have received my telegram informing you that the Canadian delegates will leave America for England on the 7th inst: and

Private

Quebec. Oct 6. 66

My dear Lord

I send you today officially the joint opinion of the two Attorneys General on your dispatch respecting the retrospective operation of the act of last Session concerning the crime of invading the Province -

In addition to what I wrote yesterday to shew that no foreigner can under this act be practically tried for a felony which was not such a crime by laws when the invasion of the Province in which he is to be tried was committed and to make my meaning more plain I wish to state

1st That crime - invasion of the Province has been a felony by statute when committed by foreigners in Upper Canada since Feb 11. 1840 and in Lower Canada since June 8. 66

1. Fenianism a[illegible] Mexican Quar[illegible]
2. The 61st Regim[illegible]
3. Crime of Inva[illegible] U. & L. Canad[illegible]

My dear Lord

I have to thank you for your private letter of Sep 22.

Since it was written you will have received my telegram informing you that the Canadian delegates will leave America for England on the 7th Nov. and [illegible]

All the prisoners in Upper Canada have of course been arrested since the former date, and fortunately all those in Lower Canada have been arrested since the latter date.

It is therefore obvious that the acts in question can have no retrospective effect on any of these prisoners being foreigners.

2nd Since the dates above mentioned in U.C. & L.C. respectively all British subjects guilty of this crime are liable to be tried for it by Court Martial & to suffer death.

The only change made in their condition by the retrospective operation of the subsequent act is tