scarcely have a right to complain if *prima facie* he was adjudged to belong to them.

I have, &c.

John F. Potter, Esq.,  
&c. &c. &c.

(Signed) DENIS GODLEY.

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Inclosure 4 in No. 9.

Mr. POTTER to Viscount MONCK.

United States' Consulate-General, British North American Provinces,  
Montreal, June 15, 1866.

SIR,

I HAVE the honour to acknowledge the receipt on the afternoon of yesterday of your Excellency's telegram in reply to my despatch of the 13th instant, in which you inform me that "Colonel Ermatinger has been desired to inquire into the case of Mr. Kelly," and requesting me to lay before him any information which I may have.

On receiving the telegram, I immediately addressed a note to Colonel Ermatinger, asking him to inform me at the earliest possible moment when and where I might have an interview with him for the purpose mentioned.

I was informed that Mr. Schiller, the Assistant-Clerk of the Crown, to whom the note was delivered, and who was made acquainted with its contents, said that Colonel Ermatinger was not in town, but would return in the course of a week. Mr. Schiller was informed that the matter admitted of no such delay, upon which he promised that the note should be dispatched to Colonel Ermatinger, saying that he would receive it this morning. I had waited patiently until this evening, hearing nothing further either from

Inclo. 3 in No. 9.

Inclo. 4 in No. 9.

Mr. Schiller or Colonel Ermatinger. I have now learnt, by a telegram received an hour since from Mr. Kelly, the prisoner; that he is now in custody of the Provincial authorities at Philipsburg, C.E.

As he was in the jail here last evening, he has, of course, been removed by the orders of the Canadian Government either during the night or this morning. I have received no notice whatever of his removal or of the intention of the authorities here of his removal.

Mr. Schiller, the Assistant-Clerk of the Crown, was aware of the nature of the reply which your Excellency made to my despatch. He was also aware that I had in behalf of my Government demanded the release of Kelly as a citizen of the United States, or an immediate examination.

I informed your Excellency in my despatch of the 13th instant that I had evidence of Kelly's entire innocence. Notwithstanding this, he has been removed, without any intimation to me, to a remote place, and out of my protection; thus changing entirely the position of the prisoner with reference to myself from what it was when the demand was made.

This act of the authorities having the custody of Kelly I regard as a violation of his rights as an American citizen, and as manifesting a contemptuous disregard of the demand made for Kelly by the Government of the United States. I shall, therefore, refer the whole matter, with all the facts connected with it, to the Government at Washington.

In the meantime, unless some satisfactory explanation shall be made without unnecessary delay, of the course pursued, and unless I shall receive further instructions from my Government to the contrary, I shall deem it my duty to close this Consulate-General for all business except with American citizens who may be in Canada.

I have, &c.

(Signed) JNO. F. POTTER,

United States' Consul-General, British North American Provinces.

His Excellency Viscount Monck,

&c. &c. &c.

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Inclosure 5 in No. 9.

Inclo. 5 in No. 9.

Mr. GODLEY to Mr. POTTER.

SIR, Governor's Secretary's Office, Ottawa, June 16, 1866.  
I AM directed by the Governor-General to acknowledge the receipt of your letter of the 15th instant relative to the case of Mr. Kelly. I have the honour to inform you in reply that the removal of Mr. Kelly to Philipsburg was the act of the Magistrates charged with the investigation of the charge against him: that he was removed in common with the other prisoners because it was found impossible to obtain the attendance of the necessary witnesses at Montreal. That the Attorney-General has had to-day a letter from the Magistrate charged with the investigation to this effect:—"Kelly's case will be investigated carefully at once. The evidence touching him appears to be conflicting. It does not seem improbable that he was acting in a double capacity."

I have, &c.

John F. Potter, Esq., (Signed) DENIS GODLEY, Secretary.  
United States' Consul-General, Montreal.

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No. 10.

No. 10.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

(No. 64.)

Government House, Ottawa, June 21, 1866.

SIR, (Received July 3, 1866.)

I HAVE the honour to report that the bands of Fenian conspirators who were lately assembled on the United States' side of the frontier line for the avowed purpose of invading this Province have dispersed and returned to their homes.

I am bound at the same time to state that this comparatively bloodless termination of an enterprize, which might have resulted in much loss of life and destruction of property,

is mainly due to the energetic proceedings of the Government of the United States, for the purpose of securing on the part of the citizens of that country a proper observance of their international obligations and their own municipal law.

I have already in more than one communication noticed with approbation the spirit evinced by the people of this Province in the instantaneous and enthusiastic response which they made to my call to arms.

The experience of the last few months has satisfied me that as regards infantry, the local force of the Province, together with the ordinary garrison of regular troops, assisted by gun-boats on the river and lakes, is sufficient to protect the country from any force which the Fenians can bring to bear on us.

I mean, however, to act on the permission given to me by Her Majesty's Government to retain at all events for a few months, the two regiments which in the ordinary course of relief would leave the Province at this season.

I desire also to bring before your notice the advisability of strengthening the force of Royal Artillery stationed in the Province, by three or four additional batteries.

This is the arm of the service in which it is most difficult for volunteers to acquire proficiency, and it is also that in which our Fenian enemy is entirely deficient, and the possession of which would give us a preponderating advantage whenever we meet him.

I am also of opinion that a supply of Armstrong guns, both field and of position, should be sent to the Province, but on this branch of the subject and the general question of stores I mean to avail myself of another opportunity of addressing you when I shall have obtained from the military authorities a return, which I have asked for, of the amount of war material now in store in the Province.

Without venturing to give an opinion as to the probability that the Fenian invasion will be renewed, it would be unwise to disregard the continued allegations of the leaders of the movement that such will be the case, and it becomes those who are responsible for the safety of the Province to make their arrangements accordingly.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

No. 11

No. 11.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

(No. 65.)

Government House, Ottawa, June 21, 1866.

SIR,

(Received July 3, 1866.)

I HAVE the honour to inclose herewith a copy of a despatch from Lieutenant-General Sir John Michel, to the Secretary of State for War, a copy of which the General transmitted to me.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Incl. in No. 11.

Inclosure in No. 11.

Lieutenant-General Sir J. MICHEL to the SECRETARY OF STATE FOR WAR.

MY LORD,

Montreal, June 15, 1866.

REFERRING to my despatch of the 11th instant, I have the honour to state that Colonel Ebrington's force was advanced from St. John's to St. Armand on the 9th instant.

A detachment of 30 Volunteer Cavalry, two field-guns of the Royal Artillery, 350 Regulars, and 100 Volunteers, under Major Nixon, Rifle Brigade, was immediately sent to Pigeon Hill, where the Fenians had been encamped, to Cook's Corner and Frelighsburg.

The roads and country towards the frontier were then examined, and sixteen stragglers picked up.

On arriving at the line a body of United States' troops was found drawn up across the road. The officer in command of them stated that 1,500 Fenians had re-crossed the border during the day.

I have nothing further to report.

The Volunteers and Regulars remain at present in their advanced position. They will be withdrawn when his Excellency the Governor-General shall state that the political aspect of affairs no longer requires their presence on the frontier.

I have, &c.  
(Signed) J. MICHEL, Lieutenant-General,  
Commanding in British North America.

The Secretary of State for War.

No. 12.

No. 12.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. EDWARD CARDWELL, M.P.

(No. 70.)

Government House, Ottawa, June 28, 1866.

SIR,

(Received July 10, 1866.)

REFERRING to my despatch No. 54\* of the 14th instant, I have the honour to transmit a copy of a letter from Lieutenant-Colonel Earle, inclosing Reports from the military officers named in the margin,† in regard to their proceedings on the frontier on the 9th and 10th instant.

\* Page 24.

The Right Hon. Edward Cardwell, M.P.,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Inclosure 1 in No. 12.

Inclo. 1 in No. 12.

Lieutenant-Colonel EARLE to the MILITARY SECRETARY.

SIR, Military Secretary's Office, Montreal, June 20, 1866.

REFERRING to my letter of the 12th instant, I am directed to inclose further explanations contained in communications from Major Nixon, of the Rifle Brigade, Captain Hallowes, 25th Regiment, and Captain McDougall, commanding the Royal Guides, in regard to their proceedings at St. Armand on the 9th and 10th instant.

I have, &c.  
(Signed) WM. EARLE, M. S.

Lieutenant-Colonel the Hon. R. Monck,  
Military Secretary, Ottawa.

Inclosure 2 in No. 12.

Inclo. 2 in No. 12.

Major NIXON to Colonel EBRINGTON.

SIR, St. Armand, June 13, 1866.

IN reply to your letter from the Acting Brigade Major at Montreal, of the 12th instant, demanding information respecting the crossing of the frontier into the United States by some of the troops under my command on the 9th instant, I have the honour to state that, when I reached the road running eastwards from the road leading to Franklin from Pigeon's Hill to that from Eccless Corner to Cook's Corner, and which enters the United States about 100 yards to the westwards of Eccless Corner, I proceeded along it with my skirmishers to a spot about 50 yards on the Canadian side of where it crosses the lines, where I halted, and requested, through Lieutenant Money, R.C.R., permission from the officer commanding the United States' troops at Eccless Corner

† Lieutenant-Colonel Earle to Colonel Monck, June 20, 1866; Major Nixon; Captain Hallowes; Captain Mc Dougall.

(sometimes called Rullick's Settlement) to march some troops by the road crossing the lines to its junction with the road leading to Cook's Corner, a distance of about 150 yards altogether from its entry to its exit from the American frontier, and passing at the furthest point not deeper than 60 yards into the States. This request was immediately granted by Colonel Livingstone, on which I sent one sub-division of the 4th Battalion Rifle Brigade (thirteen files), under Lieutenant Smith, two troopers of the Royal Guides, who had been acting as orderlies, Captain Bunbury, of the 1st Battalion Rifle Brigade, and my horse, as I had to dismount to go through the bush.

Lieutenant Smith's sub-division was regularly marched in fours, and called to "Attention," with shouldered arms, when passing the United States' troops.

I requested this permission to cross the frontier as there was a stream to my front—north—running between high rocks, and which could not possibly be crossed by the Royal Guides above-mentioned, my own nor Captain Bunbury's horses, and by Infantry only at one spot, without making a long détour, on a small beam part of the framework of a ruined mill, and would have caused great delay to Lieutenant Smith's sub-division, which I was anxious to send as quickly as possible to join the Royal Guides under Captain McDougall, who was about to return to Cook's Corner. I then advanced northwards through the woods, the American frontier behind us.

No shots were fired by our troops until we were at least a quarter of a mile from the lines, and facing from there, nor were any prisoners taken near the border, except one by the Royal Guides when advancing to Eccless Corner, where they were fired on by two Fenians, one of whom they made a prisoner on the Canadian side of the lines; the other escaped by crossing the border, over which he was not pursued.

Not a single soldier crossed the frontier except those I have already mentioned as having done so by permission of Colonel Livingstone, United States' Army, as I was most careful in keeping the men well on our side of the lines, which I was able to do, as a farmer named Lowel, who is thoroughly acquainted with the country, and knew the frontier-line well, and who had two days previously been into the Fenian camp, accompanied me as guide.

I have, &c.  
(Signed) H. J. NIXON, Major,  
4th Battalion P. C. O. Rifle Brigade.

Colonel Ebrington, Rifle Brigade,  
Commanding St. Armand, Canada East.

Inclo. 3 in No. 12.

Inclosure 3 in No. 12.

Captain HALLOWES to Colonel EBRINGTON.

SIR,

St. Armand, June 14, 1866.

IN accordance with your orders contained in the Memorandum received this day, I have the honour to report that, after skirmishing through the woods at and about Cook's Corner, I collected my men and marched them through a road dividing the bush until I reached the open ground, where, finding myself close to the lines, I sent an officer in advance to the American guard and obtained permission to march my party through and along the main road as far as the turning to the nearest direction for Pigeon Hill, where I expected to rejoin Major Nixon. I beg to add that I did not attack any Fenians, or take any prisoners, on the American side of the frontier line.

I have, &c.  
(Signed) G. S. HALLOWES, Captain,  
25th King's Own Borderers, Commanding Detachment.

The Officer Commanding the Troops,  
St. Armand.

Captain Mc DOUGALL to the BRIGADE-MAJOR.

SIR, Camp, St. Armand, June 14, 1866.  
I HAVE the honour to report that (referring to your Memorandum of this date) no officer or non-commissioned officer of the guides passed the boundary-line of the United States upon Saturday last.

Secondly, that I have examined Corporal Drummond, who was in command of the picket on Sunday, and states as follows:—

“I advanced along the road for 200 yards (with four men) beyond the boundary-line, of the exact position of which I was ignorant till, on my return to the main body of the picket, I was informed of it by seeing an iron post upon the road side.

“So far from having taken a prisoner or prisoners upon the United States' side of the line, I can positively state that we did not see a living soul there.”

I have, &c.

(Signed) D. L. Mc DOUGALL, Captain,  
Commanding Royal Guides.

Captain Healey,  
Major of Brigade,  
&c. &c. &c.

No. 13.

No. 13.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. the Earl of CARNARVON.

(No. 87.)

Government House, Ottawa, July 21, 1866.

MY LORD,

(Received August 6, 1866.)

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 7th instant,\* in reference to the Act passed on the first day of the present session of the Canadian Parliament, which extends to Lower Canada the law already in operation for many years in Upper Canada, authorizing the trial by Militia Court-martial of persons, whether foreigners or subjects of Her Majesty, who may be found within this Province in arms against the Queen's forces.

\* Page 79.

In the opinion which your Lordship expresses that recourse should not be had to any extraordinary tribunal for the trial of the Fenian prisoners now in the hands of the Government of this Province, I most entirely concur, and the invasion of the Province, which occurred in the beginning of the month of June, speedily proved so complete a failure that it soon became apparent, both to myself and my advisers, that the ordinary tribunals would be able to deal with the subject.

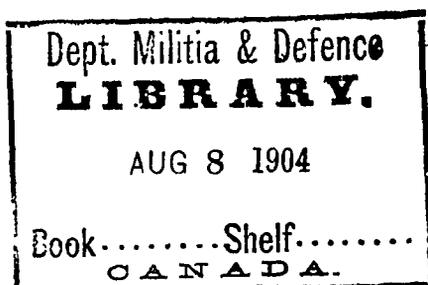
When this Act, however, was passed, large bodies of Fenians were threatening more than one point on the frontier, and it was considered advisable to be prepared in case of necessity, with legal means for bringing prisoners summarily to trial.

I desire to draw your Lordship's attention to the third clause of the Bill, which makes this offence felony, and confers on the ordinary tribunals of the Province the power of trying foreigners for it. A Bill is now before Parliament extending the provision to subjects of the Queen, which I have no doubt will shortly become law.

I have, &c.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

(Signed) MONCK.



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No. 14.

No. 14.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. the Earl of CARNARVON.

Government House, Ottawa, August 15, 1866.

(Received August 29, 1866.)

(No. 112.)

MY LORD,

(Answered, No. 53, September 13, 1866, page 81.)

\* Page 33.

REFERRING to the concluding paragraph of my despatch No. 87 of the 21st July,\* relative to the Act for the trial of persons engaged in lawless aggressions from foreign countries on this Province, I have the honour to inclose copies of two Acts passed by the Legislative Council and Assembly, to which I have this day given the Royal Assent, viz. :—

“An Act to amend the Act of the present Session, intituled ‘An Act to protect the Inhabitants of Lower Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty.’”

“An Act to amend the ninety-eighth Chapter of the Consolidated Statutes of Upper Canada.”

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Inclo. 1 in No. 14.

Inclosure 1 in No. 14.

(No. 3197.)

AN ACT to amend the Act of the present Session, intituled “An Act to protect the Inhabitants of LOWER CANADA against Lawless Aggressions from Subjects of Foreign Countries at peace with Her Majesty.”

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

I. The third section of the Act passed in the present session of the Parliament of this Province, and intituled “An Act to protect the Inhabitants of Lower Canada against Lawless Aggressions from Subjects of Foreign Countries at peace with Her Majesty,” is hereby repealed, and the following section shall be and is hereby substituted in lieu of the said section hereby repealed, and shall be taken and read as the third section of the said Act :—

“III. Every subject of Her Majesty, and every citizen or subject of any foreign State or country, who has at any time heretofore offended, or may at any time hereafter offend, against the provisions of this Act, is and shall be held to be guilty of felony, and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried before the Court of Queen’s Bench, in the exercise of its criminal jurisdiction in and for any district in Lower Canada, in the same manner as if the offence had been committed such district, and upon conviction shall suffer death as a felon.”

Inclo. 2 in No. 14.

Inclosure 2 in No. 14.

(No. 3198.)

AN ACT to amend the Ninety-eighth Chapter of the Consolidated Statutes for UPPER CANADA.

HER Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows :—

I. The third section of the ninety-eighth chapter of the Consolidated Statutes for Upper Canada, intituled “An Act to protect the Inhabitants of Upper Canada against

Lawless Aggressions from the Subjects of Foreign Countries at peace with Her Majesty," is hereby repealed, and the following section shall be and is hereby substituted in lieu of the said section hereby repealed, and shall be taken and read as the third section of the said Act:—

"III. Every subject of Her Majesty, and every citizen or subject of any foreign State or country, who has at any time heretofore offended, or may at any time hereafter offend, against the provisions of this Act, is and shall be held to be guilty of felony, and may, notwithstanding the provisions hereinbefore contained, be prosecuted and tried before any Court of Oyer and Terminer and General Gaol Delivery, in and for any county in Upper Canada, in the same manner as if the offence had been committed in such county, and upon conviction shall suffer death as a felon."

II. In case any person shall be prosecuted and tried under the provisions of the next preceding section and found guilty, it shall and may be lawful for the Court before which such trial shall have taken place, to pass sentence of death upon such person, to take effect at such time as the Court may direct, notwithstanding the provisions of an Act of the Consolidated Statutes for Upper Canada, intituled "An Act respecting new Trials and Appeals and Writs of Error in Criminal Cases in Upper Canada."

No. 15.

No. 15.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Earl of CARNARVON.

(No. 154.)

Quebec, October 6, 1866.

MY LORD,

(Received October 24, 1866.)

WITH reference to your Lordship's despatch No. 53\* of the 13th September, on the subject of the Acts intituled respectively "An Act to amend an Act of the present session intituled an Act to protect the inhabitants of Lower Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty," and "An Act to amend the 98th chapter of the Consolidated Statutes of Upper Canada," recently passed by the Provincial Parliament of Canada, I have the honour to transmit to your Lordship a copy of the report made thereon, by my direction, by the Law Officers of the Crown in this Province.

\* Page 81.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Inclosure in No. 15.

Inclo. in No. 15.

## REPORT of the LAW OFFICERS OF THE CROWN.

THE Undersigned have had under their consideration the despatch from the Colonial Secretary, dated 13th September last, on the subject of two Acts passed by the Parliament of Canada, intituled respectively "An Act to amend an Act of the present session intituled an Act to protect the inhabitants of Lower Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty," and "An Act to amend the 98th chapter of the Consolidated Statutes of Upper Canada."

In this despatch Lord Carnarvon objects to the Acts on the ground of their retrospective operation, and he states that under the law as it now stands a man might apparently be punished as a felon for an act which was not a felony when it was committed.

The Undersigned have now, in obedience to your Lordship's commands, the honour to report as follows:—

And first with regard to the Act to amend the 98th chapter of the Consolidated Statutes of Upper Canada. In 1838, and before the union of the provinces, the Parliament of Upper Canada passed the temporary Act known as 1st Vict., cap. 3. This Act was repealed, but re-enacted with some amendments and made permanent by 3rd Vict., cap. 12.

In 1859 the whole of the statutory law of Upper Canada was consolidated, and the Act 22 Vict., cap. 98, forms a portion of that consolidation. By the 8th section of the

1st chapter of those Consolidated Statutes it is provided that "the said Consolidated Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation, and as declaratory of the law as contained in the said Acts and part of Acts so repealed, and for which the said Consolidated Statutes are substituted." So that the law of Upper Canada on this subject has been continuously in operation since the 10th February, 1840, the date of the passing of the Statute 3 Vict., cap. 12.

The giving retrospective operation to an enactment so long in force, can, in Lord Carnarvon's language, hardly have any practical consequences.

Before the Act of last session, the law of Upper Canada provided, according to the terms of the Consolidated Statute above-referred to, two modes for the trial of parties invading Upper Canada with intent to levy war against the Queen or to commit any felony therein.

The first was by court-martial, and was applicable to all parties, whether foreigners or subjects. On conviction, the penalty of death was incurred.

The second mode was applicable to aliens only, and provided that, instead of being tried by court-martial, an alien might be tried for felony before any Court of Oyer and Terminer. An alien, therefore, might be tried at the discretion of the Government either summarily by court-martial or for felony by judge and jury. A British subject would be tried by court-martial or for treason.

The object of the Bill of last Session was to place all parties, whether subjects or aliens, on the same footing. As regards the aliens now awaiting their trial, the law is not altered; and as regards British subjects, the alteration merely enables the Crown, at its discretion, instead of trying them for treason, to indict them for the minor offence of felony.

Lord Carnarvon's objection to the retrospective character of the Act amounts to this: that under it an alien might possibly be tried for an offence committed before the 10th February, 1840.

But, supposing that no such Act had ever existed, an alien committing the offence of invading the country with the hostile intent above mentioned would have been guilty of the crime of high treason (such, at least, was the opinion of the Law Officers of the Crown in 1838, Sir John Campbell then being Attorney-General), and an Act rendering him liable to the penalties of felony, although retrospective, cannot, therefore, be considered as injurious to the position of the alien.

There can be no objection, however, to a modification of this Act next Session, so as to limit the clause to offences committed since the 10th February, 1840. Meanwhile, as it is not intended to put the Act in force except as regards persons taken in arms during the present year of 1866, no objection can be taken to the trial of those persons, and your Lordship can convey that assurance to the Colonial Secretary.

There is no necessity for the Acts being submitted for Her Majesty's sanction, as your Excellency has already given them the Royal assent; and the Undersigned understand, from Lord Carnarvon's despatch, that no objection exists to the trial, under the recent statutes, of those parties who have committed acts of hostile aggression since such acts were declared by statute to be felony.

With respect to the first-mentioned Act in this report, the undersigned have only to say that the offence of a hostile invasion was first made a felony in Lower Canada by the Statute 29 and 30 Vic., cap. 2, which was passed on the 8th June, 1866, and it is intended to try those parties only who have committed acts of hostile invasion since that date.

(Signed)

JOHN A. McDONALD:  
GEO. ET. CARTIER.

Ottawa, October 5, 1866.

No. 16.

No. 16.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. the Earl of CARNARVON.

Government House, Quebec, October 18, 1866.

(No. 165.)

(Received November 1, 1866.)

MY LORD,

(Answered, No. 101, November 23, 1866, page 81.)

• Page 81.

REFERRING to your Lordship's despatch No. 53\* of September the 13th, relating to two Acts, intitled respectively, "An Act to amend an Act of the present Session,

intituled an Act to protect the inhabitants of Lower Canada against lawless aggressions from subjects of foreign countries at peace with Her Majesty," and "An Act to amend the 98th chapter of the Consolidated Statutes of Upper Canada," in which your Lordship expresses an opinion that under the provisions of these laws as they now stand, "a man might apparently be punished as a felon for an act which was not a felony when it was committed;" and your Lordship therefore goes on to say, "I have to instruct you that neither of these Acts must on any account be enforced in cases where they would have a retrospective operation." I have the honour to report that I have lost no time in laying your despatch before the Law Officers, and have already transmitted their report in my despatch No. 154\* of the 6th of October. The practical aspect of the question is in reference to the Fenian prisoners now in confinement in the Province.

\* Page 35.

These men are divided into two classes—Foreigners, British subjects. With regard to the former class, no question connected with these statutes can arise.

The crime of invading the Province was made felony in the case of foreigners in Upper Canada by the 98th chapter of the Consolidated Statutes of Upper Canada, and in Lower Canada by the 1st chapter of the Acts of the late session, to which I gave the Royal assent on the 8th of June.

The prisoners in Upper Canada all obviously committed the acts alleged against them since the passing of the Act for that portion of the Province, and those in Lower Canada were all arrested subsequently to the 8th of June.

The case of such of the prisoners as are British subjects is somewhat different.

In their case the statutable felony was apparently created by a statute passed subsequently to the commission of the acts for which they were arrested.

But I am advised that those acts in their case constituted the crime of high treason.

I am further advised that all treasons are at common law felonies; though previous to the statutes referred to, a British subject who had committed treason could not be indicted for the felony which his treason involved, from a technical rule which imposes the necessity of indicting him for the higher crime.

It would therefore appear that in the case of British subjects no new felony is created by these Acts of Parliament.

The effect which they have is to permit the trial of a prisoner for an act which was a felony at the time it was committed, but the indictment for which was prevented by a technical rule of law.

If the prisoners, being British subjects, be not tried under the Acts of last session, they must either be liberated without trial, tried by court-martial, or tried for high treason.

Any of these modes of treating them seemed to me to involve very serious difficulties; and as this class of prisoners, on the grounds which I have mentioned, do not appear to me to come within the reason of your Lordship's prohibition to use the Acts of last session, I have authorized the Attorney-General to indict them under these statutes.

I have, &amp;c.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

(Signed) MONCK.

No. 17.

No. 17.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. the Earl of CARNARVON.

Government House, Montreal, November 3, 1866.

(Received November 21, 1866)

(No. 183.)

(Answered, No. 108, November 24, 1866, page 82.)

MY LORD,

(Answered further, No. 109, November 24, 1866, page 83.)

I HAVE the honour to transmit copies of the indictments, and the Judge's notes of the evidence taken in the cases of Robert B. Lynch and the Reverend John McMahon, lately convicted of felony at Toronto, together with the report of the Attorney-General for Canada West on these cases.

I am aware that these cases have been made the subject of a representation on the part of the Secretary of State for the United States to Her Majesty's Minister at Washington, and that Mr. Seward's letter on the subject has been transmitted by Sir F. Bruce to the Secretary of State for Foreign Affairs.

It is the unanimous opinion of my Council that the sentence of death in these cases should not be carried into effect, and with that view I entirely concur.

Considering the nature of the offence of which these persons have been convicted, and the fact that the society from which this attack upon the Province emanated still maintains its organization, and that the expressed opinions of its leaders show no appearance of abatement in their sentiments of hostility to Canada, I think these convicts should not be allowed to escape without the infliction of some adequate punishment.

The case of the prisoners arrested during the Fenian attack in last summer has already been the subject of official communication to me on the part of your Lordship; and looking to the recent representations made to Her Majesty's Government by the Secretary of State to the United States, it appears to me that I shall best perform my duty in the matter, and take the course least likely to embarrass Her Majesty's Government in their communications with the authorities of the United States, if I abstain from dealing with the commutation of these sentences until I shall have received your Lordship's instructions respecting them.

As it is of some importance that your Lordship should be in possession of this information without delay, I write this despatch away from my office, and avail myself of the departure of Mr. Macdougall, the Provincial Secretary, for England, to transmit it to your Lordship.

I will send this communication in duplicate, properly numbered, by the next mail.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

I have, &c.  
(Signed) MONCK.

Inclo. 1 in No. 17.

Inclosure 1 in No. 17.

Judge WILSON to Mr. GODLEY.

SIR,

Toronto, November 2, 1866.

I SEND you herewith copies of the proceedings in the trials of the Queen v. Lynch and McMahan.

1. Copies of the indictments.
2. Copies of my notes of the evidence at the trials and of papers read.

I have nothing written of any thing else, but the "Leader" and "Globe" of the 9th October contain my charge to the Grand Jury at the opening of the assizes on the 8th October.

These papers of the days next after the trials contain a fair account, I believe, of what was said in charging the juries, and on passing sentence, Mr. Solicitor General was present at both trials, certainly at that of Lynch. He will be able to give you any further information you may require from his point of view.

I will send the papers to which I have referred, if the Sheriff can find them.

Dennis Godley, Esq.,  
Quebec.

Very faithfully yours,  
(Signed) J. W. WILSON.

Inclo 2 in No. 17.

Inclosure 2 in No. 17.

INDICTMENT against ROBERT B. LYNCH.

Canada, County of York, one of the United  
Counties of York and Peel, to wit.

THE Jurors of our Lady the Queen upon their oath present, that Robert B. Lynch, late of Louisville, in the State of Kentucky, one of the United States of America, and now of the city of Toronto, in the county of York aforesaid, being a citizen of a certain foreign State, to wit, the United States of America, at peace with Her Majesty the Queen, with force and arms heretofore to wit, on the first day of June, in the year of our Lord one thousand eight hundred and sixty-six, and while the said foreign State was so at peace with Her said Majesty the Queen, at the village of Fort Erie, in the county of Welland, in that part of the said Province called and being Upper Canada, with divers other evil disposed persons, whose names are to the jurors aforesaid unknown, did unlawfully and feloniously enter that part of the Province of Canada, called and being Upper Canada aforesaid, with intent to levy War against Her said Majesty the Queen

contrary to the form of the Statute in such case made and provided, and against the peace of our said Lady the Queen her crown and dignity.

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said Robert B. Lynch being a citizen of a certain foreign State, to wit, the United States of America, at peace with Her Majesty the Queen heretofore, to wit, on the second day of June, in the year of our Lord one thousand eight hundred and sixty-six, and while the said foreign State was so at peace with Her said Majesty the Queen, with force and arms in the county of Welland, in that part of the said Province called and being Upper Canada, having before that time joined himself to and being then and there joined to divers other evil-disposed persons, to the Jurors aforesaid unknown, was unlawfully and feloniously in arms against our said Lady the Queen within Upper Canada aforesaid, with intent to levy War against our said Lady the Queen, contrary to the form of the Statute in such case made and provided and against the peace of our Lady the Queen her crown and dignity.

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said Robert B. Lynch, being a citizen of a certain foreign State, to wit, the United States of America, at peace with Her Majesty the Queen heretofore, to wit, on the second day of June, in the year of our Lord one thousand eight hundred and sixty-six, and while the said foreign State was so at peace with Her said Majesty the Queen, with force and arms in the county of Welland, in that part of the said Province called and being Upper Canada, having before that time joined himself to and being then and there joined to divers other evil-disposed persons, to the Jurors aforesaid unknown, who were then and there unlawfully and feloniously in arms against our said Lady the Queen, did unlawfully and feloniously commit an act of hostility against our said Lady the Queen within Upper Canada aforesaid in this, that he the said Robert B. Lynch, on the same day and year last aforesaid in the county of Welland aforesaid, together with the said other evil-disposed persons armed and arrayed in a warlike manner, feloniously did assault and attack certain of Her Majesty's liege subjects in the peace of our Lady the Queen, then and there being with intent to levy War against our said Lady the Queen, against the form of the Statute in such case made and provided and against the peace of our said Lady the Queen, her crown and dignity.

(Signed) J. W. WILSON, J. C. P.

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Inclosure 3 in No. 17.

Inclo. 3 in No. 17.

**INDICTMENT against JOHN MC MAHON.**

Canada, County of York, one of the United Counties of York and Peel, to wit.

THE Jurors of our Lady the Queen, upon their oath present that John Mc Mahon, late of Buffalo, in the State of New York, one of the United States of America, and now of the city of Toronto, in the county of York aforesaid, being a citizen of a certain foreign State, to wit the United States of America, at peace with Her Majesty the Queen, with force and arms heretofore, to wit, on the first day of June, in the year of our Lord one thousand eight hundred and sixty-six, and while the said foreign State was so at peace with Her said Majesty the Queen, at the village of Fort Erie, in the county of Welland, in that part of the said Province called and being Upper Canada, with divers other evil-disposed persons whose names are to the Jurors aforesaid unknown, did unlawfully and feloniously enter that part of the Province of Canada, called and being Upper Canada aforesaid, with intent to levy war against Her said Majesty the Queen, contrary to the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said John Mc Mahon, being a citizen of a certain foreign State, to wit, the United States of America, at peace with Her Majesty the Queen, heretofore, to wit, on the second day of June, in the year of our Lord one thousand eight hundred and sixty-six, and while the said foreign State was so at peace with Her said Majesty the Queen, with force and arms, in the county of Welland, in that part of the said Province called and being Upper Canada, having before that time joined himself to, and being then and there joined to, divers other evil-disposed persons, to the Jurors aforesaid unknown, was unlawfully and feloniously in arms against our said Lady the Queen, within Upper Canada aforesaid, with intent to levy war against our said Lady the Queen, contrary to the form of the statute in

such case made and provided, and against the peace of our Lady the Queen, her Crown and dignity.

And the Jurors aforesaid, upon their oath aforesaid, do further present, that the said John Mc Mahon, being a citizen of a certain foreign State, to wit, the United States of America, at peace with Her Majesty the Queen, heretofore, to wit, on the second day of June, in the year of our Lord one thousand eight hundred and sixty-six, and while the said foreign State was so at peace with Her said Majesty the Queen, with force and arms, in the county of Welland, in that part of the said Province called and being Upper Canada, having before that time joined himself to and being then and there joined to divers other evil-disposed persons, to the Jurors aforesaid unknown, who were then and there unlawfully and feloniously in arms against our said Lady the Queen, did unlawfully and feloniously commit an act of hostility against our said Lady the Queen, within Upper Canada aforesaid, in this that he the said John Mc Mahon, on the same day and year last aforesaid, in the county of Welland aforesaid, together with the said other evil-disposed persons, armed and arrayed in a warlike manner, feloniously did assault and attack certain of Her Majesty's liege subjects, in the peace of our Lady the Queen, then and there being, with intent to levy war against our said Lady the Queen, against the form of the statute in such case made and provided, and against the peace of our said Lady the Queen, her Crown and dignity.

(Signed) J. W. WILSON, J. C. P.

Inclo. 4 in No. 17.

Inclosure 4 in No. 17.

COPY of Judge WILSON'S Notes in the Trial of the QUEEN v. ROBERT B. LYNCH, 24th October, 1866.

Indictment for felony on the Foreign Aggression Act, *vide* Indictment. J. H. Cameron, Q.C., Solicitor-General, and R. A. Harrison, for the Crown; Richard Martin for prisoner.

JAMES SEVERS, sworn. I am in charge of the gaol where the Fenian prisoners are confined. The prisoner is one of them. He handed me these papers. The one dated July 4, 1866, is an original; the other, dated July 20, is a copy of an original. They are both in his hand-writing. They are read. (See copies of them herewith, A and B).

I am aware that the Governments of England and the United States of America have been at peace before and since the 1st day of May last.

Thomas L. Newbigging, sworn. I resided at Fort Erie on the 1st day of June last. I saw the prisoner in the Fenian camp on my father's farm at Fort Erie about 3 P.M. of that day. I went to the camp to induce the Fenians to take care of three horses which they had taken of my father's. I asked the pickets on the Frenchman's Creek Bridge where I could find General O'Neil or Colonel Hoy. They said General O'Neil was busy, and Colonel Hoy was in the camp, but they referred me to Colonel Lynch. I then went to Colonel Lynch, the prisoner now in the dock. He directed me to General O'Neil's Adjutant, and pointed him out to me. The prisoner had civilian clothes on, such as he has now; a low felt hat. He wore a sword by his side, slung by a belt around him. I asked him how long the Fenians were going to stay. He said, "You know as much as I do; it may be two hours, or two days, or four days, I do not know." I had no further conversation. The men pointed him out as Colonel Lynch. I addressed him as such, and he answered me without correction. The sentries on the bridge were armed. Their men in camp were working about; some washing, cooking, carrying rails for breast-works, and cutting down trees. I saw rifles with bayonets about the camp. They took three of our horses; slaughtered eleven lambs, and four sheep. They took some of our harness and a tow-boat. When they left they took horses with them; they brought none to the camp. I saw them before they landed, and I saw them moving to the camp on our farm. They got on board canal-boats at Pratt's Dock, on the American side of the Niagara River. I was told at 12 o'clock P.M. by the Custom-house officer that the Fenians were coming over. I was in bed. I dressed and went to the road. The evening was calm; the wind blowing from that dock towards our house. When I got to the road I could see steam escaping from two tugs, and I heard the wheels of waggons coming on to the dock on the American side. Just before daylight the two tugs started with two boats, each filled with armed men. They steamed to the Canadian shore, and as they approached they shut off steam, as if hesitating where to go: then they started up the river to the Shingle Dock or Lower Ferry, and there they landed. I did not think

they exceeded 1,000 men. About 9 o'clock on the 1st of June they all marched down to my father's farm, about a mile below where they landed. They remained till the following night, but when they left I do not know. At daylight one man only was seen, and he was destroying the arms. It was during the afternoon of the 1st of June I visited the camp. Next morning the man was burning and breaking the arms against apple trees; they were rifles with bayonets. What were left were nearly all loaded. In one fire I counted ninety-eight barrels of rifles; the stocks had been burned. There were other fires with fewer rifles which I did not count. We found in Frenchman's Creek nineteen cases of ammunition, ball cartridges, and caps complete, but partially destroyed by water. We found forty rifles in good order in the creek and at its mouth. The mark on all the ammunition boxes was "Watervliet Arsenal, State of New York, 1,000 ball cartridges, 1864, extra good." The marks on all seemed alike. The rifles were marked "Bridesburgh" on the lock, and "U. S." on the stock and barrel. "1864." We found in the camp-ground haversacks with clothes which had been worn, canteens, four hams, and things they had stolen from the neighbours, feather beds, and everything they could get hold of. Some few wore the United States' uniform; some green jackets and shirts, but were not in uniform. They had canteens, great numbers of which were found at the camp next morning. The men did not exceed 1,000. I do not know when they marched out. They had green flags with harps; one had a crown and harp. There were about eight flags. They had drums. One who was a prisoner said they did not come to injure the citizens, but the red coats. I did not see the prisoner from the time I spoke to him till I saw him here in July. The main body I last saw in a scow under the stern of the steamer "Michigan."

Cross-examined. I only saw prisoner on the one occasion there. There were about 800 men with the prisoner. I saw General O'Neil in the camp. I saw him soon after I had spoken to the prisoner. General O'Neil wore civilian clothing, drab coloured. He was a gentleman-like man, pale and freckled; more like a dry goods' clerk than the leader of a marauding party. He was a slighter man than prisoner, and taller. I should think him over 35 years of age. He wore, I think, a small black felt hat, and had no arms. He was examining a map of the roads in the county of Welland. I saw no one with arms except the prisoner. I saw none other with swords. All, except a few, were in ordinary clothes of all colours. Some old men, and some very young, not exceeding 16 years of age. Around O'Neil were two or three men better dressed than the rest. I did not see the prisoner till the afternoon in the camp. They were armed when they marched down; I was within a yard of them. Some were marching without arms, walking with the rest. The privates were all armed. I did not notice the men outside so much as the men in the ranks. The rails were removed for a quarter of a mile along the road, and about the same distance on the side line, and made into breastworks. I saw men from the other side passing and repassing, residents of Buffalo; some of them I knew; all I saw I thought belonged to them. Until noon of the 1st, boats carried over armed men. I did not see the prisoner arrested. I had arrested some, and I came here in July to recognise them. I saw prisoner about the middle of July, and then I identified him. He is a man I could identify among a thousand. I did not see him there with his hat off. His hat resembled that on the table. I think his beard was, as it is now. I am positive prisoner is the man I saw there. I am positive he had a sword, like our cavalry swords, or like those a colonel would wear. He seemed to be in command on the road opposite the camp. I am positive the prisoner is the Colonel Lynch I saw at the camp. He is lighter in complexion than he was.

Re-examined. He is the man, I conscientiously believe.

Arthur Molesworth, sworn. I live on the bank of River Niagara, near Fort Erie. When the Fenians were marching up on Friday morning, the 1st of June last, I saw prisoner marching behind them. He had a sword in a steel scabbard slung round his waist. He was speaking to a man whom I knew, who told prisoner his son had joined the Fenians, and asked prisoner to take care of him. He said he would. The Fenians first marched up towards the village, but came down again. The men who were marching had rifles and bayonets, about 1,500, marching four abreast. I saw some of them land, they came from Black Rock, in the State of New York. They cheered on landing. I saw two flags. The prisoner is the man I saw there.

Cross-examined. I saw the Fenians just as they landed, between 3 and 4 o'clock A.M. They marched about 8 A.M. I was at the road close by where they marched, some had uniforms like the United States' uniform. They were walking along the column. I saw two officers in our yard. I only noticed three with uniform. Prisoner had no uniform. I was inside the road and saw only that side of the column. I did not see those on the outside. I never saw prisoner but then. I saw him standing opposite our house, speak-

ing to two men. I saw him about five or ten minutes. The column was moving when he stopped. They had passed when he followed them. He wore a coat like that he now has on. He had a small hat. I saw none with grey hair except the prisoner. Most of the men were young. The prisoners were brought out at the gaol, and there I recognized the prisoner. I did not know the last witness had recognized. I saw him standing and speaking to the two men. He had a sword and a little satchel. I see no difference between him now and then. I saw no man like him. One officer came to our house and asked for breakfast, he had uniform with green binding, the cloth was dark blue, his hair was black and he wore a black moustache, he was younger than the prisoner with the same kind of complexion. I do not know who was in command. I was alongside of the prisoner and the man to whom he was speaking. About 8 A.M. on the 1st June last, I saw prisoner there, his hair is as it was, I see no difference.

Re-examined. I am sure prisoner is the man I saw there.

Joseph Stevens, sworn. I was at Fort Erie on the 1st of June last. I saw the prisoner there on that day, on the road getting his men in line, between 6 and 7 o'clock, to march. He had a sword, nothing else. He was commanding the men. The Fenians took me prisoner and some others. They made us go into the ranks. After I was there, I heard him giving the word of command. I was there fifteen minutes. I was marched three-quarters of a mile along the road and dismissed. The men said they were going to Toronto and Quebec. They asked if Canada was seven miles across. I said it was ten miles. They said they were going to take Canada and have farms. I saw lots of them marching around. I was a prisoner all day. They kept me a prisoner in my own house, and I did not see the prisoner that day again. I saw no fighting. I am certain the prisoner was there. I saw no fighting on Saturday. I was in my house, a mile and a quarter below Fort Erie all day.

Cross-examined. I did not know prisoner before that day. I saw the men about half-past six. I saw them first about daybreak. They took me prisoner. I did not see the prisoner at first, but in an hour afterwards. He was marching up and down the road speaking to the men. I did not see him coming over. The prisoner had the most to say of any one. He gave directions, which were obeyed. They were moving things out of people's houses. I saw no movement till he put them in order. After he had put them in line he said "Forward," "March." This was about two hours after daylight. Prisoner had no uniform, he had a sword with a steel scabbard slung with a belt. He had a black low-crowned hat. He marched us and halted, then halted again and ordered us who had been forced into the ranks to fall out, and he said "you are dismissed." He looks sleeker now than he did. His moustache is longer. He was then more weather-beaten, but otherwise seems the same.

Thomas M. Molesworth, sworn. I reside at Fort Erie. I saw the prisoner at Fort Erie, or on the road leading there, on Friday morning the 1st of June last. He was walking with the body of the Fenians. I cannot say I saw on him any arms. I saw him on Saturday forenoon at eleven or twelve. Some one said he was a Fenian. He said he was a reporter to a paper. I saw him arrested. This conversation was just before he was arrested. The prisoner is the man, I have no doubt, whom I saw there on the 1st of June.

Cross-examined. I first heard of them about the break of day. I got up and dressed. I live about the eighth of a mile from the place they landed. After they formed they walked past my house. They appeared to be led, but by whom I cannot say. One rode who was in uniform. The first I saw were detached ones, who tried to get into my house. The column was then forming. I was in front of my house and saw them march past. The prisoner was among them. I cannot say who was in command. They had only come 500 or 600 feet, the head was further on. Prisoner appeared to be walking with them. He was half the breadth of the road from me. He had a low-crowned flat hat, with flat rim, black; he had a dark coat. About 6 A.M. on 1st June he passed me. I do not recollect seeing him again till Saturday. I saw some in uniform, some not. I saw him marching with the men. Some of the men outside the column were without uniform. All the swords I noticed had steel scabbards. I do not recollect the prisoner had a sword. Next day I had noticed him as one I had seen the day before. He had no arms that I saw. The prisoner and another man came up the road on Saturday and were accosted as being with them the day before, he said "I was there as a reporter." He now appears to wear his beard differently, but his appearance is otherwise the same. He wore more beard then than now. He is not so brown now as then. His moustache came more out at the sides than now, and it was longer.

William Murray, sworn. I believe I saw the prisoner before, I have no doubt I saw him a mile and a half below Fort Erie on Friday the 1st of June last. He was with a

great number of armed men. He had a sword hung by his side. I saw him afterwards lower down the river with a number of others. He had his sword then. I was within fifty yards of them when they landed. I went to the Telegraph office to give notice of their landing. I saw them march past me to the camping ground at Frenchman's Creek. They had flags and banners and a drum. They were all armed who were in the ranks.

Cross-examined. I saw prisoner first about 9 or 10 o'clock at the Lower ferry, where they landed. They had gone to the Upper ferry first, but came back, and from that to Frenchman's Creek. I had not seen prisoner before. He was standing talking at first. He had dark clothes, with a sword slung to a belt which was round him. He was dressed in civilian clothes, dark, his sword had a steel scabbard. They wore different kinds of hats, mostly black. I was within fifty feet of them, not many men were of prisoner's age. I saw one man of about his age. The prisoner and those with him, were at an old saw mill, the road between us. I next saw him at Frenchman's Creek, dressed as before. He was talking to one dressed and with a sword like his. I was about the length of this Court-room from him in the afternoon of the same day. His hat had a stiff broad brim and a low crown. He looks paler now, but I see nothing else, except he seemed to have more beard. He is not so bold looking. The beard seemed more over his face than now, not a great deal.

Frederick Eldon Dixon, sworn. I am an officer in the Queen's Own. The regiment was ordered from Toronto to Port Colborne on the 1st of June, 1866. We got there the same day. Colonel Dennis was in command when we left. I am major now, but I commanded a company then. We were ordered to start on Saturday morning by rail to meet Colonel Peacocke's force. We moved at 5 A.M. with 1,300 men. The Queen's Own, the 13th Battalion Hamilton, and the York and Caledonian Rifle Company, all Volunteers. We were all in uniform. The Queen's Own have dark green uniform. The 13th scarlet tunics with dark trowsers. The York and Caledonian Rifle uniform. We were armed and had ammunition. We got out at Ridgeway station to take our line of march which began a little after 6. We advanced in military order. We had marched about two miles when the leading files of the advance guard came back at the double. I was with the main body, in subdivisions, all in the road. They put their shakoes on their rifles to show the enemy was in sight. Three companies were ordered to skirmish right and left. We advanced some distance and saw men running about in front, and then we heard a shot fired, and the firing continued. The men took cover all they could in a field in which were stumps. We were in front, the 13th in red coats in the rear. They were not in front at the beginning. The skirmishers of the 13th were ordered up to relieve us, and then their red coats could readily be seen. I saw some of our men fall. Two fell in front of me. I saw men wounded on the field, of our corps. They were wounded from the fire of those who opposed us. I saw a body of them in front of us firing. Our troops after a time retired.

John White, sworn. I belong to the Queen's Own. I was in the affair at Ridgeway, I was wounded in the arm and lost it. I was wounded in the retreat.

*October?* William Hodder, sworn. I belong to the Queen's Own. I was at Ridgeway. I was adjutant with the commanding officer in the reserve. The troops advanced as described by Major Dixon. I saw several wounded of our men, and one of the 13th, Lieutenant Routh. They were wounded by the fire of the enemy. The troops were in uniform.

Adam King Schofield, sworn. I am a Lieutenant in the Volunteer Welland Canal Field Battery. We left Port Colborne and disembarked at Black Creek. Then embarked to Fort Erie and re-embarked and returned to Fort Erie. We then scoured the country to Trotin's bend. We had fifty-four men and three officers, no large gun. We were in Artillery uniform. We came in contact with the enemy between 3 and 4 P.M. at Fort Erie on shore. We were in Front-street in Fort Erie with the Dunville Naval Brigade who had no uniform except the officers. The Naval Brigade were in front. We saw men skirmishing down the river bank. A man threw up a white cloth and we were called to surrender. First a shot was fired. Then another, then a volley fired among us. Captain King was hit in the ankle. F. Scholfield was shot in the leg below the knee. J. Bladley, shot in the thigh. Robert Thomas, through the thigh. John Harverton, shot in the leg. We retreated to a building and fired till the Fenians threatened to set fire to a store, which would have burnt the house we were in. Our men in the house surrendered and were kept by them all night. I was taken. Lieutenant Nimmo and Lieutenant McDonald were taken. The Fenians said they had come to take the country and they would. We were mistaken they said in their force, they could and

would take the country. A guard was put over us, and over the house, of some fifty or sixty men. They knew we were troops. They took my cross-belts from me.

Cross-examined. There was a large body of some 700 men. One, Fitzpatrick, was adjutant. He had brown clothes, quarter boots, a black hat, and a sword with a bright scabbard. Some of the officers took tea with us where we were imprisoned. I was taken by the men. Fitzpatrick met me, he said, "you are an officer, you shall go back with me." He asked where my cross-belts were. I pointed out the man who had them and he made him give them back. Fitzpatrick was a man of 25 years of age. This was on the 2nd of June. I saw the surgeon Dr. Donnelly, he had no arms, had dark clothes. I saw half a dozen officers. I took tea with them. They wore civilian clothes. Some two had blue cloth trimmed with green, they were captains. I saw six or seven officers who took tea with us. The Quarter-master had no coat. None of the officers were old, some of the men were. I did not see O'Neil, I heard he was there that evening. They told us they had from 800 to 1,250 men at Ridgeway. They were those who had been at Ridgeway. I do not remember seeing the prisoner. Mrs. Kempson came in and said, "Tea is ready." We did not move. These officers said, "you must go in first and whatever places are left we will take." We went down and about four sat with us. They said they had been fighting. We were well used after we gave in.

Thomas Ryle, sworn: I was at Fort Erie, on the 1st of June last. I came from Buffalo early in the morning, and came in a canal-boat, drawn by a tug. There were about 300 men on board the boat. We came on foot from Buffalo to Black Rock. We had no arms when we left. On our way across the arms were issued. We had the ammunition on the American side. We got muskets on the way over. Some had revolvers of their own; Bayonets were issued. There was ammunition in boxes. They talked of taking Canada by fighting. This we intended. The prisoner was in Fort Erie that afternoon, walking up and down where the arms were stacked. He wore a sword. We went to Black Creek, where we stopped: 100 men—a skirmishing line—went out and came back to the river, and waited till the main body came back. We were all armed; I, among the rest, walked into the country, and I left them. A captain came back and swung his sword, and said we were going into action. I and some others left and went to Colonel Peacocke's camp: 700 or 800 men marched out. I can't say I saw prisoner there.

Cross-examined. I was born in the County Kerry; came to the United States a year ago. One McDonald, who came from Tennessee, swore me in on his side. My oath was to serve them loyally. I do regard oaths. I remember it was "to serve them truly, so help me God." I turned Queen's evidence; I told the turnkey, and then Mr. Harrison. I expect to get free for giving evidence. I was sworn to keep their secrets, and was in McDonald's Company. The one shown as O'Neil wore plain clothes, was about 30, light coloured hair, pale face. I came over about 4 o'clock, towed by a tug. I did not see Colonel Starr. I know one Shields, who was a captain. I did not know Colonel Shay. I was of the column formed after we landed. The Captain put us right. Shields was giving orders to his men. He is 5 feet 8 inches, dressed in a black coat, a felt hat, and had a revolver. He is stout, heavy, dark moustache, 35 years of age. McDonald was acting-captain; is a young man in light clothes. Most of the officers were in civilian clothes. They generally wore sack-coats, dark. They wore different kinds of hats. McDonald had a rowdy hat. I saw a Lieutenant, a broken-nosed chap, with a black hat, so had the rest, mostly. Shields was the oldest man there. I saw Lynch, the prisoner, who was the oldest man there. I saw two men about the Fenian camp of prisoner's age, taller and heavier men than he. I think they were officers. I saw none of this description at Frenchman's Creek. I saw prisoner on the 1st of June, early in the forenoon, about 9 o'clock. I saw a scow-fall come about 7 o'clock. I saw prisoner first walking up and down where the arms were stacked. The first I saw of prisoner was in the field, after the arms were stacked. Prisoner had the clothes on he now has, and a sword. I am giving evidence. I know John Meham—I slept with him. I told him I had given evidence against the prisoner.

#### CASE FOR THE CROWN.

At 5:45 P.M. Court adjourned till 10 A.M. to-morrow.

October 25, 1866, 10 A.M., Court opened. Jury called over and all present.

#### FOR DEFENCE.

John McMahon, sworn: I am a clergyman. I saw prisoner on the forenoon of the 1st of June last at a camp at Fort Erie. I saw him writing. I think he told me he was

writing for some newspaper in Kentucky. I saw him writing in a book. He had no sword, I think, and no gun with him. I saw him an hour after, walking along the road; I was talking with him. I do not recollect seeing him again.

Mary Ryle, sworn. I am the mother of Thomas Ryle. He has a poor character for veracity. He ought not to be believed on his oath. I have been in this country fifteen years. He came with us, then 8 years old, to Cape Town. He worked out with a farmer. I removed to Paris three years after I had come to Cape Town, and one year after removed to Guelph, and there I have lived since, on the property of Daniel Allen. He was in Cape Town, Paris, and about four years with me at Guelph. He worked in Guelph when the market house was built. He went to the United States a year ago last April, and I never heard from him till I heard he was in gaol. About two years before the last time he had gone to the United States in May and remained till the fall.

Cross-examined. He was not a good boy, he was guilty of all bad acts except murder. He was good till he was 15 years old. He is now 23 years. He is a drunkard, a liar, a night walker, a waylayer, and he was found guilty and jailed.

Re-examined. He was not tried after he got out on bail. He was always in trouble, every day I heard something bad of him. He strolled with bad boys.

John McMahon, recalled. I was not present when the Fenians landed. I saw the officers who commanded the Fenians. There was a man, I do not know his name, much the size of prisoner, who was a captain from Indianapolis. He was a man who looked much like the prisoner, and wore a similar coat. The prisoner's beard on his chin was smaller I think then than now. The captain I speak of had more beard than prisoner. The prisoner had a moustache but not so much under his chin. The Captain I speak of I would know if I saw him. He said not to be afraid, I should not be molested.

Daniel F. Lumsden, sworn. I think I saw prisoner on the 1st June last, at the Fenian camp, but I cannot swear positively. When I saw him he had a book in his hand taking notes. I fell in with a lawyer who called my attention to prisoner. He had no sword or arms that I saw. I saw some of the Fenians. I saw O'Neil, he had civilian clothes. He resembled the prisoner in his walk and clothing, but he was taller, and not O'Neil. I think prisoner was the man I saw taking notes.

Cross-examined. O'Neil is much younger than prisoner.

Daniel Whalen, sworn. I remember seeing prisoner on the 1st June last, at Fort Erie, about one in the afternoon. He was half a mile from the village. He was walking round. I understood he was a reporter for the "Louisville Courier." I saw some of the officers in command then. I saw no officer resembling the prisoner. I took notice of his heavy moustache. I did not take notice of his beard. If his beard had been as large as now I should have noticed it.

Cross-examined. I was seduced to come over on the Friday, and found I was in a bad fix. I asked the advice of prisoner; he told me to stay till night and get away. He said he had nothing to do with it only as a reporter. I met with an accident. I had a minié ball through my neck.

Patrick Norton, sworn. I saw prisoner on the 1st June last, outside of the village of Fort Erie, about half a mile or so. He was walking round like any other citizen. He had no sword. I did not know what he was doing. I saw several of the officers, one resembled the prisoner; he wore a sword. I do not know his name. The prisoner had less beard on the chin, an imperial, but a moustache as now. The officer had more beard than the prisoner has now.

Cross-examined. I was like a peaceable citizen. I met with an accident. I won't say what it was. I came with another man. I saw prisoner but once, and it was on the camping-ground. I heard no one called "Colonel Lynch." I do not know the name or rank of the man I spoke of who resembled prisoner.

Thomas Henry Maxwell, sworn. I saw prisoner on the 1st June, at the Lower Ferry, near Fort Erie. He was standing; had no arms; heard that he was a reporter for a Louisville paper. I saw some of the officers; none who resembled the prisoner. I did not notice the kind of beard he had.

John Corney, sworn. I saw prisoner on the 1st June last. I drove prisoner from Buffalo to Black Rock, at about 12 o'clock. I took his valise from the carriage to the ferry-boat. He had an imperial and a moustache. He is greyer now than then.

Cross-examined. He had a moustache and imperial. I did not come over with him.

Patrick O'Malley, sworn. I saw prisoner on the 1st June last, in Exchange Street, Buffalo, about 8 in the morning. I knew prisoner as a bookkeeper in Louisville. Prisoner said he came with a squad of Fenians from Louisville, and was a reporter for the "Louisville Courier." I never saw him during three years have anything but a moustache and imperial.

Martin Cormick, sworn. I saw prisoner on the 1st June last at the Cross Road, near a shingle-mill. I saw him between 8 and 9 in the morning. He was standing there. I did not know what he was doing. He had no arms. I saw no officers. There was no crowd about prisoner.

Cross-examined. It was between 8 and 9 in the morning, as near as I could tell. I was walking along the road. I did not see the camp. I came in the ferry-boat. I left Black Rock at 7 A.M. I saw him at the Shingle Block between 8 and 9, and met him there.

John Mecham, sworn. I saw prisoner on the 2nd June; not on the 1st. I saw him on the tug-boat after he was arrested; he had a moustache, as now, and an imperial. I know Thomas Ryle. I would not believe him on his oath.

Cross-examined. I did not know Ryle till I saw him in gaol.

Dennis Lenaghan, sworn. I did not see prisoner on the 1st or 2nd June last.

Peter Morrison, sworn. I saw prisoner on the 2nd June last, 200 yards out of the village. I saw him, but did not know him. I was arrested, and he was soon after.

Michael Purtel, sworn. I did not see prisoner on the 1st or 2nd June last.

Patrick Keating, sworn. I was at Fort Erie on the 1st June last, and saw Stephens a prisoner. He was intoxicated, I should judge by his talk and appearance. I was talking with him. He said he had been arrested by these fellows; and I asked them, and they said by O'Neil's orders. I saw O'Neil. I did not notice other officers.

Cross-examined. I did see Stephens a prisoner there.

George Wells, sworn. I saw prisoner when he was in gaol here. I shaved him. He had a moustache and a slight imperial on his lip; nothing more.

Cross-examined. We were in Brantford Gaol seven days before we came here.

Re-examined. I saw him a prisoner on the tug after he was arrested. He had the same moustache and imperial then.

Henry M. O'Brien, sworn. I know prisoner at the bar. I knew him as a boy in Galway and Dublin, in Ireland. County of Galway is his birthplace. I came to America before he did, I think. I am here twenty-five years. I met him as a boy in Galway five years after. I met him at a ball at my father's in Dublin. He was head clerk in the Charitable Bequest Office, at the Castle.

Case for prisoner.

Verdict, "Guilty." Sentenced to be executed on Thursday, the 13th day of December next.

(Signed)

J. W. WILSON, J. C. P.

November 2, 1866.

Montreal, November 5, 1866.

The Undersigned, after consideration of the evidence in this case, begs leave to report to your Excellency that in his opinion such evidence fully sustains the verdict and conviction, together with the within notes of evidence, are transmitted, for your Excellency's information, newspapers containing Mr. Justice Wilson's charge to the Grand Jury, as well as his charge to the Petit Jury. The reports in these papers are stated to be correct by the learned Judge.

(Signed)

JOHN A. MACDONALD,  
Attorney-General.

Inclo. 5 in No. 17.

Inclosure 5 in No. 17.

Copy of Judge WILSON'S Notes of Evidence in the Trial of the QUEEN v. JOHN McMAHON.

Indictment for Felony under the Foreign Aggression Act. Solicitor-General, J. H. Cameron and Harrison, for the Crown. M. C. Cameron for the Prisoner.

JOHN RAI, sworn (this man's name is not on the indictment. M. C. Cameron objects to his being examined, because the prisoner had a right to know who had to be called against him. I allow his evidence to be taken, and think the objection late, if good, and that it is no objection, the offence is not treason). I live in Fort Erie. I was there on the 1st of June last. I saw prisoner on the 1st June, he was there among the Fenians, who landed there about 800. They were mostly armed. Prisoner was not armed. I saw him first about 9 in the morning. He was dressed in black clothes, and a

black hat. They landed one and a-half miles from Fort Erie; came up marching through the village, and halted for breakfast. They halted sixty feet from my house. Prisoner was there. They breakfasted there, and remained about two hours. Most marched, a few straggled behind. Some left their valises, and the prisoner ordered those which were behind. He said, pick up the valises, the boys may want them, we do not know how long we may stop in Canada. The men picked up their valises and went on; we followed. They went in the direction of Newbigging farm. They came about 7 A.M. I can't say the very time. I saw prisoner after the fight between the Fenians and the Volunteers. The Fenians took me prisoner on Saturday evening. The fight took place at 3 P.M. Those who came back, came from the direction of Ridgeway. I was a prisoner. I saw a wounded man by the road; he was a Fenian. Prisoner was attending to him, and examining his wound. I saw him as a prisoner on Sunday noon; he was in charge of our soldiers or volunteers. The United States and our Government were then at peace.

Cross-examined. There is a ferry-boat going between our side and the American. The common ferry and the railway one, which takes only cars and passengers. Prisoner had a satchel of his own, which he carried. I did not speak to him. I was with one of my neighbours talking. I was not here to see these men till last week. There were about half-a-dozen valises left. Almost every Fenian had a gun and a valise. Prisoner wore a black coat and a black plug hat. They had all sorts of hats and clothes. He was not armed. I said I thought prisoner was either a priest or a doctor; when I saw him last I thought he was a doctor. He had a white neckerchief and black clothes.

Re-examined. I am positive he is the man.

Alexander Wilcox, sworn. (The same objection is made to this witness as to the last, and the same ruling. Then the witness was not sworn when the objection was taken) — I live in Fort Erie. I saw prisoner on the morning of the 1st June there. He was standing talking to some who remained behind the main body of the Fenians. There were some satchels and valises left. He was interceding with the men to take them in; said it was a pity the poor boys should be without their clothes, as they might want them. They took them on. I did not see him after. I saw no arms on him.

Alexr. Milligan, sworn. I reside at Fort Erie. On 1st June last I saw a body of men, armed, there. They were near my lot, arranged there about 5 or 6 in the morning. I saw the prisoner there. Some of the men had gone into a tavern and were drinking. He told them to take care of themselves. I saw him often. He had dark clothes and a revolver by his side, and a belt, I think. It was outside I heard him say to take care of themselves. I had a conversation with him. He said, don't be afraid, we do not want to hurt civilians. Some said they wanted to see red-coats. Prisoner said, yes; that was what they wanted. I never saw him at Fort Erie before. Reeve ordered breakfast for them to prevent them from ransacking the houses.

Cross-examined. I do not keep a saloon. I saw them at Barney McManey's tavern. I kept house. It is not over fifty yards from that tavern. I was awakened by the woman next door; it was light. I went to the back door and saw the Fenians all drawn up in the green at the back of my lot, where the school-house is. I got my family up and took them to Buffalo. After my family were up, I went out and among them. I was with them about a quarter of an hour; went home and back again. I remained a few minutes. I went to the tavern and several went in and I drank with them. I was as sociable as possible. I asked to treat them, but they said I should not pay—they could pay better than I could. I had four or five horns, and remained there till about 9. I got my family away in the forenoon. There were several men walking up and down the streets with guns and bayonets. I saw prisoner at the door. I was talking with two or three whom I knew—they were from Buffalo and Toronto. Prisoner was talking to the men to keep straight. He had a revolver and I think a belt. I saw the Fenians go away. I can't say the time; about 9 o'clock, I think. I did not see the prisoner or those who straggled go away. I saw prisoner twice at the same place. All he had to say was that the boys should mind themselves. I worked as a tailor and I kept a tavern here. I was a year in the United States. I left this about two years ago next January. I came back the beginning of January, and settled in Fort Erie. It was about a quarter or a half an hour between the first and second time I saw prisoner. The Fenians moved off between 9 and 10. I saw prisoner between 5 and 6. I was at home part of the night and part at McManey's saloon, which I left at about 10 P.M. I had gone there at about 8 P.M. I did not expect the Fenians. I was talking to Mr. Squire, and I took a drop occasionally—only beer. I went to bed about 10 or 11, I think. I was at no other place that night, and I went home alone. Joseph Squire was there when I left. Thomas

and Fairchilds were the men playing billiards. I heard of it just after I quit work. I was not drunk the morning of the 1st June. Bayette and Mooney were there just about the time the Fenians came. I spoke to Mooney before and after. He called me to see the Harp of Ireland hoisted in Canada. I saw him about there all morning. I can't tell what kind of a belt prisoner had on, but he had a revolver, which was a good-sized one.

Re-examined. I saw prisoner between 5 and 6 telling the men to take care of themselves and keep right. I was proposing to go to Buffalo. They said they were not going to molest the inhabitants but to go on.

Cross-examined. I asked, when I went to drink, whether I should go; they said I need not, for they were not going to hurt us: outside they said the same thing. I went with my family to Buffalo—took a carpet-bag only. Went in the forenoon.

Joseph Newbigging, sworn. I live on the Niagara River, two miles from Fort Erie. I was at home on the night of 31st of May. On the morning of 1st June I saw a body of Fenians landing at the lower ferry. They came in canal-boats towed with tugs; they were armed. I saw prisoner in the Fenian camp on my father's farm, on the 1st of June, about mid-day. He was standing talking to some of the Fenians in the camp. He seemed friendly with them. Two or three of the parties he spoke to were Fenian officers; the rest were of the lower sort. I saw him in the afternoon of the same day going into a boat with three others, one dressed in common clothes, one in Confederate uniform, and United States. I heard one say to prisoner, Come, Father, get into this boat; and he went. They started off for Black Rock Dam; in going they kept up the river a bit and then across. Next I saw of him was on the 3rd, on Sunday, under a guard of soldiers. I was at the camp four or five times on Friday, and I saw him there most of these times, and I saw him conversing with them.

Cross-examined. I saw none of the villagers there that day. I saw and spoke to Colonel O'Neil. When they called him father I understood he was a priest.

Thos. L. Newbigging, sworn. I am brother of last witness. I think I have seen prisoner before. I saw him on Friday about 3 in the afternoon, on 1st of June. He was coming with some others from the camp. They appeared to be Fenians. After they passed I saw a boy with a boat coming down the river; some of them hailed it and said if he would take them over he would pay for it. They were going to Buffalo. The boys came ashore; the boat was too small; one boy remained. Prisoner and those with him got into the boat. After the boat was pushed off, I heard one say, Father, take this seat (the stern one)—the most comfortable one there. They rowed the boat up to cross to Black Rock Dam. I did not see it cross. I thought he was a chaplain. His clothes were not so genteel as now. His hat was very much worn. I did not see him again till I saw him in gaol about the middle of July.

Cross-examined. He had no arms I could see.

Charles Treble, sworn. (The same objection and the same ruling as to the second witness.) I live at Fort Erie, and was living there on the 1st of June last. I believe I saw prisoner before, but am not positive. I saw him on the afternoon of Saturday in Walnut-street after the engagement. He was walking alone up the street. From his appearance and dress I thought him a priest. He wore a long coat. I do not swear positively it was the prisoner.

George Mc Murrich, sworn. I am a Captain of the 10th Royals. I saw prisoner before this a short distance from Fort Erie, five or ten minutes' walk, at the house of Major Cautie, a Major of the Fenian army as I heard, on Sunday morning before 8 or 9 o'clock, Lieutenants Denison, Hodder, Stoakes, Dr. Jamieson, and others. It was suggested by Lieutenant Denison there were wounded Fenians there, and he sent men to search it. I saw prisoner at the door. Dr. Jamieson asked where he came from, and he said from some place in Illinois, in the States. I cannot remember the place. I and Dawson arrested him. He said he came to bury the dead. He said he had been at Buffalo, and heard of something happening here. He came to do his duty in burying the dead. He was on his way to see the Bishop in Montreal. We found one dead Fenian in the barn on a stretcher. One Kiley was in the hayloft wounded, and his companion Smith. The prisoner was asked soon after we went there if there were any Fenians. He said he did not know. Another dead man was found in a workshop. He was marched off as a prisoner.

Cross-examined. On Sunday about daylight we were two miles from Fort Erie. About 9 or 10 we were in Fort Erie. I cannot tell the time exactly.

John G. Ridout, sworn. I saw prisoner at the house of Major Cautie, as mentioned by last witness. Four men, I, and Captain Mc Murrick, went to the house. We asked

if there were any wounded Fenians there. The women and this man denied it. I went to the cellar, and found belts and coats. Then the prisoner was arrested. We found a dead Fenian in the barn. I found one Kiley and one Smith in the loft.

Cross-examined. I heard prisoner say he had nothing to do with the Fenians; he knew nothing about them. The belts were of the 13th Hamilton people.

Re-examined. When I saw prisoner in gaol he did not deny but that I had seen him at that house.

Dennis Sullivan, sworn. (Same objection to him as to second witness, and same ruling.) I am one of the Royal Canadian Rifles. I was at Fort Erie on look-out duty two years and twenty-eight days. I knew Cautie and his house on the hill. Cautie went to meet the Fenians as they came up. He was with them, and had a revolver. He was with them while they were there, but has not been seen since.

John Metcalfe, sworn. (Same objection as to him, same ruling.) I was in the Queen's Own at Ridgeway. I am now in the Sheriff's Office. I was at Lime ridges. The Queen's Own and the Volunteers were attacked there by the Fenians. The Volunteers were in uniform. I saw Lieutenant McEachum lying wounded in front of me. A man was killed by my side. The shot came from the Fenians. I saw prisoner in gaol here. I told him anything he might say might be used against him. I made no promise or inducement to him. He said he was a Roman Catholic priest; born in Monaghan, in Ireland. Was a citizen of the United States. Came over from Buffalo on the 1st June. Landed at Fort Erie, where the Fenians took his carpet-bag and clothes from him, and compelled him to go to Ridgeway to act as chaplain for them. He was within half-a-mile of the battle-field. He attended to the wants of the wounded, both Fenians and British. He heard the confession of five wounded Fenians, who died on Saturday. He attended the wants of the British and Fenians indiscriminately as they were brought. Several Fenians were wounded; he could not tell the number. Four Fenians were killed at Fort Erie. Colonel Bayley was killed by three balls in his body. When arrested there was found on his person a list of boys he wished to send to a Mr. Vaughan, but no list of a Fenian Company. There were some pistol-shots of his own and slugs he picked up at Fort Erie, some wafers unconsecrated, some oils, and a bottle of peppermint. He had no arms of any description, and was no Fenian.

Cross-examined. All this was given me at one time. Mr. Mc Nab asked if he wished to make a statement. The statement was taken in writing. He said the Fenians forced him to go with them as priest, and as a medical adviser too. The battle at Ridgeway was on the 2nd of June. I was not injured. I got to Fort Erie on Monday.

Edward Hodder, sworn. (Same objection, same ruling as to this witness.) I saw prisoner before at Major Cautie's house, near Fort Erie, on Sunday the 3rd of June last. I was in front of the troops when it was said a wounded man was in the house. Dr. Jamieson was sent to see him. He wanted an escort outside of the skirmish line. I and Dr. Jamieson went first. Mr. Ridout and others followed. We went to the house and saw prisoner standing at the door. Dr. Jamieson asked him what he was doing there. Prisoner said he came from Buffalo and was on his way to Montreal, and some one had stolen his vestments, and he was waiting to get more. We arrested him. He was asked where the wounded man was. He said there was no such man about the house. The woman also denied it. I saw through the seam of the barn a man lying on a stretcher. He was asked if any Fenians were about there. He said no.

Cross-examined. His answer was no; not that he did not know. Dr. Jamieson said, What are you doing here? He answered as I have said. Captain McMurrich was near and could have heard. Dr. Jamieson asked, Where is the wounded man? Prisoner said, There is no such man here. We were ordered to surround the house. Coats and belts of our men were found, and I saw the dead man through the seam. Prisoner was searched, and a pocket-book was found. He was asked where the wounded man was. He was not asked if any Fenians were there.

Wm. Cramb, sworn. (Same objection to him, and same ruling.) I live in Toronto. I have seen prisoner before. I had a conversation with him during the latter part of last month in the gaol here. He said, I came over with the Fenians to dress the Fenian wounds.

Cross-examined. This is about all he said. He said, Do you recognize me? I went partly out of curiosity, and partly to benefit my country. All for curiosity. I spoke to others also. I got statements from other prisoners. Something from the other reverend gentlemen. The turnkey was present. He did not say whether he did it or not. I am a commercial traveller. I take orders for dry goods. I deal in lamps for Noah H. Piper.

Case for the Crown.

Verdict. "Guilty." The jury say Guilty on the whole indictment. Sentenced to be executed on Thursday, the 13th of December next.

(Signed)

J. W. WILSON, J. C. P.

Montreal, November 5, 1866.

THE Undersigned, after consideration of the evidence in this case, begs leave to report to your Excellency that, in his opinion, such evidence fully sustains the verdict and conviction. Together with the within notes of evidence are transmitted, for your Excellency's information, newspapers containing Mr. Justice Wilson's charge to the Grand Jury as well as his charge to the Petit Jury. The reports in these papers are stated to be correct by the learned Judge.

(Signed)

JOHN MACDONALD,  
Attorney-General, U.C.

Inclo. 6 in No. 17.

Inclosure 6 in No. 17.

(A.)

Mr. LYNCH to Mr. KERR,

MY DEAR MR. KERR,

Military Prison, Toronto, July 4, 1866.

I RECEIVED yours of the 29th ultimo, and I assure you I was much pleased to hear from you, for I am not unmindful of your many kind acts to me, and the interest you took in my welfare. Had I taken your advice, I would not be in the predicament I am now placed in. But I had not the slightest idea that I could be interfered with, having gone into Canada as a peaceable American citizen without any hostile intention whatever, never having carried arms, or done anything to offend a man, woman, or child in Canada. They are our own race and people, and never done anything to me. But being out of employment, I accepted the offer of Mr. McDermott to go as correspondent. I did not correspond any, from the fact that the Fenians were some eight or ten miles in the country fighting when I was arrested at Fort Erie. I suppose you seen an account of the skirmish at a place called Ridgeway or Iron Ridge. It was madness for their leaders to have taken them there; some 750 or 800 men to fight not alone the Militia, and the Regulars, at least, 4,000 strong. But the Canadian people were up to a man in opposition against them. If they counted in any aid from the people of Canada, you must have observed how much they were deceived. Nothing I could say could convey to you the indignation of all classes of Canadians at this Fenian raid into their country. But I will more fully give you an account of it when I have the pleasure of seeing you.

I wrote to McDermott and Lincoln on business connected with my case, and you excuse me not mentioning your name. I assure you it was not that I forgot you: but I had intended devoting a sheet to yourself. I regret much that I am not in Louisville. With regard to that lard trade, my evidence would have settled the matter at once. I was present when he sold you the lard, and wanted you to come on Sunday to examine it. I recollect your saying distinctly, you never did business on Sunday. He then said you might examine it when you pleased. The trade was then finally made, and we drove off. You can postpone the trial on account of an absent important witness. I cannot say when this trial of our comes off; but if you prepare an affidavit, my testimony taken here before the proper authorities, I should think sufficient. I heard from McDermott yesterday. I am glad to find he has been to work for me, and I hope I will soon be back with you once more. I have now determined to turn over a new leaf, and settle down with the determination of leading a sober, useful, industrious life; and, not that I say it myself, I have the proper business qualification, and all I want now is a fair start. I hope you are doing well. Has our mutual friend, Mr. Canan, returned? I hope he has succeeded in the object he had in view. Give him my kindest regards. I would to hear from you again if you can spare time.

This prison life is most intolerable. I would sooner be dead than live here another month. I have not ate anything for thirty-four days but bread and water. There is a kind of soup furnished, but I could not use it; no meat or vegetables; corn meal mash for supper,—this heats the blood. Any few of the prisoners that have not the itch. There are about 105 of them here. The officers of the prison are very strict in the discharge of their duties—much more so than in the United States; but withal, obliging

when approached properly. Where there are so many prisoners, considerable responsibility rests on the officials. They have certain rules that are strictly enforced. But the diet is a disgrace to Canada and its Government; no able-bodied man can live on it for any time. I have got no money to buy anything (which is allowed): you can buy provisions if you have the money. You were mistaken with regard of our not being furnished with stationery; we get all we want of it. I have received no money from McD. I will write to you again next week.

Your faithful friend,  
(Signed) R. B. LYNCH.

Copy of a Card attached to the Letter.

R. B. Lynch,  
with Hackett and Otter,  
Grocers and General Commission Merchants,  
Nos. 60 and 62 Sixth St., near Maine, Louisville, Ky.

Inclosure 7 in No. 17.

Inclo. 7 in No. 17.

(B.)

Mr. LYNCH to Brigadier-General O'NEIL.—

SIR, Military Prison, Toronto, July 20, 1866.

I WAS arrested at Fort Erie June 2, with others charged with being connected with the Fenian army on their invasion of Canada, and though protesting I was only so as far as being a reporter to the Louisville Press, through Mr. McDermott, by whose instructions I came to Buffalo for the purpose of reporting the incidents, &c., &c., of the campaign; I have Mr. McDermott's affidavit, with that of Mr. Shea, to this effect. A few days since two men from Fort Erie (one a Mr. Newbiggin, in whose orchard you were encamped), identified me as being in command at the camp and ranking as colonel, which statement he has sworn to; the other, whose name I don't know, identified me also, and made and swore to a statement that on the arrival of the troops at Fort Erie I was in command and forming the men into line on their disembarking at the wharf. I cannot for the life of me see who those men take me for, and how they should be thus mistaken. But such will be their testimony on my trial, which will come off very soon. In order to meet this evidence I must have affidavits to prove to the contrary. I am, therefore, obliged to appeal to you, as having command of the Fenian army which invaded Canada, for an affidavit as to whether you had known me to have any position or command in that army, or in any manner connected with it, either as a Commissioned Officer, non-commissioned officer, or private, or that I could belong to it without your knowledge.

General, as this evidence is very important to me, I trust you will not delay in going before a Justice of the Peace and make this affidavit.

I acknowledged I was at the camp at Fort Erie, but in the capacity of an American citizen without arms, in Canada with no hostile intention, but solely on the business on which I came there. I had a letter to-day from Mr. McDermott informing me of your being at Nashville. As my trial is supposed to come off soon, your early attention to this will much oblige me. I am now in this prison some seven weeks; there are about ninety prisoners here charged with being connected with the Fenian movement.

I have written also to Colonel Starr for a similar affidavit.

Brigadier-General O'Neil,  
&c. &c. &c.

I have, &c.  
(Signed) ROBT. B. LYNCH.

Direct:

Robt. B. Lynch,  
Sheriff Jarvis, Toronto.

COPY of a DESPATCH from Governor-General the Right Hon. Viscount MONCK to the Right Hon. the Earl of CARNARVON.

Quebec, December 1, 1866.

(No. 204.)

(Received December 17, 1866.)

MY LORD,

(Answered, No. 121, December 28, 1866, page 83.)

I HAVE the honour to transmit, for your Lordship's information, copies of the Judge's notes in the trials of five Fenians prisoners recently convicted at Toronto.

Motions for new trials in some of these cases have been made, but have not been decided on. The time, therefore, has not yet arrived for any interference by the Executive Government in regard to the execution or commutation of the sentences pronounced on the prisoners.

I have, &c.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

(Signed) MONCK.

COPY of Judge WILSON'S Notes in the QUEEN v. JOHN QUIN.

Indictment under the Foreign Aggression Act. Mackenzie moves to put the trial off. Grounds not sufficient.

McKENZIE says since the Crown will not consent to the delay, he will challenge the array as was done yesterday. Prisoner moves to quash the array on grounds stated in the challenge filed. The Crown takes issue upon it.

I appoint Richard Porter Stephens, Charles V. Warmoll to be Triers.

John McNabb, sworn. I am Clerk of the Peace in and for the united counties of York and Peel. I have the Jury Lists and books relating to jurors in my office. My office is in this block of buildings. I have not the papers here.

McKenzie moves to put off the trial—refused.

Mr. McKenzie moves that I order Mr. McNabb to produce the books. I have no authority to order it.

Mr. McKenzie moves that the cause be delayed ten minutes—granted.

He moves that I order Mr. McNabb to produce the books. I say he has the process of the Court. If it is disobeyed, I am prepared to punish for disobedience to it.

McNabb re-called. I have been served with a subpoena to produce these books. I have not the books. I do not produce them. (It is about twenty minutes since he was served.)

I asked Mr. McKenzie if he has any motion to make against Mr. McNabb, he says not. No further evidence is given on the challenge. Verdict for the Crown.

John Metcalfe, sworn. I am a private in the Queen's Own. Same description as before.\* Government of the United States and Great Britain were at peace. The prisoner has made a statement to me. I held out no threats, made no promises. He said, I am an American citizen, a sailor by trade, a native of the county of Armagh. I resided usually in Rochester, my last place of residence was Buffalo. I was arrested first at 6 A.M. on Sunday, the 3rd of June, and I was discharged. I was arrested a second time two hours afterwards by some soldiers of the 47th Regiment. At this time I was drinking in a tavern, and was very drunk, and I was drunk the day before.

Cross-examined. The statement in the book I have was made in June. McNabb wrote in the book in my presence. He was a prisoner undergoing sentence for obtaining money under false pretences. He is not the best of characters. I will not say prisoner said, I am a citizen of the United States. In the book it is said, I am an American citizen. I read over to prisoner what was in the book.

Re-examined. I understood he meant a citizen of the United States.

George Whale, sworn. I live below and near Fort Erie on the River-road, three miles below the Newbigging Farm, just south of the town line. The Fenians came on Friday night, the 1st of June, between 10 and 11 P.M. There were 500 or 600 of them. They took my boots and pants. They wanted me to show them the road to Ridgeway. About 12 they went to the town line, and along the town line 1½ mile from the river. They stopped and camped there all night. On Saturday morning at sunrise they started. I took them through a cedar swamp. They could not take their waggon through with ammunition. They left it, and threw the ammunition in the water. I saw the prisoner, and was given in his charge with three others to go ahead. An officer, who wore a sword, put me in

\* See Whalen's case, as to affair at Ridgeway.

charge. The officer said, take care of me, and march along. Prisoner was not armed, the others were. The officer came about 1 o'clock, and said these men (the prisoner and other three who had me) have been on duty all day and must be relieved. They were relieved by eight others; I went through the cedar swamp with them, and asked them about 6 A.M. if they would let me go, and they allowed me to go home. I saw the prisoner just before I left standing by a fire speaking to the others. Cannot say what they said. I did not see him till I saw him here.

Cross-examined. I was with the Fenians. They made me go. I was at their head. I cannot say how they marched in the night, but when they started they were in military array. They said they would not hurt me. They were going to Ridgeway. Between 10 and 11 they came to my house. I was put in charge of the prisoner between 11 and 12. He had a grey coat and low hat. He was in the road when I first saw him. It was moonlight outside of my house when I first saw him in the road. I saw him after daylight. I was given in charge to him. The officer said to prisoner, and the three that were with him, take this man in charge and go ahead. The prisoner and the three men went ahead with me. They were ahead, I believe, and the army behind me. I left about 6 in the morning. They camped out of the cedar swamp. I swear the prisoner is the man I marched with. I cannot say he was forced to go.

Edward Armstrong, sworn. I belong to the Welland Battalion. I saw prisoner at Fort Erie at 3 P.M., on Saturday, the 2nd day of June. After the fight, the prisoner helped to take me prisoner as we came out of the house. He rode a grey horse and was armed. He had a gun. After they took us, about eighteen of the Welland Battalion, they took our guns and belts from us, formed us two deep, and took us to the fort. They had two or three flags. As we were being marched up the road, the prisoner rode to where they had a large green flag and dismounted; soon after I saw him ride up to us, and he went to the fort where we were taken. I saw him two or three times after. I saw him on Sunday about 6 A.M. at Fort Erie. He was then a prisoner. He is the man I saw there.

Cross-examined. It was about 4 P.M. on Saturday I saw prisoner. He was with us when we marched. I took him to be an officer from the way he gave command. I cannot say he was drunk. He had a good deal to say. He seemed more excited than the rest. There were 500 or 600 men marched up with us. There were three others with him in the boat, whom I could not well recognize; one, I think, I did. This man is the only one I could swear to; when I went into gaol, the turnkey ranged them by the wall, and I recognized the prisoner, and said he was the man I saw at Fort Erie armed. No one pointed prisoner out to me. He was the man I saw at Fort Erie armed. Last time I went I pointed out the prisoner. I did not know prisoner's name, I pointed him out. They told me his name was Quin.

Nelson Forsyth, sworn. I live at Fort Erie. I recognize the prisoner. I saw him on Saturday, 2nd June. When I first saw prisoner he was standing by a grey horse with a short rifle. A lump of a Fenian lad wanted the horse; prisoner struck him with the rifle, and knocked him over. He seemed a little intoxicated, as far as I could judge. I walked away. This was about 5 P.M. I saw prisoner about 7 standing guard with another, both armed with rifles, over Mrs. Bristow's door. She keeps a tavern there. I went up and spoke to him; I examined his gun, which he handed to me. He showed me how it was loaded. It was a Spencer breach-loading rifle. He gave me to understand he had come from Tennessee; had been in Moseby's Guerillas, and that the gun had done good service in the Southern war. I next saw him on Sunday about 8 A.M., and the same one who was with him, almost at the same place. I saw Mr. Tupper, a Government Detective, standing close by them; he asked if they were Fenians, and I said yes, they were standing the night before.

Cross-examined. When he had the horse he seemed intoxicated. This was about 5, but at 7 he was straightened up and was on guard. He was not armed on Sunday when I saw him. He was dressed in a plain common-looking dirty dress and a slouched hat. He had very little beard. I could recognize him among a thousand. His face was blotched more than now; very dirty looking. I think he had grey clothes. His arms were different from the rest. I am sure he is the man.

E. Tupper, sworn. I was at Fort Erie on the 1st June last. I saw the Fenians on the way up to the Fort Erie, and back of it. They were armed. I did not see prisoner till Sunday, the 3rd of June, opposite Mrs. Bristow's. He was with another man, and I was told they were Fenians, and arrested them. He said he had gone over to the other side on Friday, and returned that evening. He said he belonged to Rochester.

Lorenzo Bristow, sworn. I am past thirteen. I am a son of Mrs. Bristow, who lives at Fort Erie. I have seen prisoner at Fort Erie. I saw him on Saturday after the fight, at 4 P.M. He had a grey horse walking about. He was armed. He had a carbine.

He was on guard that night at my mother's house. He made me a present of the grey horse and I might have the gun. He left the horse in the barn for me, but a man claimed the horse from Ridgeway, and gave me 2 dollars. He was on guard in the morning and till the soldiers came.

Cross-examined. He had a wide-rimmed hat. Was sober. He was at our house from Saturday till Sunday. He was on guard and they left him. He gave me the horse before he was taken prisoner. I do not know whose horse it was. Prisoner is the man. I saw him first on Saturday between 3 and 4. He had the horse and was sober. He remained about our house. He got drunk on Sunday morning and I think on Saturday. I got the gun and have it now, it is a breech-loader.

Joseph Schryer, sworn. I saw prisoner on Saturday afternoon between 5 and 6, with Colonel Hoy, enquiring about prisoners the villagers had captured. Prisoner rode a grey horse and had a Spencer breech-loader. They asked where the prisoners were. I said, in the Tugg Robb. They went and examined the Court-room and found they were not there.

Cross-examined. Prisoner had a slouched hat, a long coat. I cannot say he was intoxicated. He rode straight. Colonel Hoy rode also. I saw him next in gaol in July here. I recognized him the moment I saw him. I cannot tell how I know him but I do know him. Prisoner had no uniform.

John Ray, sworn. I saw prisoner on Saturday 2nd June, about 4 P.M. at Fort Erie. A good many were with him. We were driven into Lewis Tavern and there taken prisoners after the fight. Several came in after we surrendered. One took me and ordered me out to fall in as a prisoner. I went out at another door and tried to get away. Prisoner followed me on a white horse; he said, stop or I will shoot you. He had a short gun in his hand. He rode in front and said, if you do not fall in as a prisoner I will shoot you.

Cross-examined. This was about 4 o'clock. He was excited but I cannot say intoxicated. He had a broad low hat and a grey coat. There were a good many prisoners and 400 or 500 Fenians who marched us up to the Fort. I recognized the prisoner and McMahan. There was another man in gaol whom I saw on Friday. The prisoner had little beard. I said to him on Sunday, you are the man who drove me in yesterday. He did not deny it.

Adam King Schofield, sworn. I am a Lieutenant in Welland Canal Battalion. I saw prisoner first at Fort Erie, at Mrs. Bristow's, before 6 A.M. I arrested three together. Prisoner was one. I asked where their arms were. They said round the house. Mimmo went and brought three Fenian rifles.

Cross-examined. He was in front of Mrs. Bristow's in Fort Erie when I first saw him. He had a great coat, slouched hat, and brown pants. I saw him next in gaol. I recognized the prisoner at once.

Case for the Crown.

Objects there is no evidence to show he is a citizen of the United States.

Mr. McKenzie objects there is no proof of his being a citizen of the United States.

He makes the same objections as in Hayden's and Whalen's cases.

Verdict, "Guilty."

Mr. McKenzie moves in arrest of judgment on the same grounds as in Hayden's and in Whalen's case.

Sentence to be executed on the 13th day of December next.

(Signed) J. W. WILSON, J. C. P.

COPY of Judge WILSON'S Notes in THE QUEEN v. THOMAS SCHOOL.

Indictment under the Foreign Aggression Act. Two sets of counts: 1st, three against him as a citizen of the United States; the 2nd, three as a British subject.

McKenzie objects that there are two sets of counts. The Crown should now elect which they go on, and that the prisoner ought not to be called upon to answer both.

Overruled.

John Metcalfe, sworn. I am a private in the Queen's Own [see evidence in Whalen's case as to affair at Ridgeway]. I know the Governments of Great Britain and the United States are at peace. The prisoner made a statement to me. I held out no threats or promises. He said, I am a native of the county Tyrone, in Ireland. My usual place of residence is Buffalo. I work as a puddler. I was arrested in a house in Fort Erie, on Saturday the 2nd day of June, between 8 and 9 A.M., while talking to two women in the

house. I crossed over the river in a small boat by myself on Friday afternoon about 4 o'clock.

Cross-examined. It was about the end of June he made the statement. I cannot tell what part of the gaol this was taken. I read it over to him since and he said it was correct. I did not read from the book but from a copy of it which I have not. I referred to the book this morning before I came into Court. I have seen the book since. I saw McNab write down what they said. The statement was read to every prisoner after it was taken and they assented to its being correct. The statements were taken that any that were not guilty might be let go. I cautioned him that the statement would be used as evidence against him. I should not like to swear against this prisoner without referring to the book. I read to prisoner from this book in October last (the book was produced).

Re-examined. I read his statement to the prisoner from this book in October. The prisoner admitted it was correct. "Was arrested on Saturday morning 2nd June, 1866, between 8 and 9 o'clock in a house at Fort Erie, talking to a couple of women in the house; crossed over from Buffalo on Friday 1st of June, at 4 o'clock P.M., in a small boat by myself." I read this over and he said it was correct.

Cross-examined. The prisoner has been in as one of the Fenian prisoners since June.

Dennis Sullivan, sworn. I was at Fort Erie at the raid. I saw prisoner at the Lower Ferry on the 1st of June. He was under arms. I was a prisoner under the prisoner. He was armed with a rifle and fixed bayonet. I saw him brought to the Ferry Dock on Saturday as a prisoner.

Cross-examined. I am in the Royal Canadian Rifles. I do not know who arrested him. I saw him first at the Lower Ferry about half-past 4 A.M., 1st June. I was held prisoner there for two hours and a half. I did not notice his dress. He had a cloth cap. Prisoner and seven men and a sergeant had me in custody. He was sober then but he was drunk on the Saturday. Barney Dunn and McGrath were on guard with them. I was made a prisoner on the 2nd of June, about 3 o'clock P.M. On the 1st of June he had a fur cap, on the 2nd of June he had a straw hat. About 10 A.M. I saw prisoner, he seemed tired and sat down, seemed under the influence of liquor. He had a rifle on Friday with a bayonet. He heard I had been arrested on my way down, and when I came to the Lower Ferry the guard was detailed to keep me prisoner. The prisoner was one of the guard. He was sober then but was drunk on Saturday. He was guard over me off and on.

Joseph Schryer, sworn. I was at Fort Erie on the 1st of June, 1866. I saw the Fenians marching on the bank of the river towards the village armed, marching principally in a body, between 5 and 6 o'clock. I saw prisoner between 8 and 9 in the morning armed with a Fenian rifle and fixed bayonet. There was a military escort sent from the Fenians to bring in stragglers. My attention was called to a scuffle. On approaching I found the prisoner drunk and two men were trying to take him with them, but he was unwilling to go. He had his rifle and fixed bayonet, and came near sticking one of them. I saw him on Saturday about 10 A.M. brought in a prisoner. He was sober then.

Cross-examined. I saw him between 8 and 9. The men who tried to take him appeared to be armed—so was he.

Edward Henderson sworn. I am a private in the Welland Canal Battery. I have seen the prisoner. I saw him on Saturday, the 2nd of June, about 1 o'clock P.M. in the Court-house at Fort Erie. We had brought in a prisoner. I asked where he came from. He said from Toronto to look for work. He had left Toronto on Friday morning.

Cross-examined. He was sober then—about 1 P.M. He was then in the Court-house, a Fenian prisoner, in custody of Acting-Master Burgess of the Naval Brigade.

Re-examined. The villagers brought in the prisoners there for safety.

Case for the Crown.

James Conlin, sworn. I reside in Buffalo. I know prisoner. I saw him on 31st of May, on Thursday, in Buffalo, under the influence of liquor. He called at my house at 6 P.M. under the influence of liquor. He wanted me to drink from a bottle he had. I wanted him to go home, but he was unwilling. I took him in to tea. He took some, but did not eat. I said then, Tom, go home to your boarding-house. He wanted me to drink. I took him part of the way home, but he met with some people, and he went with them. I went to the Fenian Head-Quarters. On my return I met him very drunk. I said, I thought you had gone home. I said, go home or you will be somewhere you ought not to be. He said that's so. I said go home, and I led him up Ohio Street, but he was so drunk I was ashamed, and he fell. I met him again with his bottle soon after, and about 12 o'clock on Thursday night, I saw a party of Fenians marching along. I met prisoner with Bernard Riley leading him along drunk.

I said, he is not fit to go over. He said, I am going to send him over. I followed, and at the landing I saw prisoner drunk. I said, now is your chance to get away. I tried to prevent his going, but they pushed him into the boat. I jumped in and tried to get him out, but I was pushed out and the prisoner pushed into the hold of the canal boat. I saw him on Friday afternoon, about 3 P.M., on Mackinnan Street, in Buffalo. I said, is it possible you are here? He said, yes, I ran away from them. He is a quiet hard-working man, but drinks hard. Is not very bright. Is easily led. He is very foolish when drunk, and hard to keep track of him.

Cross-examined. He has been in the Buffalo Ironworks. There are some Fenians in the mill. One of the men who worked in the mill had told of him. On Friday afternoon he was drunk. There was a great deal of excitement and a great many civilians. The first boat crossed about 1 or 2. I saw three boats cross. There were boxes containing arms, which were broken open in the boats. Most of the crowd were Irish, and the English, and Scotch, and Americans had to keep quiet. I do not think any appeal to that crowd would have been of any use. They pushed me ashore because I was not a good-enough Fenian for them. I am not Irish. I am a native of Glasgow in Scotland. I suppose they thought when prisoner was sobered-up he would be of some use to them.

Ann Jenkins, sworn. I live in Buffalo. I am married. My husband's name is John Jenkins. He is boss in the Union Ironworks in Buffalo. We have been nearly three years in Buffalo. I know of prisoner for about six months. My acquaintance with him is slight. When he is drunk he loses all command of himself. I remember the 1st of June. I saw prisoner between 3 and 4 P.M. He was intoxicated then. I did not see him afterwards.

Cross-examined. My husband is boss. There are a great many men working there. Some crossed to Canada. The mills were not running on Friday. I cannot say on Saturday. The men had gone to Canada. I cannot say whether they had crossed or were going to cross, but I think it was Friday. I do not remember excitement on Thursday. Prisoner never came back to work. Prisoner came and inquired for my husband. He was drunk. He acted "quite simply." He moved in a state of intoxication. He moved about in walking. I looked after him a few moments. He was staggering.

Kate Jenkins, sworn. I am twelve. A daughter of John Jenkins. I knew prisoner for about six months. I had seen him many times. I heard the Fenians passed over on Friday morning; on that afternoon between 3 and 4 o'clock I saw him. I cannot tell whether he was drunk or sober. I saw him on the street.

Cross-examined. I saw nothing with him; he was alone. It was the day after they had gone over. I saw no gathering on Thursday. I saw him on the last day of school that week. It was Friday.

Re-examined. I heard father and mother speaking of prisoner that evening; but I said nothing about it till I came here.

John Jenkins, sworn. I superintend one branch of the works at the mill. The Puddling Department, which employs 150 men and boys. About 300 men in the mill. The puddlers struck in May, because of a reduction in wages, and they were on the strike all May. I have known prisoner since 1859. He has worked with me since, except one year. He is an industrious man addicted to liquor sometimes. He is a fool then. When sober he is quiet. His character is peaceable. I did not see him on Friday or Saturday. He came to my house on Thursday. He was affected by liquor.

Cross-examined. This was about 3 o'clock. The Fenians were talking of going over. He told me the Fenians had been talking of going over, but he was not. I was at home on Thursday. The prisoner had not been at work from the 1st of May. He was running about the street. Some of the men from the mill went over. Some two or three. I had not seen him from that time till now.

James Quin, sworn. I reside in Buffalo. I work about as I can get work. I know prisoner. His character is good. He is fond of liquor. Barney Riley came to my house about 4 on Friday, and tapped me on the shoulder and said, are you ready? He said yes. He was drunk then. I did not see him again. I cannot say where they went. He was full of liquor. My boy could lead him where he liked.

Cross-examined. Barney Riley did not say where he was going. Prisoner did not say where he had been or was going. I have seen Barney since. Black Rock is two or three miles from Buffalo. Prisoner brought a can of beer from Mrs. Norton's to our house. Not a word was said about Canada or the Fenians. They walked off together. I am not certain what day it was Thursday, Friday, or Saturday. I think Friday, the day after Barney went away. I heard it from the papers. The day after I saw the Fenians had gone to Canada, from the papers.

Re-examined. I think it was Friday.

Close of the Defence.

"Guilty" on the fourth and fifth counts. "Not Guilty" on the other counts. Mr. McKenzie is understood to have made the same objections to my charge as in the other cases. The Crown understanding that this was his intention in all the cases.

Mr. McKenzie moves in arrest of judgment, on the same grounds as in the last and former cases of conviction, and that the offences charged in the fourth and fifth counts are not offences created by the second section of the Act. That the offences in the fourth and fifth counts are distinct offences, and that a joint judgment cannot pass upon them.

Crown does not reply.

I do not concur.

Prisoner sentenced to be executed on the 13th day of December next.

(Signed)

J. W. WILSON, J. C. P.

COPY of Judge WILSON'S Notes in the QUEEN v. WILLIAM SLAVIN.

Indictment under the Foreign Aggression Act.

John Metcalfe, sworn. I was a private in the Queen's Own. I was at the battle of Ridgeway on Saturday 2nd June last. The Queen's Own, the 13th Battalion, the R. Company for Caledonia, and another company. We were in uniform. We were attacked by the Fenians at Lime Ridge. They were in considerable force, armed. I saw Lieutenant McEachren wounded a little in front of me, and I saw him dead afterwards. A man was shot by my side. I am employed now at the Old Gaol where the prisoners are. I know prisoner. I made no threats, no promise. I cautioned him that anything he might say would be used as evidence against him. He told me he was an American citizen, a native of New York; a gilder by trade; a Roman Catholic in religion. He came from a place in New York called Howeve, near Rochester. He crossed over from Buffalo to Fort Erie in a skiff, on Thursday, the 31st May, between 6 and 7 in the afternoon. He was arrested on Saturday, between 10 and 12 o'clock, in a cider house. He was asleep at the time of his arrest. He did not know what part of Canada he was in at the time. He did not know Fort Erie. A man by the name of John Hughes crossed over with him; a man he did not know, and paid his passage over. He said he had been in the American army.

Cross-examined. I am a turnkey in gaol. I was not directed to take these statements. I did it as a matter of duty. I know it as a fact that Great Britain is at peace with the United States. Prisoner is deaf. He did not tell me how he got deaf. He said Hughes and he came in a skiff with a man they did not know. I marched there with my officer, and did as I was bid. I fired. I cannot tell how many shots I fired. It commenced at 7 A.M., and lasted over an hour. On my way from Ridgeway I sometimes went with one, sometimes with another. I did not get to Fort Erie till Monday.

John Stockdale, sworn. I live in Bertie, about a mile from Newbiggins. I saw prisoner alone in front of my house, on the road, on Saturday morning about 4 o'clock, A.M. He had what I suppose was a Fenian rifle. It had had a bright barrel with a bayonet on it. I saw the rifle afterwards; he gave it to me. Jos. Newbiggin and William Miller took him prisoner. They wanted to know where his arms were; he said he had none. They saw the rifle. I handed it to Captain King. I went to the road in the morning. He came up to me and handed me the rifle to take care of. He asked if I had any place he could lie down, for he was tired. I said I had, and took him to my cider house, where he laid down on the straw, and I gave him a blanket to cover him, and shut the door and left him there. He said, "I have been out all last night." I said, "Have you been with the Fenians?" He said, "Yes." He told me he had left them at a place which I know was down on the town line, between Bertie and Willoughby. This would be three miles from Lime Ridge. The Fenians left the camp in a body between 9 and 10 in the evening of the 1st of June. They passed my place, and encamped about three miles further on. He said he laid by the fence till the main body passed, and he then returned.

Cross-examined. I live in Bertie, three miles and a half below Fort Erie, on the river bank. I saw no rifles or bayonets but the one prisoner had. He said he picked it up about a mile below my house on the road. He said he had been with them, and I think he said he was not a Fenian. I saw no others at that time but the prisoner. There had been four there at my house wanting liquor to drink before he came. He was perfectly sober. I think I gave him a glass of cider. I think he had no breakfast. He laid down and went to sleep in my cider house. I saw lots of arms about the camp at Newbiggins.

He said there were a dozen arms where he picked his up. Prisoner is hard of hearing. He said he was hard of hearing. He had been in the American army—in the artillery. Had lost his hearing. He said he did not know the Fenian watchword, and he was afraid he would be challenged and shot. He said he had been with them the night before, and got away from them that morning. According to his story, he was with them all night. I think he said all night.

Re-examined. He said he had found the rifle about a mile down from my house. I understood he was afraid of our force as well as the others, from his deafness.

Joseph Newbiggin, sworn. I have seen the prisoner before, I saw him in Mr. Stockdale's cider house, about 9 in the morning. He was lying asleep. He woke him up. I made a prisoner of him. I saw a Fenian rifle in the cider house which I understood belonged to him. Their rifles had bright barrels, and were different from any I had seen. The locks were marked "Bridesburgh." I saw lots of them about after. I saw between 250 and 300 rifles destroyed, some were burned, some smashed against trees. I supposed they had more rifles than men. The rifle he had had a bayonet on it. I did not hear what he said. I cannot say I heard him make any statement.

Cross-examined. I saw the rifles on our farm. No stranger was allowed to take rifles from our farm. If I had seen any I should have taken them from him.

William Miller, sworn. I was at Stockdale's on the morning of Saturday the 2nd June. The prisoner was there. He said he had no arms. Stockdale handed a rifle to Captain King, and said it was the prisoner's, but not so loud as prisoner could hear it. I do not know whether he saw this done.

Adam King Schofield, sworn. I am a Lieutenant in the Welland Battalion. I saw prisoner on the morning of the 2nd June as he was marched out of a cider house, three miles below Fort Erie. He was with Captain King and his men. There was a Fenian rifle brought out. Prisoner said he had come over to get work. I did not hear much of the conversation. The W. C. Field Battery were attacked on that afternoon. (McKenzie objects that prisoner is not responsible for anything that was done after he was taken.) The Crown answer they do not charge him with what they did, but offer it as evidence from which their intentions in coming are to be inferred. (McKenzie further objects that nothing they did while he was not present is evidence against him.) The Fenians attacked the W. C. Battalion and the Naval Brigade at Fort Erie. The battalion was 54 men and 3 officers. The Fenians were several hundred. Captain King was shot through the leg, below the knee, and it has been amputated, and four others; Fergus Schofield was shot through the leg, which has been amputated; John Bradley shot through the leg, about the knee, and since amputated; Robert Thomas and John Haverton shot through the legs, but not amputated. We were in uniform.

Case for the Crown.

McKenzie objects there is no evidence on the first and third counts. As to the third count, there is no evidence he was in arms against Her Majesty. No evidence of his intent to levy war. No statute in force. The statute in force when this offence was committed was repealed.

Defence.

John Hughes, sworn. I know prisoner. I met him in New York city. He had engaged last April to work in Honeoye, in the state of New York. He left that on the 23rd or 24th May. Prisoner and I went to Rochester. Then we walked to Buffalo. Prisoner could not get work in Rochester. We went first to the Falls; then went to Buffalo, and got there on the 31st May. Prisoner called on one James Dandridge, who is a carver and gilder, to see if he could get work. Dandridge works with Teller and Corning. I did not see Dandridge myself. Prisoner did not get work, there was no room for him to work there. Dandridge gave him three dollars. As we were passing on to Buffalo a man beckoned to us, and asked if we wanted work. He said, "if you want work you can get it on the Erie and Ontario road, and a dollar a-day Canada money." Junius was the man who called us over. Two men gave us an order to pass over the ferry to Canada on Thursday. We went and went to the superintendent's house, but did not see him. A man asked what we came for. We told him, and he referred us to the foreman, whom we saw. We said we would work for a while at least. He sent a boy to take us to Smith's, to ask him to board us. We had supper, and slept at Smith's that night. There was then no excitement. Smith told his wife to get us breakfast, but while it was getting ready the Fenians came over and eat everything up. I was going out, to go to the foreman's, but two men with guns prevented me. I remained over an hour, we could not get out. I said I wanted to go to work. They said there would be no work done there that day, except what they did. After we got out, I tried to find the foreman. I and Slavin were partly in the woods, and laid down not far from Smith's. We wandered about all day.

I parted with Slavin at 5 P.M. He said we had better get to some house, for if pickets are thrown out we may get shot. I said we had better get into some house and hide for the night. We went to the ferry, but having no money the ferryman would not take us back. I saw hundreds of armed men about. I supposed they were Fenians. Prisoner left me about 7 or 8 to sleep in a barn. I saw prisoner next in the tug under arrest. Prisoner was under liquor on Friday. He got it at Smith's. He could walk. I saw arms scattered about on Friday. Boys were picking them up. We were kept in Smith's an hour and a half.

Cross-examined. I was taken prisoner by both parties. Slavin came on a ferry-boat, not in a skiff. No one paid our bill. We had a bill to pay. We did not pay our ferrriage. I do not know who paid it. We went to the foreman, then to Smith's. We got over about 5 or 6 in the evening of Thursday, and slept at Smith's. We got up at 5 A.M., and first saw the Fenians three-quarters of an hour afterwards. I was arrested at Fort Erie on Saturday morning. I had not gone through a pond of water when I was arrested. It was one mile and a half from where I parted from Slavin. I slept out all night in the woods. I had no pistol. Prisoner had no rifle. I had wandered about all day, laid down in the woods sometimes. No guard on the ferry. I had heard of the Fenians, but I did not belong to them. I am an Irishman. I had known prisoner only from the time we left. I was arrested between 9 and 10 on Saturday morning. I threw down nothing before I was arrested.

James Dandridge, sworn. I reside in Buffalo. I am an ornamental designer, and work with Teller and Corning. I know prisoner. I first knew him in 1857 or 1859. Prisoner was a preparer of picture frames for gilding. He was a steady man, a first-rate worker. We worked together in Boston in the same shop. I next knew him at Baddu Ferry, in the army of the United States. I next saw him on the 31st May last, at Buffalo. He called to see if I could get him work where I was. I gave him the address of another gilder. He did not get work. I gave him three dollars to help him, being out of means and out of work. He had said he thought he could get work on a railway. I advised him to get it, and work his way to Toronto, where he could get work at his own business. I know Toronto workmen. They did not use machinery at his branch of business. He left to go to get work. He is not a man likely to join this. He is sympathetic and kind friend. He left at three in the afternoon, saying he would look for work.

Cross-examined. I am an Englishman. Have been in the United States sixteen years. Buffalo had then a great many people, Fenians. I asked him if he was one. He said he was not. I gave him three dollars, and that was the last I saw of him.

Mrs. Ann Smith, sworn. I live in Fort Erie. I lived there on the 1st of June last. My husband keeps a hotel there. I saw prisoner and Hughes first at 5 P.M. on the evening of the 31st of May. There was a boy who brought them to my house: he was a stranger. The boy said he had been sent by Mr. McLeod to get these men to board, for they were going to work on the railway. McLeod had sent others. They had several drinks they paid for, some they did not. They had supper. We had only four or five boarders there. Hughes said to Slavin not to pay for the drinks. I then asked my husband if it was right. He said, yes, if they are going to work to-morrow. We had been paid for a few drinks they had in the forepart of the evening. Prisoner went to bed about 10 in the evening. I saw them next morning about 5 o'clock. We were routed up by being told the Fenians were there. I awoke them, and they got up. It was about 5 o'clock. The Fenians got to our house about 5 o'clock. They came in and ordered breakfast. They said they would arrest every man. They placed a guard over every door. I got breakfast for them. They said I must get it. They did not leave me much. The Fenians said to Slavin and Hughes, who were cutting up, and saying they were not Fenians, "if you do not shut up, we will take you prisoners." Hughes and Slavin were the prisoners of the Fenians, and I heard them say they were not Fenians. One of them, the prisoner or Hughes, said there will be no work done here, we had better go to the other side. I heard them say they had been hired by McLeod to go to work next day. He used to hire men. I thought they had been drinking. They got breakfast at 8, both. I waited on prisoner myself. I did not see them after 20 minutes past 8. I saw men of Fort Erie on Friday afternoon carrying rifles to the Custom-house. Rifles and canteens were lying about all Friday and Saturday. The parties who brought me here were looking for McLeod.

Cross-examined. Slavin and Hughes were brought to my house by a boy. They told me so. They had been working on that road the week before. I think they were working on the road the same week. Some of the men boarded with us. One man by the name of Mack, used to board a week or two before this. I cannot mention one man who boarded with us on the 31st May. I did not see McLeod for a week before that time, nor since. Slavin and Hughes said they had been sent by a man by the name of McLeod.

Hughes, I think, said so in Slavin's presence. The four or five who boarded with us then were not railway workers. They were not engaged, at that time. The only two that left our house on the 1st June were Slavins and Hughes. The men who came across were Fenians. Slavins and Hughes said, they were no Fenians, and were trying to make their way out. The Fenians would not let them. While the Fenians were at breakfast they were kept prisoners. They took breakfast with a few of the Fenians. I knew of nothing to keep them there after breakfast. The prisoner and Hughes did not leave till 10 o'clock. I heard one say to the other, you had better keep the three dollars. Slavin, I think, spent 50 cents after this. We trusted them on the faith of their working on the railway. The Fenians went away between 9 and 10. A few remained about. It was towards evening the arms were scattered about. The guns had bright barrels. Our house was searched for Fenian arms on Sunday. They found nothing but me. I did not see Slavin or Hughes.

Re-examined. Neither Hughes nor Slavin had arms, and seemed strangers. It is not usual to remember names. People did board there, although I do not remember their names. My husband keeps the time of the boarders. I attend to the kitchen and bar sometimes.

#### Defence.

Verdict "guilty" on the 2nd count, "not guilty" on the 1st and 3rd counts.

McKenzie moves in arrest of judgment on the following grounds:

1. That it appears on the face of the indictment, that the offence charged against the prisoner was committed in the county of Welland, and the indictment therefore could not be legally preferred against him under the statute 29 & 30 Vict., cap. 4, sec. 3, in this Court. It being a Court for the United counties of York and Peel. The authority of the statute being restricted to single counties, and that the verdict and the indictment are illegal.

2. That the prisoner is charged in the 2nd count with an offence different from that created by the statute against citizens of a foreign State, and unauthorized by the statute against such citizens. That the offence charged in the 2nd count of the indictment, was committed on the 2nd day of June, and before the passing of the Act passed on the 10th August, 29 & 30 Vict., cap. 4.

Mr. McKenzie meant, he says, to take the same objections as was taken in the *Queen v. Parry*. The Crown say they so understood it, and he has the same ground here taken. I do not see anything in the objection taken in arrest of judgment.

Sentence, that the prisoner be executed on the 13th day of December next.

(Signed) J. W. WILSON, J. C. P.

#### COPY of Judge WILSON'S Notes in the QUEEN v. WILLIAM HAYDEN.

##### Indictment under the Foreign Aggression Act.

John Metcalfe, sworn. I am a private in the Queen's Own. I was at the battle of Ridgeway, on Saturday, the 2nd of June, at about 7 A.M. The Queen's Own, the 13th Battalion, and the Caledonia Rifles and the York Rifles—I think, all Canadian volunteers, and all in uniform—we were attacked by the Fenians at Lime Ridges; I cannot say the number, but in considerable force. They were armed: they fired on us. I saw Ensign McEachren wounded, in front where I was, and I saw him dead afterwards. I saw a man shot dead by my side. The force which we met were embodied, and in arms, and called themselves Fenians. I saw prisoner in gaol. I made no threats; no promises. I gave him the usual caution. He said he was an American citizen; used to work on steam-boats, and a native of Louisville, Kentucky. He had no home; he last came from Buffalo. Great Britain and the United States are at peace, and were so then.

Joseph Newbigging, sworn. I live near Fort Erie; am a son of Thomas Newbigging. On the morning of the 1st of June, 1866, about daylight, I saw the Fenians come from the state of New York, and cross in four canal-boats, towed by two tugs, and they landed on this side, at the Shingle Dock, or Lower Ferry. They appeared to be 700 or 800. Most were in plain clothes; some had green tunics; some American uniform, undress; some partly trimmed in green. They carried arms, and were armed. I saw the prisoner that day, between 5 and 6 in the evening. He was dressed in plain clothes; a green veil about his neck. He had a cartridge-box, slung by a belt around his waist. He had a Fenian rifle and bayonet. He rode a roan-coloured horse, which I learnt belonged to the N. E. Railway Company. He spoke to Cranmer Ricely, who stood near me. He said, "Give me the rest of that money." He pulled out his pocket-book, and said, "I have

but very little left; I gave you nearly all I had before." The prisoner said, "You have lots of money." He gave prisoner 80 or 85 cents, in 10 and 5 cent pieces. Ricely asked him if he would not keep the boys away. Prisoner said he would now he had something to treat them with. That was the first and last time I saw him. This happened at Ricely's house, which is  $1\frac{1}{4}$  mile from where they landed. I was there at tea. He is a farmer there. It was between 5 and 6 in the afternoon. We were sitting outside, with one William Miller. The prisoner rode to the gate, and we went to meet him.

Cross-examined. Most of them were armed. Some wore green tunics, but most had civilians' clothes. Prisoner rode down towards the Shingle Dock when he left the lane leading from Ricely's house. I saw prisoner in Toronto; I picked him out at once. Ricely's house is about two miles from the Fenian camp. There is no road across from his place to the camp. You go by the river road and Anderson's road, which is over 2 miles; straight across would be  $1\frac{1}{2}$  mile. He was alone. No work going on the road. Fifteen horses belonging to the N. S. Railway Company, at pasture at Mr O'Connell's, near Fort Erie, were taken by the Fenians. This was one of them. Ricely said in prisoner's presence that he had been there four times that day before for money. The rifle he carried was the same as the Fenians carried; they had steel mounting and bright barrels. Ours have brass mounting. They left our farm in the night of the 1st of June. When I saw prisoner the main body were on our farm. I had just gone from there to Ricely's.

George Graham, sworn. I live 3 miles from Fort Erie, on the Anderson road, half a mile beyond Ricely's. I saw the prisoner on Friday, the 1st of June, about 5 p.m. I saw prisoner, as I supposed, first at Ricely's. I saw him on a black-roan horse. He passed me riding furiously. I saw him afterwards standing at a shoemaker's shop, in front of my place. I put my cows up, and went over to him. He was armed with a rifle, having a bright barrel and a bayonet fixed; the same kind of rifle the Fenians had. He asked me what I was. I said, "An Englishman." He said, "We have come over, and the country is taken; the hated Saxon rule is extinct." He asked for a quarter of a dollar. I said quarters were scarce. He said, "Get it," in a commanding tone; "I want to get something to drink." I went to my house, and got it, and gave it to him. He gave it to a little girl there. He left then. He appeared to be a little under the influence of liquor. He had a kind of green veil or sash round his neck.

Cross-examined. I saw him on Sunday next. I recognized him at once; but I did not point him out—another man did it. I live half a mile beyond Ricely's. He was alone at the times I saw him. He was a little under the influence of liquor. He said, "The country is taken; the Saxon rule is extinct." It was after he said this, I think, he asked for the quarter. I do not know when they left the camp. I heard the firing when they withdrew the pickets. I saw prisoner next in July.

Re-examined. He was not much intoxicated; he knew what he was saying.

William Miller, sworn. I live 5 miles below Fort Erie, on the bank of the river. I was at Mr Ricely's  $1\frac{1}{4}$  mile back from the Lower Ferry, on the Anderson's road. I had heard of the Fenians crossing. I saw prisoner four times on the 1st of June; first at Mr Ricely's. He rode up to the gate, and called me up, and asked me to get him something to eat. This was about 2 o'clock. He was on horseback; had a rifle and bayonet such as the Fenians use. I got him something to eat, and he went away. In about three-quarters of an hour he came back, riding and armed as before. He rode into the yard, dismounted, turned the horse loose, came up to Ricely, and asked for 2 dollars. He said, "I want to treat myself." Ricely gave him some money; he asked what they had come over for. Prisoner said, "We have come over to take Canada;" or, "We have taken it, and we are going to free Ireland." I understood he meant the Fenians. He rode away. About an hour after he came back, as before. He wanted the rest of that money, he said. Ricely gave him more money. He was on horseback, and armed. I afterwards saw him going in the direction of the camp. I saw others straggling about. One of the times he was there, four others came, and wanted something to eat—they were armed—and got it. After they finished, they turned to prisoner, and asked if that was satisfactory. He said it was.

Cross-examined. These men went away before he did. I cannot say they recognized each other. They talked together with the prisoner while they were there. Ricely talked with them. I thought he was a little in liquor. He sat his horse very well. I did not know his talk was wild. I think he had all his senses about him. I do not know when he was arrested. I next saw him in gaol here in July. I recognized him at once, and a few others. I have no doubt he is the man.

Case for the Crown.

## Defence.

McKenzie reads affidavit, by consent, of character. Good. Was a soldier in the United States' army in 1863.

McKenzie objects to my charge, on the grounds taken in Parry's case. I should not have told the jury that it lay on the prisoner to show he had business there. I should not have said, "Can there be any doubt prisoner was at Lime Ridge or Fort Erie?" I should have told the jury that his riding up and down 2 miles from the camp was strong evidence that his object was private plunder, and that the Crown had to show by direct evidence that prisoner was connected with the Fenians. I did not tell the jury that it lay on the prisoner to show he had business there, except in illustrating how a man may relieve himself from imputation; and I told the jury that a man needed not, unless he chose, to give any account of himself.

Verdict, Guilty.

McKenzie moves in arrest of judgment: That it appears on the face of the indictments that the several offences charged against the prisoner were committed in the county of Welland; and the indictment could not be legally preferred against him in these United Counties, under the 29 and 30 Vict., cap. 4, sec. 3, in this Court, being a Court for these United Counties—the authority of the statute being confined to one county (R. and R. 158, *Rex v. Hewitt*); that the prisoner is charged in several counts of offences different from those created by the statute against citizens of a foreign State; and in the third count he is charged with having committed a direct act of hostility against the Queen not mentioned in the Act at all; that it appears that the offences were committed on the 1st and 2nd June, 1866, before the passing of the statute 29 and 30 Vict., cap. 4, sec. 3.

Sentenced to be executed on the 13th day of December next.

(Signed) J. W. WILSON, J. C. P.

COPY of Judge WILSON'S Notes in the *QUEEN v. DANIEL WHALEN*.

Indictment under the Foreign Aggression Act.

PRISONER is put upon his trial—on the first juror being called, McKenzie for the prisoner challenges the array, and the prisoner himself challenges the array; and his Counsel states on the following grounds. They are filed. Noon. Court adjourned till 2 P.M.

2 P.M. Court opened.

I have overruled the allowance of the challenge to the array. McKenzie tenders a bill of exceptions to my ruling, which I decline to receive.

5 P.M. Court adjourned till 10 A.M. to-morrow.

10 A.M. Court opened.

McKenzie moves to quash the petit jury list, or to put off the trial until next Court Oyer and Terminer, or for a rule on the Attorney-General to show cause why the jury list should not be set aside, or why the trial should not be put off to enable prisoner to move to quash the jury list. See motion paper. Motion refused.

McKenzie moves for a precept to summon a jury *de meditate lingua*, and it is granted. The precept was being prepared he declined to have it.

John Metcalfe, sworn. Describes the affair at Ridgeway, the same as his evidence in Whalen's case. The United States and Great Britain are at peace.

He has seen the prisoner at the bar. I conversed with him. I made no threats, no

He said, "I am an American citizen; I was born at Singing, Jackson county, New York. I live a portion of my time in Adjala, Albion, and Tecumseth. I left it three years ago, and went to Cleveland in Ohio. I left Cleveland for Buffalo of May last, to go to Ireland to liberate her. I crossed over with several boats to Erie in canal boats. I was wounded at Lime Bridge." I subsequently saw

the right shoulder, the neck, and the left ear. A wound made by one ball. He had the wound. He said the reason they retreated was that the officer

retreated about face, instead of forward; and the fire was so heavy they could not advance. This he told me at Port Colborne, while he was lying wounded in the bed, and another called Partell were wounded and lying in the same bed. I

asked how many they had. Partell answered, about 1,000 men. This was in the bed. I asked who commanded them; Partell answered, Colonel O'Neil. I

asked where here he was wounded. He said in the neck. Both said they had been in the bed. Prisoner, with an oath, said their officer had given the wrong word

and that the fire was so heavy they had to retreat.

asked prisoner  
the American  
of command;

Cross-examined. He seemed at ease when the prisoner spoke to me. I did not then see prisoner's wound. It was then bound up. This was about 7 A.M., on Sunday. The battle happened the day before. He said the fire of our troops was so heavy, we were obliged to run. The memorandum in the book was written by Dugald C. McNab, who was in gaol for receiving money under false pretences. I did not, to my knowledge or recollection, use harsh words against the prisoners. I said if they were not punished I should lay down my arms. I said I should not take prisoners at another raid. McNabb asked me to go with him, and I went.

Alexander Lawson, sworn. I live in Port Colborne (McKenzie objects to his evidence; his name is not on the Indictment), overruled. It is on the Indictment. I was at the battle of Ridgeway. I am a civilian, but I accompanied the troops to Ridgeway. I was made a prisoner by a Fenian, by order of an officer. A Fenian officer there gave me this paper. It is read. I went in search for wounded men to help them. I saw the prisoner; was wounded. I washed the wound. He was shot through the shoulder, neck, and left ear. He was in a farm-house with other wounded Fenians. Sentries were at the door; but there were some of the Queen's Own there. The prisoner had a blue jacket, like the American uniform, trimmed with green. The officer had the same. I saw prisoner's coat which he claimed as his, and I saw where the ball went through it.

Cross-examined. I was with prisoner half an hour at first. I went for assistance and brought waggons down, and went with them, and they brought the wounded men up. I saw him then in bed. He wanted his coat, and I went and hunted it up, and he said it was his. This is the coat I described. He did not seem to suffer at first, but in the evening he did. He said his name was Daniel Whalen. He seemed to be suffering when he was in the wagon. He seemed then weaker than he was at first. I did not see him again till I saw him in gaol. I went to the gaol and asked to see Whalen. The turnkey filed them against the wall, thirty or forty. I could not recognize his features, for when I saw him he was all over blood; but I picked him out from the wound in the ear, and when I saw it I said this is Whalen; and it was. I was in the fire. I might have been wounded. I did not hear of any wounded who did not belong to one or the other. I saw persons in civilian's dress about there, and I heard bullets.

#### Case for the Crown.

Robert B. Lynch, sworn. I am a prisoner in gaol here. My home is in Louisville, Kentucky. I was in a commercial house. I wrote several letters to my employer, who was to revise them and publish them in the Louisville papers. I was not specially employed by the papers. I was in Canada in June last. I was in the employment of James McDermott, of Louisville, who was Assistant-Adjutant-General of the Fenian brotherhood in the State of Kentucky; and I was sent by him to report the progress of the affair in Canada. I saw the prisoner at the bar on Friday afternoon, the 1st June, 1866, between the Lower and Upper Ferry on the river bank. He was walking with Mr. Lavin, from Cleveland, a railway contractor who has works on the North road. Prisoner was introduced to me by him. The prisoner was not armed. Very few Fenians were there.

John Denun sworn. I have been in gaol since June, in Toronto. I lived in Buffalo. I work at the rolling-mill at B. V. I was in Buffalo on the 31st of May. He was drinking, and not sober. He did not assent at that time to come over. He said his father and his friends lived in Canada, and he would not go to fight against them. This was between 7 and 8 P.M. He was then pretty drunk. He did not appear to belong to the Fenians.

Cross-examined. I did not see him on this side till he came to gaol. He had no uniform on. I do not know how he came over.

R. B. Lynch, re-called. I do not know whether he was a Fenian. He had plain clothes. This was between 2 and 3 o'clock. Lavin had nothing to do with the Fenians. He was walking with Lavin, and did not appear to be with the Fenians there.

Cross-examined. The prisoner was sober.

John Metcalfe, sworn. I have no recollection of the prisoner saying he never fired a shot.

McKenzie takes the same exceptions to my charge as in O'Neil and Parry's cases.

Verdict "Guilty."

On being asked why, &c.,

McKenzie moves to arrest judgment, on the same grounds\* as taken in Hayden's case.

Sentence to be executed on the 13th day of December next.

(Signed)

J. W. WILSON, J. C. P.

\* See case of Hayden for above objections.

## Defence.

McKenzie reads affidavit, by consent, of character. Good. Was a soldier in the United States' army in 1863.

McKenzie objects to my charge, on the grounds taken in Parry's case. I should not have told the jury that it lay on the prisoner to show he had business there. I should not have said, "Can there be any doubt prisoner was at Lime Ridge or Fort Erie?" I should have told the jury that his riding up and down 2 miles from the camp was strong evidence that his object was private plunder, and that the Crown had to show by direct evidence that prisoner was connected with the Fenians. I did not tell the jury that it lay on the prisoner to show he had business there, except in illustrating how a man may relieve himself from imputation; and I told the jury that a man needed not, unless he chose, to give any account of himself.

Verdict, Guilty.

McKenzie moves in arrest of judgment: That it appears on the face of the indictments that the several offences charged against the prisoner were committed in the county of Welland; and the indictment could not be legally preferred against him in these United Counties, under the 29 and 30 Vict., cap. 4, sec. 3, in this Court, being a Court for these United Counties—the authority of the statute being confined to one county (R. and R. 158, *Rex v. Hewitt*); that the prisoner is charged in several counts of offences different from those created by the statute against citizens of a foreign State; and in the third count he is charged with having committed a direct act of hostility against the Queen not mentioned in the Act at all; that it appears that the offences were committed on the 1st and 2nd June, 1866, before the passing of the statute 29 and 30 Vict., cap. 4, sec. 3.

Sentenced to be executed on the 13th day of December next.

(Signed) J. W. WILSON, J. C. P.

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I have seen the prisoner at the bar. I conversed with him. I made no threats, no promises. He said, "I am an American citizen; I was born at Singsing, Jackson county, State of New York. I live a portion of my time in Adjara, Albion, and Tecumseth. I left Canada about three years ago, and went to Cleveland in Ohio. I left Cleveland for Buffalo on the 30th of May last, to go to Ireland to liberate her. I crossed over with several others to Fort Erie in canal boats. I was wounded at Lime Bridge." I subsequently saw the wounds on the right shoulder, the neck, and the left ear. A wound made by one ball. He had told me he had the wound. He said the reason they retreated was that the officer stood right about face, instead of forward; and the fire was so heavy they could not stand. This he told me at Port Colborne, while he was lying wounded in the hospital. I asked an officer called Partell were wounded and lying in the same bed. I asked how many they had. Partell answered, about 1,000 men. This was in the morning of the 25th. I asked who commanded them; Partell answered, Colonel O'Neil. I asked where he was wounded. He said in the neck. Both said they had been in the same bed. Prisoner, with an oath, said their officer had given the wrong word. I asked if the fire was so heavy they had to retreat.

Cross-examined. He seemed at ease when the prisoner spoke to me. I did not then see prisoner's wound. It was then bound up. This was about 7 A.M., on Sunday. The battle happened the day before. He said the fire of our troops was so heavy, we were obliged to run. The memorandum in the book was written by Dugald C. McNab, who was in gaol for receiving money under false pretences. I did not, to my knowledge or recollection, use harsh words against the prisoners. I said if they were not punished I should lay down my arms. I said I should not take prisoners at another raid. McNabb asked me to go with him, and I went.

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Verdict "Guilty."

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McKenzie moves to arrest judgment, on the same grounds\* as taken in Hayden's case.

Sentence to be executed on the 13th day of December next.

(Signed)

J. W. WILSON, J. C. P.

\* See case of Hayden for above objections.

OBJECTIONS referred to in the cases where they are noted.

Mr. McKenzie's objections in Parry's case are as follows:—

1. That his Lordship should have directed the jury that in law there was no evidence that the prisoner was an American citizen within the meaning of the Act, and that the Crown should show what constituted a citizen of the United States according to the laws of the United States.

2. That he should have directed the jury that there was no evidence that the prisoner entered Upper Canada, with others, with intents to levy war against the Queen, or entered it at all with others; consequently he could not be convicted on the first count.

3. That he should have directed the jury that the prisoner could not be convicted on the second count unless it were proved that he took up arms or was in arms, or was actually armed, in company with others, in Upper Canada, with intent to levy war on the Queen's province, without being armed being insufficient.

4. That he should have directed the jury that the prisoner could not be convicted on the third count unless the jury found that the prisoner committed a direct act of hostility in assaulting or attacking, with other persons, armed and arrayed in a warlike manner, certain of Her Majesty's subjects, with intent to levy war against the Queen; that the prisoner must have been present during an attack and taking a part before he would be guilty on the third count.

5. That he should have told the jury that the prisoner could not be convicted on the present indictment for being present, aiding, assisting, and comforting the alleged raiders, as there is no count in the indictment charging him with such an offence.

6. That the prisoner being charged in the indictment as an American citizen, no duty was cast on him to withdraw or give notice when he found a breach of the law was contemplated, although it might be otherwise if charged as a British subject; and that there is evidence he withdrew when he found the law was about to be violated.

7. That he should have directed the jury that unless there was evidence to show, or from which they could infer, an intent on the part of the prisoner to levy war against the Queen, he could not be convicted on the present indictment.

8. That there is no legal evidence to show that the prisoner, or the persons assembled at Fort Erie on the 1st and 2nd of June, intended to levy war against the Queen; and for all that appears in evidence, their object might have been the redress of a private grievance, which might be a great riot, but not a levying of war against the Queen; and that he should have directed an acquittal of the prisoners on the ground that there is no evidence to show the intention alleged in the indictment; and that the prisoner cannot be convicted without proof that the prisoner intended with force to dethrone the Queen, destroy the Government, or subvert some public law or institution, or to effect some public object; and that he should have explained to the jury what would constitute levying war against the Queen.

9. That the Imperial Act 11 and 12 Vict., cap. 12, providing for offences against the Queen similar to those alleged against the prisoner, must override the Provincial Act which was passed previously to it, and under which the prisoner is being proceeded against.

(Signed) J. W. WILSON, J. C. P.

OBJECTIONS referred to.

In O'Neil's case Mr. McKenzie moves to quash the indictment:—

1. For misjoinder of counts. That under the first three counts he is charged as an American citizen under the 1st clause of the Act.

2. That he is charged in the fourth and fifth counts as a British subject under the 2nd clause. That in the sixth count he is charged with high treason. A man cannot be citizen of a foreign State and a British subject at the same time. There cannot be distinct offences charged in the same indictment.

3. That on the indictment it appears the offence was committed in the county of Welland, and the prisoner cannot be tried on an indictment found in this Court, being for the united counties of York and Peel. The words used are "county," not "united counties."

On motion of Mr. McKenzie, the prisoner is allowed till to-morrow to plead.—He pleads.

Copy of a DESPATCH from Lieutenant-General Sir J. MICHEL to the Right Hon. the Earl of CARNARVON.

Montreal, December 13, 1866.

(Received December 28, 1866.)

(No. 7.)

My LORD,

(Answered, No. 127, January 7, 1867, page 83.)

I HAVE the honour to acknowledge the receipt of your despatch No. 108\* of the 24th November, addressed to Lord Monck, and announcing your decision with regard to the commutation of the sentences of the Fenian convicts Lynch and McMahon.

\* Page 82.

Before your Lordship's despatch reached Lord Monck, he had granted a respite till the 13th March to Lynch and McMahon, and also to the other Fenian convicts now under sentence of death in Toronto.

Lord Monck will explain personally to your Lordship the reasons which induced him to refrain from immediately promulgating the decision which you communicated to him.

I shall accordingly leave the convicts in their present position until I receive further instructions from your Lordship.

I have, &c.

(Signed)

J. MICHEL, Lieutenant-General,

Administrator of Government.

The Right Hon. the Earl of Carnarvon,

&c.

&c.

&c.

No. 20.

No. 20.

Copy of a DESPATCH from Lieutenant-General Sir J. MICHEL to the Right Hon. the Earl of CARNARVON.

(No. 15.)

My LORD,

Montreal, December 21, 1866.

(Received January 2, 1867.)

I HAVE the honour to report to your Lordship that the trials of the Fenian prisoners taken in Lower Canada in the month of June last, commenced at Sweetsburgh on the 18th instant.

The first case was that of Thomas Madden, a British subject, who was charged with "feloniously joining himself to persons who had entered Lower Canada with intent to levy war on Her Majesty."

His trial was only concluded to-day, and I have just learned by telegraph that he has been convicted and condemned to death. I shall not be able to send any details of the evidence to your Lordship until the next mail.

I have, &c.

(Signed)

J. MICHEL, Lieutenant-Governor,

Administrator of Government.

The Right Hon. the Earl of Carnarvon,

&c.

&c.

&c.

No. 21.

No. 21.

Copy of a DESPATCH from Lieutenant-General Sir J. MICHEL to the Right Hon. the Earl of CARNARVON.

(No. 17.)

My LORD,

Montreal, December 27, 1866.

(Received January 15, 1867.)

(Answered, No. 133, February 2, 1867, page 84.)

IN my despatch No. 15† of the 21st December, I reported to your Lordship that the trials of the Fenians taken in Lower Canada had commenced, and that one case had ended in the conviction of the prisoner, Thomas Madden.

† Page 65.

The convict was sentenced to be executed on the 15th of February, 1867.

I beg to transmit for your information a copy of the evidence on which he was found guilty.

It shows that Madden was taken with arms in his hands, and that his comrades, if not he himself, fired on the policemen who were endeavouring to arrest him. His case, therefore, is still more serious than those of Lynch, McMahon, and others, who were convicted at Toronto of a crime similar to Madden.

Two more prisoners have been convicted at Sweetsburgh since the conclusion of Madden's trial; one of them, Thomas Smith, was indicted as a citizen of a foreign state, the other, Michael Crowley, as a British subject. I have not yet received copies of the evidence in these cases. Smith has been condemned to death, and sentence on Crowley has been deferred, but no doubt he will be left for execution.

Bearing in mind, however, the decision to which your Lordship came with respect to the convicts Lynch and McMahon, as communicated to Lord Monck in your despatch No. 108\* of the 24th November, I do not intend to allow the penalty of death to be inflicted on the prisoners who have been condemned at Sweetsburgh until I shall receive further instructions from your Lordship.

I therefore now beg to refer the case of Madden for the consideration of Her Majesty's Government, and in dealing with the other prisoners I shall be guided by the measure of punishment which shall be awarded to him.

Whilst I thus place the matter in your Lordship's hands, I think it my duty to state that on grounds of public policy it is my opinion that none of the convicts should suffer the extreme penalty of the law.

I have, &c.

(Signed)

J. MICHEL, Lieutenant-General,  
Administrator of Government.

The Right Hon. the Earl of Carnarvon,  
&c. &c. &c.

Incl. in No. 21.

Inclosure in No. 21.

Province of Canada, District of Bedford.

In the Court of Queen's Bench, Crown side.—December Term, 1866.

Wednesday the 19th day of December, 1866.

Before the Honourable Mr. Justice JOHNSON.

The QUEEN v. THOMAS MADDEN.

On indictment for (being a subject of Her Majesty) feloniously joining himself to persons who had entered Lower Canada with intent to levy war against Her Majesty.

#### EVIDENCE AT TRIAL.

William Stewart Holsapple, sworn. Resides in St. Armand's, is a farmer. In the month of June, I think the 5th, I went to St. Albans to ascertain what I had heard by rumour, that an invasion of Canada was intended. I met a person who told me to take an opposite course, that is to say, to East Highgate, where I went. At East Highgate I saw a number of persons called Fenians, they were so called there. Some were armed; some were not armed. There were several hundreds of these Fenians. Some were armed and some not. One of them offered to sell me his gun. I saw them moving towards Franklin Centre. East Highgate is six miles from Frontier Line. The last I saw of them that day was at Judge Hubbard's, there were eight of them under his wood shed. I counted at East Highgate 276 of these Fenians; they were together on the east side of the bridge. There were others on west side whom I did not count. These people were armed with guns, bayonets, swords, carbines, and revolvers. I counted thirty-one guns that seemed to be new American pieces, such as were used in the United States army in the war. On leaving East Highgate for Franklin, they were in the straight road to the Province. The persons I saw in Judge Hubbard's barn were not armed. I saw these Fenians in a body of 200 or 300 the following day, marching towards Canada. I saw them again on Friday, the 8th of June. I met them in small numbers near my house in Canada, at night. On the 9th, early in the morning, I went to Pigeon Hill. I saw three persons coming out of Oliver's store; two of them had a basket. On Saturday the 9th, I visited several houses at Pigeon Hill, and found they had been pillaged. I went to Pigeon Hill because the report was rife that the Fenians had the previous day ransacked the place, and carried off the goods of the inhabitants. Another reason was that they had entered my own house. My house was broken open on the 8th. When I saw it, they had not damaged the house much. Some things were missing; my carriage-house was broken open, and a saddle and other articles taken away. The place generally at Pigeon Hill, had an extraordinary appearance; furniture was broken, glass and crockery scattered about the houses. I conversed with the three men I saw at Pigeon Hill, on the evening of the 8th. They

first inquired if there were any horses at Krantz's, my neighbour, then if I had any. They said they wanted horses to form a cavalry corps. I asked them what for. They said also, they were going to form an Irish Republic in Canada. I said I had no more horses; they had already two colts, but they wanted better ones. One of them went to the barn to look for horses; another advised me to go to the hill and take the oath of allegiance to the Irish Republic. I said, No. Two of them were armed, the third may have been, but I saw no arms on him; one who represented himself as the leader of the party, had a gun. These people were strangers to me. I was born and brought up near Pigeon Hill. It was the inhabitants of the place at Highgate that called these people Fenians. I had heard the name before, and seen it in print. I understood it meant the name of some persons who were banded together for some purpose.

(Crown produces Paper No. 5.)

I received this paper from my father, on information from one Alpheus Stephenson.

(Witness ordered to stand down.)

Alpheus Stephenson, sworn. I got this paper on the 8th of June. I got it in the village at Pigeon Hill, from Colonel Edmund Rice, to give it to Mr. Holsapple. I gave it him. Colonel Rice I never saw before. I did not see any military equipments about him. This looks like the paper. I only got one paper from Colonel Rice. I have no doubt this is the paper. Paper read.

#### Copy of Paper.

“Head Quarters, 1st Div. Irish Army, Camp in the Field. June 8th, 1866.

“The Irish Republic promises to pay W. Stewart Holsapple 100 dollars for value received, six months after.”

“J. H. WILSON.”

Mr. Holsapple is recalled. At Pigeon Hill on the 9th, I saw, besides the three I have mentioned, a number of persons coming from the south. I think the first squad consisted of eleven or thirteen. I don't remember which. They went into Carpenter's tavern. A few moments after they went in, one of them came out and asked me to tell him the way to get into Carpenter's cellar.

George B. Baker, Advocate, sworn. I lived at Nelsonville last June. On the 6th or 7th, there was a rumour about the Fenians were coming. I went towards the line and found the houses abandoned. I proceeded across the line and found the village filled with Fenians; part were armed, part unarmed. Some had muskets, some swords, and some pistols. They were encamped on the village green. They moved off in the direction of Canada. We started (Mr. Whitman and myself) to go to Cook's Corners, and overtook these people on the road. As we came near the line we heard the order sent back to bring up the rear-guard; we drove on and passed more of them, and saw that part of them had come into Canada, stacked their arms, and hoisted a green flag. The body of the flag was green, and there was some figure and device on it that I could not distinguish. This was about a quarter of a mile on this side the line. There was a guard on the line, and the sentry asked us if we had passes. The guard that halted us were armed with muskets and fixed bayonets. We had no passes, and the sergeant said it was doubtful if we could go on without passes. We asked where we were to get them, and he said at head-quarters. We found another guard stationed about a quarter of a mile on this side of the place where the flag was hoisted. We were halted also by this guard and asked for passes. Having none, the sergeant said he must put us under arrest. I asked him for what, and he said for the purpose of sending us back to head-quarters. I asked him the object, he said he had no explanations to make, his orders were positive. He then ordered one of the men to take our horse by the head, and called another man to seat himself in the buggy, and told him to take us back to the Colonel. The man in the buggy with us, was armed with a gun and a bayonet. The head-quarters were on the other side; we met the column advancing towards Canada in martial array, four deep, and commanded by officers. We met this column close on the line; the Colonel was walking in the rear of the column. The guard in the buggy told him he had us as prisoners. The Colonel I think told the Major to march the men down towards the line, and to establish his head-quarters in a building just on the line. The Colonel said his name was Contri; he was dressed in a fantastic uniform. He expressed regret to inconvenience us, but said he must adhere to military rules. That they were going into Canada to occupy the country, and could not release us except on parole. This conversation took place on the

other side of the line; he said they wanted horses, they had the soldiers, and they were not robbers, but soldiers. A part of the column passed the line just as we did; I endeavoured to count the column as we passed. I think there were about 600 of them. Colonel Contri pointed to the flag, and said it was already hoisted in Canada, and they had proclaimed the Irish Republic. This was said a little on this side the line.

Cross-examined. Never saw the prisoner at the bar before, to recognize him.

Robert L. Tittlemore, sworn. Lives at St. Armand, about two miles from Province line, did so in June. I was at home on the 8th and 7th of June. There was a public rumour on the 7th that the Province was to be invaded by the Fenians. I had seen them on the other side of the line at Franklin, on the 5th. I saw one band of twenty men armed; some of them were singing and dancing. The people called them Fenians. Some of them had sabres, some guns, some large revolvers. I know the people of Franklin very well. The armed men I saw were strangers to the place. On Friday the 8th, I saw armed men at Pigeon Hill, at about 11 o'clock in the day; I had gone up to see what was going on, having heard the Fenians were there. I saw two men armed, and leading a horse. I saw William Butler's door broken open; as I stepped in I saw four armed men in the house. I had never seen them before; I supposed them to be Fenians. I did not speak to them. As I came out of the door, I saw five or six men with guns; four men rode up saying they came from Clarenceville, they joined us. We ran away, and they fired at us; we proceeded, and they hailed us again and fired another shot. They fired at us a third time, not long after that; I heard the ball whistle over my head. I went to one William Smith's, and was there when these same six men came there; they ordered the family out of the house, made a demand for the wounded cavalry. They said they had shot two British cavalry soldiers, and they were secreted in the house. They then asked if there were any red coats secreted about the house; I understood they meant British soldiers; I answered, No. They said, don't you lie to me, if you do, I will blow your brains out. They then made me prisoner, and said they would take me to camp. One of these men called himself Captain Murphy of the Fourth Cavalry; he gave orders to one of the men to go to camp and tell Colonel Somebody to forward his forces, the red coats were in sight. The man left, and Captain Murphy then paroled me; he sat on his horse with his sword drawn, and administered a sort of an oath to me to the effect that I was not to harbour British soldiers, and not take up arms against the Fenians. He took me under the protection, as he said, of the Irish Republic, and offered me a pass. He said if I broke my parole, he would hang me up to the first tree. He said when he was leaving, that he would be through there in a fortnight or three weeks with a large army. I saw in the course of the day, fifteen or twenty Fenians near my place; they were most of them armed, and under the command of this Murphy. The next day, the 9th, I saw the houses at Pigeon Hill, they had been ransacked.

Cross-examined. I did not know any of the people I saw on the 8th of June; I had never seen them before. I knew two of the men, who said they came from Clarenceville. I thought they were Fenians because they were strangers and had arms in their hands, and had heard it reported. On the 9th, the main body of the Fenians left Pigeon Hill. They were there in the morning; they left in the afternoon.

Levi Scott, sworn. Lives at Dunham Flats. On the 7th of June, I had heard of the Fenians coming. I went down to Cook's Corners, and saw a body of them. Some thirty, I should think, came in. They marched three deep, and seemed to have officers to command them. The citizens nearly all left. Two of the Fenians wanted to speak to me, that they were after horses, but would not take mine. I stopped, and they took my horse. They said they intended to take Canada and march on Montreal. I went to what they called their head-quarters on this side the line. The guard stopped me, and took me down to General Spears. It was on the high road I was stopped. I saw Colonel Contri. He said the General was very busy that night, but if I came in the morning he would see me. I saw armed men at the camp. The next morning I saw a flag. The head-quarters were at Eccles' house, about a quarter of a mile on the Canada side. The next morning Colonel Contri introduced me to General Spear, who acknowledged the introduction, and said they wanted horses, but would not keep mine, and ordered it to be given back. I got the horse in Courtney's possession (a Major Courtney) at Eccles' place. They gave me a pass. (Produces it.)

(Copy.)

"Head-Quarters, 1st Div., I. R. A., June 8, 1866.

"Guards and patrols will pass Levi Scott through the lines and return. Good for three days.

(Signed)

"JAMES B. LYONS,  
"Maj. and Pro.-Marshal."

I met three more Fenians near Frelighsburg. They were armed and drunk; they pushed me off my horse and rifled my pockets. One of them snapped his carbine at me, and another struck me with his sword.

Cross-examined. Was a witness before Grand Jury. Stated there what I have said here.

Reuben Martin, sworn. Lives at Dunham Flats. Lived there in June. On the 7th I went to the lines on the road from Cook's Corners to Franklin. I was stopped about half a mile on this side of the road by a guard of six or eight men all armed. They wanted to know my business. I said we wanted to know their intentions. The officer referred us to Colonel Contri. I never saw but one of the men before. They were strangers in that part of the country. They formed four deep, and took us to Colonel Contri's. Mr. Rykerd told him the inhabitants were much alarmed, and we wanted to know their intention. He said he expected to pay for what he took if he could, but that the Irish had been down-trodden by British power, and they had come to make war upon the forces of the Province, but not on the inhabitants. He refused to parole me, but paroled Rykerd and Coburn. I learned, indirectly, that the reason for not paroling me was that he thought me a soldier. Soon after Rykerd and Coburn left. General Spear came across. There was a general cheer when he came. The force collected on the line marched over immediately after the arrival of General Spear. They were 500 or 600. They called themselves the Fenian army. They had several flags, small green silk flags. There was a harp, and some letters on the flags. They marched in military array.

Cross-examined. Was a witness before the Grand Jury. I do not know when the Fenians left the Province. I understood they left on Saturday, but I do not know the hour.

Frederick John Parker, a Custom-house officer at Frelighsburg. I was there on the 7th. I left because I was obliged to do so by this Fenian raid. I returned next morning. My house was disordered when I returned. I left again on the 8th, and returned on the 10th. I found the house ransacked, and property taken away; every drawer and box broken open, and almost everything stolen. My flag was stolen. It was a British ensign bought by subscription for the village. Custom-house office also entered; stamps and other things removed. The royal arms were split to pieces. The Fenians came to Frelighsburg on the 7th. Frelighsburg is  $2\frac{1}{2}$  or 3 miles from Province line by road. There were upwards of twenty marching in military order, and commanded by an officer, and armed with rifles. I learned on Saturday evening that they had left.

Cross-examined. I heard late on Saturday that our troops were coming, and the Fenians were running away. I have received from Government the amount I claimed for damages to my property by the Fenians.

William Thomson. Lived at Pigeon Hill. Saw the Fenians on the 6th of June between Franklin and Highgate, about 800 to 1,000 of them; they were marching. I asked them where they were going; they said to Slab city (Frelighsburg). The majority of them were armed, and they were marching in imperfect military order. On Thursday, the 7th, I saw about 100 Fenians at Cook's Corners; about 50 of them were armed; some had halters for horses, and swords. I saw some afterwards at Pigeon Hill; they were armed; they left late on the 9th. I recognized some of them from having seen them at Cook's Corners.

Cross-examined. Some Fenian prisoners were taken by our forces on Saturday; the main body left on Saturday. I saw no large body of Fenians after troops came up on Saturday, only small parties of six or so.

Robert Oliver. Was at Frelighsburg on the 7th. Saw Fenians arrive about 7 o'clock in the evening; there were 22 marching in order; they were all armed. They came from Cook's Corners by road leading to the United States; they had carbines, swords, revolvers, and rifles. I saw them plundering stores—Lansberg's and Smith's stores. They got a flag at Smith's store; they said they had a flag now, and cheered and made a row. The first man I met called himself a Captain of Cavalry; he told me not to fear. A guard was placed at the bridge. The guard were armed with guns and fixed bayonets; I saw them fire at a man crossing the bridge; I don't know the man. The guard would not let us go one way or the other until they chose.

Cross-examined. I got back on Sunday. I heard on that morning the main body of the Fenians had left on Saturday. The houses in Frelighsburg were abandoned, and any one might have plundered them.

Re-examined. The people abandoned their houses because they were afraid of the Fenians.

Noah Sager. Lived at Pigeon Hill in June. I was not there when Fenians came. I was in Franklin; went there on 1st June. I saw Fenians on 5th at Franklin Centre,

fifteen or twenty at first, afterwards more. The public said they were Fenians. Some of them were armed. I saw a number of them on 6th in Hubbard's barn. They said they were coming to take Canada, and establish a Republican Government. I saw 700 or 800 Fenians encamped near Eccles on Thursday the 7th. It was called the Fenian camp. Sentries were posted, and I saw officers commanding. I was taken prisoner. I met Colonel Contri, he ordered me to go to the Adjutant's office. I was afterwards sent to General Spears. I asked to see Colonel Connor, who had given me a pass, and I was subsequently released.

Cross-examined. I never saw the prisoner before. I returned to Pigeon Hill on Saturday night. I understood previously the invaders had left.

Thursday the 20th day of December, 1866.

Present:—The Hon. Mr. Justice JOHNSON.

THE QUEEN v. THOMAS MADDEN.

EVIDENCE—continued.

Peter Yates, sworn. Lived in St. Armand's, near Pigeon Hill, in June last. On the 7th in the forenoon a squad of 7 came to my house. I had heard previously the Fenians were coming. They told me not to fear, they would hurt no one who did not resist them, but only those who did. They asked for milk; one man, apparently the leader, said, not to be alarmed, unless resisted, but those who resisted would be made prisoners of war. They did not want to hurt any body or injure property. They came to fight the British Government, and they were going to give us a Republican Government. He said, I suppose you would not object to that? I did not assent. He added, I suppose you may not want it, but the people in general would like a Republican Government. Other squads came, and we had pretty similar conversations, and they avowed the same intention, adding, that they wanted to whip the red coats. They said, England made all our laws for us, and they were not going to allow it. I dissented, and to convince them showed them a volume of our statutes. They added, when I told them our Governor was an Irishman, that we had one other renegade Irishman, and if they caught him they would string him up. They said it was Mr. McGee, one of the Ministers of the Crown. They said, on one occasion, they understood we were going to have a confederation of the Provinces, and there was to be an English Prince on the throne, and they were not going to allow that. I saw more of these men on the 9th at my house; they were armed, as well as those who came previously; they had various arms and equipments, such as guns, swords, and cartridge boxes. In the course of the two or three days I should think I saw 200 or 300 of these men in different directions. I gave them food under compulsion. They offered no violence to me.

Cross-examined. I ceased to fear them after I had become acquainted with them. I saw them make no use of their arms beyond shooting at a scarecrow behind the house. On Saturday they mostly left. I only saw six on that day.

Thomas Russell Roberts, sworn. I live at Philipsburg, and am a practising attorney. I went to Pigeon Hill on the 7th June, to ascertain something definite respecting the Fenians, who I understood had come into the Province. By Fenians I understood a body of armed men who had invaded the Province from the United States with hostile design. The people were much alarmed in the village. I saw a number of these men, they were armed with sabres and had belts on. I entered into conversation with one of them, who appeared to be a sort of leader. He seemed very intelligent. I spoke to him of his travel-stained appearance. I said, most of the women had left from fear, and we are uncertain of your designs. He replied, we pretend to be a Government, and shall carry on war on the principles that govern civilized warfare. We shall not plunder from the people; we consider poor people our friends. Something was said about horses. He said, our orders are that the first man who brings a horse into camp shall be shot. He meant the Fenian camp at Eccles' house. He said, Quebec is a strong place, but may be taken. While this conversation was going on, a bystander said some more were coming. I got into my buggy. There were thirteen. They were all armed and straggling along; they were all together in a straggling squad. They were strangers. I then went home.

Cross-examined. I understood the Fenians left the Province on Saturday, 9th.

Alpheus Stephenson, sworn. Lived at Pigeon Hill 7th, 8th, and 9th June. The Fenians came on the 7th at three. The last I saw of them was on Saturday the 9th, at

about 11 o'clock in the forenoon. They were plundering people's houses. I saw the plundering going on on Saturday morning. I saw about 16 houses at Pigeon Hill that had been plundered.

Cross-examined. I saw most of the houses when they were being plundered, and saw the Fenians going from house to house. I saw them by twos and threes. The main body left on Friday night and Saturday morning. I saw the prisoner there on Friday morning (8th). I saw a person named Rodgers after he was arrested. He is now discharged. I saw him with a neighbour's horse. He was getting the horse ready to mount, and subsequently mounted him and rode away. I saw a person who gave his name as Colonel Rice. He gave me a receipt or paper, which I handed to Holsapple. I was a witness before the Grand Jury.

Question. Did you tell the Grand Jury that you saw Colonel Rice?

Question objected to and overruled.

Humphrey Chadburn, sworn. I live at Frelighsburg. Several of the Fenians were searched by me at St. Armand station after their arrest. I searched one Terence McDonald, one of the prisoners. It was about 2 o'clock in the afternoon. I found on him the medal I now produce.

Anthony Sewell, sworn. In Government police. Was so on 9th June. I know the prisoner. I went down to Cook's Corner on the 9th June, having been told there were some Fenians at Eccles' house; about a dozen in number. I proceeded to the place with Asa Rykerd and Levi Traver. I got out of the buggy at Eccles'. The Fenians stopped me, and asked me where the hell I was going? They were armed with sabres, carbines, and rifles. I pulled out my revolver, and told them that was where I was going. One of them, not in custody, brought his rifle to the present. We both fired. The prisoner ran and took his position on the right. I cast my eye on him, and I saw he had his carbine at the present. He was armed with a carbine and a sabre. I raised my revolver to his side, and shot him. Prisoner turned round to run across the road; I shot him again in the back. He was making for the wood. I pulled again, but missed fire. I ran after prisoner to wood. I fell and hurt my knee. Rykerd came up. I told him to take my revolver, as prisoner was in wood. He took my revolver, and brought prisoner back. When we got into the waggon there were more shots fired from Eccles' house, as we drove off with the prisoner. As we went to Pigeon Hill, I saw the guides going up to Eccles'. We then had the prisoner in the waggon. The prisoner asked me to throw him out of the waggon into the ditch, and let him die. He was in great pain from his wound.

Cross-examined. I don't know how near the Province line is to Eccles'. We were at Eccles' house. On Saturday afternoon I heard the Fenians were retiring. I saw no Fenians there after 12 o'clock on Saturday. When I got to Eccles' the Fenians, among whom was the prisoner, were standing on the road. When I first saw the Fenians, I thought they were, some of them, trading their arms. I know there were three or four guns in the lot, and the prisoner had a carbine and a sabre. After I fired the shot at the first man, he was taken away, I believe by his comrades, but my attention was particularly directed to W. Cadden.

Asa Rykerd. Lives at Dunham; was there on 9th June. I went to Eccles', about half a mile from the lines, with last witness and Traver. When we got within about three rods of Eccles' we met Mosgrove, who told us that we could take the whole party, as only three guns were loaded.

Confirms Sewell in every particular, and adds, that while Sewell was running after prisoner a shot was fired from Eccles' house at him or Traver.

When Traver and I got into wood we found prisoner; he surrendered. We took him, and put him in the buggy. While we were doing this the Fenians came out of the house, and fired at us. We met the guides. The road was barricaded near Eccles' house.

Cross-examined. The Fenians, when we met them, were in the road near Eccles' house. I think there were seven standing in the road, others in house. All seemed to have arms who were standing in the road. May have been a dozen or so. Mr. Mosgrove said he had bought a gun, and was trying to buy another. The party all started when they saw Sewell firing repeated shots. I understood Sewell to say, as we got to Eccles', after getting out of the waggon, he wanted to be shown the last Fenian. He addressed this to the Fenians. One of them said, "What in hell do you want here?" I went to Pigeon Hill to see United States' guard that had been placed near the line, as I understood to prevent the Fenians recrossing. I heard they were leaving on Saturday.

Asa Rykerd recalled. I did not see the prisoner searched.

James Mosgrove, sworn. Lived in St. Armands last June. I was at home part of the

time, and at Franklin, and at the Fenian camp near Eccles' house. This was on Saturday afternoon, the 9th. I was with the Fenians near Eccles' two or three hours. I saw the prisoner with them all the time I was there. Some were armed. When I first saw the prisoner he was sitting on a log near the road, with four or five others. One of them was marching as a sentry, and ordered us to halt. He then ordered us to advance. We advanced and sat down. There was one Edward Hurtney with me. The prisoner asked him if he was an Irishman. He said he was. The prisoner spoke in Irish to him. He did not understand it, and the prisoner damned him and said he was no Irishman. The prisoner began to complain that their officers had deserted them, and took his carbine and drew the hammer back, and asked me if I saw that. I told him I did. He said, "Ireland would never be free as long as that went back." There then came up another squad of four or five more, and ordered these to leave, for that they had been fired on, and the enemy was coming. This squad came from Cook's Corners. One of them said, pointing to prisoner, "This is my Captain, I will obey him." Prisoner said nothing. They passed down to the line. Prisoner and his squad remained. I went down to the lines, the American troops were there, and the Fenians, when they saw them, began breaking their arms. I asked the man who called prisoner his Captain, to sell me his gun. He said he would for 1½ dollar. He told me to keep out of the way of the rest of the Fenians, or they would take it from me. Hurtney wanted also to buy a gun from the Fenians. Hurtney asked me if I had any money. I told him I had 2 dollars in American money. I gave it to him, and he went back; and after a while he came back, and said he could do nothing with them. I went to prisoner with the 2 dollars, and tried to buy his carbine. He would not sell it for 2 dollars, so I left to go home. After a few rods I met Rykerd, Traver, and Sewell. Sewell was getting out of the waggon, and asked me if there were any Fenians there. I said, yes. We went back, and one of the Fenians ordered us to halt. Sewell said something I did not hear. A Fenian drew his gun, and Sewell drew his pistol, and both fired. I kept my eye on both, and could not tell who fired first. The Fenian then started for Eccles' house. I ran after him and threw him down. He called out, and others rushed out of Eccles' house. I went back to waggon. I should think Sewell fired six or seven shots. I did not count them. I was engaged at the time in a struggle with the other man. There might be a dozen or more Fenians at Eccles'. After prisoner was fired at, he ran towards the west.

Cross-examined. The persons I met on the road committed no violence on me at first. They called on us to halt. I did not hear Sewell say, "I want to see the last Fenian." The Fenian spoke first. On the 7th, three squads came to my house for victuals, and got them.

Levi Traver, sworn. I know the prisoner. I saw him near the Fenian camp on the 9th June, near Eccles'. Mr. Rykerd and I, on the 9th, in the afternoon, went to see the Fenian camp. Sewell asked me for a ride. I referred him to Rykerd, and he got in. We drove near the camp. There were a number of men standing in the road, whom I supposed to be Fenians. I did not know them. He (Sewell) jumped out of the waggon, and commenced firing; he commenced as soon as he could walk up to them. I did not hear what was said. There were other guns fired before we left. I was 3 or 4 rods from the place where the firing was. After firing ceased, I saw a man running across the fields. I think the prisoner is the man. (Confirms Rykerd and Sewell.) Thinks the prisoner was one of the persons they called Fenians; he was among them.

Cross-examined. At this time, as I was told, the main body of the Fenians had left.

George Tilbury, sworn. I am a trooper in the Royal Guides. On the 9th June was with them in the part of the country where the raid occurred. We went to Cook's Corners and to Eccles'. We met Sewell near barricade. Was with prisoner and another man in waggon. We were led by Mr. W. Coney. At a turn of the road we came upon a body of Fenians, who fired on us. We captured a prisoner. I believe his name is Smith.

Cross-examined. I should think there were a dozen or so of the Fenians.

Charles J. Schiller, sworn. I saw the prisoner brought to Montreal on the 11th June; I was present in the gaol, in Montreal. The statement made by the prisoner respecting his name, place of birth, &c., was made in my presence. It was also put down in writing, according to the rules of the prison. He stated he was born in Ireland; his trade was that of a shoemaker; and that he had recently come from Bridgewater, in the state of Massachusetts, and was a single man.

Cross-examined. I was present when this statement was reduced to writing.

Re-examined. There are six other prisoners under accusation of the same offence as the prisoner: Edward Gilgan, Terence McDonald, Edward Carroll, Cornelius Owens, Michael Crowley, and Fenton Holmes.

Bills found 6th December instant. The bills were submitted to the Grand Jury one

by one, and returned together. The investigation before Grand Jury lasted three days. Twenty-one bills against prisoners for an offence charged to have been committed on the 7th June; they have been the subjects of a *nolle prosequi*. Six bills were found against five other prisoners.

Verdict, Guilty.

Sentence, Death, 15th February, 1867.

Sweetsburg, December 26, 1866.

(Signed)

F. G. JOHNSON, J. S. C.

No. 22.

No. 22.

EXTRACT from a DESPATCH from the Officer Administering the Government to the Right Hon. the Earl of CARNARVON, dated Montreal, December 31, 1866.

(Received January 15, 1867.)

IT is my intention now to proceed without further delay to commute the sentences of all the Fenian convicts who have been condemned to death, including those recently convicted at Sweetsburg, whose cases I referred for the consideration of Her Majesty's Government in my despatch No. 17\* of the 27th instant. I shall take this course, as I think it is of the greatest importance that the sentences of all should be announced at the same time.

\* Page 65.

In determining the terms of imprisonment to be awarded to the convicts, my Council and myself will be guided as far as the circumstances of each case will permit by your Lordship's decision with regard to Lynch and McMahon.

No. 23.

No. 23.

COPY of a DESPATCH from Lieutenant-General Sir J. MICHEL to the Right Hon. the Earl of CARNARVON.

Montreal, January 4, 1867.

(No. 7.)

(Received January 25, 1867.)

MY LORD,

(Answered. No. 134, February 2, 1867, page 84.)

I HAVE the honour to inform you that I and my Council have taken into consideration the cases of the Fenian convicts who have been condemned to death at the late trials at Toronto and Sweetsburg, and that it has been determined to commute the capital sentence in every case to imprisonment for twenty years with hard labour in the Provincial Penitentiary.

The crime of which all the prisoners were found guilty was of so grave a nature that it was not considered advisable, for the present at least, to make a distinction between them, nor to award a smaller amount of punishment to any than was decided on by Her Majesty's Government for Lynch and McMahon.

The documents commuting the sentences on the convicts—seven in Canada West, and three in Canada East—received my signature and approval yesterday, but there are other legal formalities necessary, and these cannot be completed till about the 8th instant.

Until that time, therefore, I am obliged to postpone the publication of your Lordship's despatch No. 108\* of the 24th November, in order that nothing may be surmised from its reference to Lynch and McMahon respecting the probable fate of the other prisoners till they can be legally removed to the Penitentiary at Kingston.

\* Page 82.

This precaution is necessary with regard to those recently convicted at Sweetsburg, as they are now in Bedford Gaol, at a distance of only fifteen miles from the frontier of the United States, and an attempt to rescue them might possibly be made, if it became known that they were likely to undergo so severe a punishment, as that of twenty years' imprisonment.

I intend to make special provision for the safe keeping of the prisoners in the Penitentiary at Kingston, by stationing there some volunteer militia in addition to the ordinary garrison of regular troops.

I have, &c.

(Signed)

J. MICHEL, Lieutenant-General,

Administrator of Government.

The Right Hon. the Earl of Carnarvon,

&c.

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DESPATCHES FROM THE SECRETARY OF STATE.

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## Despatches from the Secretary of State.

No. 1.

No. 1.

COPY of a DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to Governor-General the Right Hon. Viscount MONCK.

(No. 56.)

MY LORD,

Downing Street, June 16, 1866.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 43\* of the 1st of June, informing me that a body of 600 Fenians had crossed the frontier and established themselves in the village of Fort Erie in Canada.

\* Page 1.

I have, &amp;c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed) EDWARD CARDWELL.

No. 2.

No. 2.

COPY of a DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to Governor-General the Right Hon. Viscount MONCK.

(No. 63.)

MY LORD,

Downing Street, June 22, 1866.

I HAVE the honour to acknowledge the receipt of your despatch No. 45† of the 4th of June, respecting the attack recently made by a body of armed Fenians on the village of Fort Erie in Canada West.

† Page 1.

I have, &amp;c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed) EDWARD CARDWELL.

No. 3.

No. 3.

COPY of a DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to Governor-General the Right Hon. Viscount MONCK.

(No. 67.)

MY LORD,

Downing Street, June 23, 1866.

I HAVE received with great satisfaction the intelligence conveyed to me by your despatch No. 47‡ of the 8th of June.

‡ Page 3.

I do not doubt that the judicious preparations for defence which were made by the Civil and Military Authorities in Canada, will prove effectual in securing the Province against any further attack on the part of the Fenians; and I learn with great pleasure the admirable spirit displayed by the Administration and people on this occasion, and the great zeal shown by the Volunteers in meeting with promptitude the outrage committed upon the peaceable country of Canada.

I have communicated your despatch to the Earl of Clarendon, and I have no doubt that his Lordship will instruct Her Majesty's Minister at Washington, to express to Mr. Seward the gratification which Her Majesty's Government feel at the friendly and effectual co-operation of the Government of the United States in repressing these unjustifiable invasions of British Territory.

I have, &amp;c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed) EDWARD CARDWELL.

No. 4.

No. 4.

COPY of a DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to Governor-General the Right Hon. Viscount MONCK.

(No. 69.)

MY LORD,

Downing Street, June 29, 1866.

\* Page 24.

I HAVE the honour to acknowledge your despatch of 14th instant, No. 54.\*

I approve the course pursued by your Lordship, and am glad to find that the reports of the officers referred to negative, as far as they are concerned, the reports which had been made to Major-General Meade.

I have, &amp;c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed) EDWARD CARDWELL.

No. 5.

No. 5.

COPY of a DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to Governor-General the Right Hon. Viscount MONCK.

(No. 71.)

MY LORD,

Downing Street, June 30, 1866.

† Page 7.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 53† of the 14th of June, enclosing copies of reports addressed to Lieutenant-General Sir J. Michel, by the several officers whose names are noted in the margin,‡ relative to the recent Fenian invasion at Fort Erie.

Her Majesty's Government deplore the loss of life which has thus occurred, but they congratulate you on the complete discomfiture of the large and comprehensive plan of attack which had been arranged.

Her Majesty's Government unite with you in the tribute you pay to the energy and good faith exhibited by the American Government on this occasion, and they confidently trust that the efficient measures which have been adopted by both the United States and the Provincial Governments, will secure British Territory from any further attack.

Your account of the spirit which animates the Canadian people, of their appreciation of the free institutions under which they live, and of their loyalty to the Throne, is in the highest degree satisfactory, the cheerfulness with which they suspended their industrial occupations in order to serve in the ranks of the Volunteers, and the zeal which they exhibited in the service, reflect the greatest credit upon them.

I shall have much pleasure in bringing under the notice of the Secretary of State for War, the testimony you bear to Lieutenant-General Sir J. Michel and the officers under his command, in the able disposition of the troops both Regulars and Volunteers, and I will not fail to call the attention of the Lords Commanders of the Admiralty to the praise awarded by you to the Officers of the Royal Navy quartered at Quebec and Montreal.

I will also bring under the notice of the Secretary of State for War the name of Colonel McDougall, the Adjutant-General of Militia, whose services have been so highly appreciated by you.

I have, &amp;c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed) EDWARD CARDWELL.

No. 6.

No. 6.

COPY of a DESPATCH from the Right Hon. EDWARD CARDWELL, M.P., to Governor-General the Right Hon. Viscount MONCK.

(No. 72.)

MY LORD,

Downing Street, June 30, 1866.

§ Page 4.

I HAVE received your despatch No. 51§ of 11th instant, in which you inclose copies of two Acts passed by the Legislature of Canada, authorizing respectively the summary imprisonment of persons charged with certain offences against the peace of the Colony, and the trial in Lower Canada by a Militia General Court-martial of persons levying war against Her Majesty in that Province.

I rely on your discretion for the use you will make of these extensive powers, and do

‡ Colonel Peacock, Lieutenant-Colonel Booker, Lieutenant-Colonel Denis, Captain Akers, and Colonel Lowry.

not doubt that you will have recourse, in every case in which it may be possible to do so, to the ordinary tribunals for the punishment of offenders.

I hope that the total failure of the recent senseless attempts to disturb the peace of the Colony will have relieved your Government from all apprehension for the future, and will enable you to deal with the persons who have fallen into your hands with deliberate consideration of the various reasons which should affect your treatment of them, and without incurring any appearance of precipitation or undue severity.

I have, &c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed)

EDWARD CARDWELL.

No. 7.

No. 7.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General the Right Hon. Viscount MONCK.

(No. 4.)

MY LORD,

Downing Street, July 7, 1866.

I OBSERVE that the recent Act of the Canadian Parliament, authorizing the trial by Militia Courts-martial, of foreigners and others who are guilty of, or accessory to acts of aggression or hostility in Lower Canada, has formed the subject of a communication from my predecessor in this department.

This Act, which is copied from an Act passed in 1838 for the protection of Upper Canada and is made applicable to the Lower Province, is of an exceptional character and to be justified by the exceptional circumstances of the time. I shall advise Her Majesty to leave it to its operation. At the same time, I am unwilling to lose any time in expressing my earnest hope that recourse will not be had to any but the usual tribunals for the trial of offenders.

When in 1838 a similar Act was passed for Upper Canada, the general condition of the Province was in many respects a very critical one. Such happily, I understand from your Lordship's despatches, is not now the case. Thanks to the loyalty of all classes in Canada and to the good faith and co-operation of the United States authorities, all aggression from their territory has been baffled and no immediate danger appears to threaten the peace of the Province. There remains doubtless, some natural resentment on the part of those who have been exposed to so wanton and criminal an outrage, but I am confident that your Lordship and your advisers are fully alive to the wisdom of moderation in such a case, and of confining the punishment of the offenders as far as practicable within the limits of what may be required for the protection of the Province now and in the future.

But under any circumstances Her Majesty's Government consider it on every account to be desired, that the persons concerned in this insane and lawless enterprize, should be tried with all deliberation and should not be deprived of any advantages which can be claimed under the ordinary forms of law. And it would be to them a cause of serious regret if any step were taken from which it could be inferred that the British authorities were either unwilling to await the ordinary course of justice or distrustful of the spirit in which it would be administered.

I have, &c.

The Right Hon. Viscount Monck,  
&c. &c. &c.

(Signed)

CARNARVON.

No. 8.

No. 8.

COPY of DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General the Right Hon. Viscount MONCK.

(No. 7.)

MY LORD,

Downing Street, July 11, 1866.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch No. 55\* of the 14th June, in which you bring to my predecessor's notice the patriotism and devotion exhibited during the late Fenian disturbances by Canadians resident in Chicago, who on hearing of the seizure of Fort Erie, gave up their various employments in order to return to Canada to offer their services for the defence of their country.

You also report that a large number of Canadians, resident in New York, expressed

to you, through Her Majesty's Consul, their willingness to abandon their several occupations in that city, to assist in the defence of Canada against Fenian attacks.

I cannot express to your Lordship too strongly, the high sense entertained by Her Majesty's Government of the spirit and loyalty thus evinced, and I trust that such patriotic conduct will go far to prevent the repetition of such criminal attempts as have recently been made at Fort Erie and St. Albans.

The Right Hon. Viscount Monck,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

No. 9.

No. 9.

Copy of a DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General to Right Hon. Viscount MONCK.

(No. 18.)

My LORD,

Downing Street, August 4, 1866.

I HAVE the honour to transmit to you the copy of a letter from the Secretary of State for War, inclosing one written by the directions of His Royal Highness the Field Marshal Commanding-in-chief, expressing his high appreciation of the gallant and energetic behaviour recently exhibited by the Militia and Volunteers of Canada.

I am desirous of adding that it is most gratifying to me to be the medium for making this communication to your Lordship.

The Right Hon. Viscount Monck,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

Inclo. 1 in No. 9.

Inclosure 1 in No. 9.

Sir E. LUGARD to Mr. ELLIOT.

SIR,

War Office, July 26, 1866.

I AM directed by Secretary Lieutenant-General Peel to transmit to you, for the information of the Earl of Carnarvon, the inclosed copy of a letter which has been received from the Horse Guards expressing the high appreciation by His Royal Highness the Field Marshal Commanding-in-chief of the gallant and energetic behaviour shown by the Volunteers and Militia of Canada, on the occasion of the late Fenian attack upon that Province.

Lieutenant-General Peel requests that Lord Carnarvon will communicate to the Governor-General the sentiments expressed in this letter.

T. Frederick Elliot, Esq.,  
&c. &c. &c.

I have, &c.  
(Signed) EDWARD LUGARD.

Inclo. 2 in No. 9.

Inclosure 2 in No. 9.

Lieut.-General FORSTER to the UNDER-SECRETARY OF STATE FOR WAR.

SIR,

Horse Guards, July 21, 1866.

WITH reference to the several reports which have been received from the General Officer commanding in Canada, relative to the Fenian movement in that Province, and to the measures taken by the Colonists for repelling any Fenian attack, I am directed by the Field Marshal Commanding-in-chief to request that you will acquaint the Secretary of State for War that His Royal Highness having observed the alacrity, loyalty, and zeal shown by the Volunteers and Militia forces of Canada in having come forward for the defence of the Colony on the late trying occasion in support of the troops, is very desirous of expressing to the forces his full appreciation of their gallant and energetic behaviour, and the very great gratification and satisfaction he has thereby experienced; and His Royal Highness trusts, therefore, that Lieutenant-General Peel will see no objection to the necessary communication being made by him to the Colonial Office with the view to His Royal Highness' sentiments, as above expressed, being made known

through the proper channel to the Volunteers and Militia of Canada lately employed against the Fenians.

I have, &c.  
(Signed) W. F. FORSTER.

The Under-Secretary of State for War.

No. 10.

No. 10.

Copy of a DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General the Right Hon. Viscount MONCK.

(No. 53.)

MY LORD,

Downing Street, September 13, 1866.

I HAVE to acknowledge your despatch No. 112\* of the 15th of August, inclosing copies of the Acts intituled respectively "An Act to amend an Act of the present Session, intituled 'An Act to protect the Inhabitants of Lower Canada against Lawless Aggressions from Subjects of Foreign Countries at peace with Her Majesty,'" and "An Act to amend the Ninety-eighth Chapter of the Consolidated Statutes of Upper Canada."

\* Page 34.

One effect of these Acts is to give an indefinite retrospective operation in Upper Canada to the 3rd section of the Act 22 Vict., cap. 98, itself a re-enactment of the 3rd section of 1 Vict., cap. 3; and in Lower Canada to the 3rd section of the Act 29 Vict., cap. 2.

The giving retrospective operation to an enactment which has been in force since the first year of Her Majesty's reign, though open to objection of principle, can hardly have any practical consequences. But to give such an effect to the recent Act of 29 Vict., is a matter of substantial importance. Under the law as it now stands a man might apparently be punished as a felon for an act which was not a felony when it was committed. Such a retrospective law is liable to serious objection, even as regards Her Majesty's subjects; and in its application to foreigners would be inconsistent with recognized principles of international law.

Probably this consequence of the law now forwarded escaped the attention of your Government. But care must be taken to avoid the embarrassments to which it might give rise, and I have to instruct you that neither of these Acts must on any account be enforced in cases where they would have a retrospective operation.

It will not be possible for me to submit them for Her Majesty's sanction without such modifications as will relieve them from the objections which I have described.

I have, &c.  
(Signed) CARNARVON.

The Right Hon. Viscount Monck,  
&c. &c. &c.

No. 11.

No. 11.

Copy of a DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General the Right Hon. Viscount MONCK.

(No. 101.)

MY LORD,

Downing Street, November 23, 1866.

I HAVE had under my consideration your despatches Nos. 154 and 165,† dated the 6th and 18th October, and I have the honour to inform you that Her Majesty's Government see no objection to the course which your Lordship and the Canadian Government have adopted, and propose to adopt, with regard to certain Fenian prisoners, under the Acts intituled respectively "An Act to amend an Act of the present session, intituled 'An Act to protect the Inhabitants of Lower Canada against Lawless Aggressions from Subjects of Foreign Countries at Peace with Her Majesty,'" and "An Act to amend the Ninety-eighth Chapter of the Consolidated Statutes of Upper Canada."

† Pages 35 and 36.

I have, &c.  
(Signed) CARNARVON.

The Right Hon. Viscount Monck,  
&c. &c. &c.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General the Right Hon. Viscount MONCK.

(No. 108.)

MY LORD,

Downing Street, November 24, 1866.

I HAVE received your telegram stating that you have reserved the sentences of the Fenian convicts, and referring me to Mr. Seward's communication to Sir F. Bruce upon this subject. I have also received your despatch of the 3rd November\* and the Reports of Fenian trials.

\* Page 37.

Mr. Seward, I observe, applies for a record of the judicial proceedings, and I infer from the papers before me that this request has been granted.

I approve of your having done so. At the same time, having regard to all the circumstances, I am anxious to guard myself from assenting to the proposition that this request could have assumed the form of a demand founded upon strict international right. An application by the prisoners' Counsel through the United States' Consul in Canada, who has had all facilities granted him, might have secured for Mr. Seward all that he desires, and would have been more in accordance with ordinary usage.

But whilst thus ready and anxious to afford the convicts in question every chance of interposing any plea for delay or extenuation which may be fairly open to them through the proper authorities of their country, I am bound to protect the administration of justice in Canada from any claim of supervision which might on a first perusal of Mr. Seward's words be thought to attach to them. Such language might possibly be construed into a claim on the part of the United States' Government to investigate into and to sit as a Court of Appeal upon the judicial proceedings as carried on in an English Court in Canada, and with all the safeguards and sanctions of English jurisprudence.

I am satisfied that no such claim could be intended. It would be, indeed, a pretension that the United States' Government would probably be the first to reject, not only because a nation so jealous of its own honour would scrupulously abstain from any request a compliance with which would be inconsistent with the rights and dignity of an independent State, but because the practice and jurisprudence of the two countries on such a question, are, I believe, almost, if not quite identical.

After a careful perusal of the trials in Toronto, I am convinced that not the faintest shadow of an imputation can, in the opinion of any reasonable person, rest upon the perfect fairness of the proceedings or the justice of the verdict. Not only was there no curtailment of that full measure of liberty and means of defence which is so essential an element in the criminal jurisprudence both of the United States and of Great Britain, but every privilege that could be conceded to the prisoners appears to have been allowed. The case of the Crown was temperately stated, the whole Court concurred in the delays which were asked and granted, and I observe that even the prisoner Lynch bore witness to the fairness and impartiality with which his case was tried.

Her Majesty's Government are requested to grant an amnesty to these prisoners. They have carefully considered the question. They cannot shut their eyes to the very heinous character of the offence. It was neither more nor less than a wanton and lawless attack, with the avowed object of carrying fire and sword into an unoffending Province. It has indeed, providentially, proved to be as fruitless in its result as it was wicked in its design, which contemplated not only murder and rapine in Canada, but the possibility of embroiling two friendly nations in an unnatural war.

Her Majesty's Government are not insensible to the resentment which the people of Canada must feel. They have submitted, and submitted cheerfully, to great sacrifices of their time and their professional avocations. Property has been destroyed, trade injured, and, I grieve to think, valuable lives have been lost.

Nor, again, have the course which the associates and the sympathisers with these unhappy criminals adopted, the language which they are reported to have held, and the idle threats of retaliation said to have been used by them, rendered it easier either for the Canadian people or Her Majesty's Government to overlook the grave character of the offence:

But taking into account the fact that nearly six months have now elapsed, and that nothing has occurred in the interval to detract from the complete success which crowned the efforts of Her Majesty's troops and of the Canadian Volunteers in suppressing the Fenian invasion, and readily accepting the opinion of yourself and your advisers in favour of clemency, Her Majesty's Government are disposed to hope that the ends of justice and wise policy may be secured without recourse to the extreme penalties of the law.

I have therefore thought it my duty to recommend to Her Majesty to extend Her

prerogative of mercy to the prisoners Lynch and Mc Mahon, now lying under sentence of death, and to commute that sentence to twenty years of penal servitude or imprisonment, as the law of Canada may warrant you in assigning.

It is only to be hoped that this act of clemency on the part of Her Majesty may not be misunderstood, and that the punishment to which the capital sentences have been commuted may be of sufficient severity to warn others of the still graver consequences to which they will inevitably render themselves liable by a repetition of such insane and criminal proceedings. But if unhappily this hope should be disappointed, all such persons must be prepared to be visited with the extreme penalties of the law.

The Right Hon. Viscount Monck,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

No. 13.

No. 13.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to Governor-General the Right Hon. Viscount MONCK.

(No. 109.)

MY LORD,

Downing Street, November 24, 1866.

I HAVE the honour to acknowledge your despatch No. 183\* of the 3rd of November, accompanied by various documents in the cases of Robert B. Lynch and the Rev. John MacMahon, lately convicted of felony at Toronto.

I have in another despatch conveyed to you the views of Her Majesty's Government upon the disposal of these prisoners.

The Right Hon. Viscount Monck,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

\* Page 37.

No. 14.

No. 14.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to the Officer Administering the Government.

(No. 121.)

SIR,

Downing Street, December 28, 1866.

I HAVE the honour to acknowledge the receipt of Lord Monck's despatch No. 204† of the 1st December, inclosing notes in the trials of five Fenian prisoners recently convicted at Toronto.

The Officer Administering the Government.

I have, &c.  
(Signed) CARNARVON.

† Page 52.

No. 15.

No. 15.

COPY of a DESPATCH from the Right Hon. the Earl of CARNARVON to Lieutenant-General Sir J. MICHEL.

(No. 127.)

SIR,

Downing Street, January 7, 1867.

I HAVE the honour to acknowledge the receipt of your despatch No. 7‡ of the 13th December last, respecting the decision of Her Majesty's Government in the cases of the condemned Fenian prisoners, Lynch and MacMahon.

You will have been informed by my telegraphic despatch of the 28th ultimo that I considered necessary the promulgation of my despatch on the subject, No. 108§ of the 24th November.

Lieutenant-General Sir J. Michel,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

‡ Page 65.

§ Page 82.

No. 16.

No. 16.

Copy of a DESPATCH from the Right Hon. the Earl of CARNARVON to Lieutenant-General Sir J. MICHEL.

(No. 133.)

SIR,

Downing Street, February 2, 1867.

\* Page 65.

I HAVE had before me your despatch No. 17\* of the 27th of December, requesting instructions on the case of Thomas Madden, a Fenian convict, on whom capital sentence was passed.

I approve of your not having allowed the penalty of death to be inflicted on this and the other prisoners who were condemned at the same time. I have, however, carefully considered the evidence in this case, and I am of opinion that under all the circumstances it will be right that you should commute Madden's sentence to the same term of twenty years of imprisonment or penal servitude, as may under the Canadian law be fitting, as has already been fixed for the convicts Lynch and MacMahon.

Lieutenant-General Sir J. Michel,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

No. 17.

No. 17.

Copy of a DESPATCH from the Right Hon. the Earl of CARNARVON to Lieutenant-General Sir J. MICHEL.

(No. 134.)

SIR,

Downing Street, February 2, 1867.

† Page 73.

I HAVE had the honour to receive your despatch No. 7† of the 4th of January, reporting that you had determined, with the advice of your Council, to commute in every case the capital sentence passed on Fenian convicts at the late trials at Toronto to penal servitude for twenty years.

The particulars of these cases must have been fully within the cognizance of yourself and your Council. The crime of which all the prisoners were found guilty appeared to you so grave that it would not, for the present at least, be fit to make a distinction between them, or to award to any of them a smaller amount of punishment than was decided upon for Lynch and McMahan. I see no reason to doubt the correctness of the conclusion at which you and the Council have arrived.

Lieutenant-General Sir J. Michel,  
&c. &c. &c.

I have, &c.  
(Signed) CARNARVON.

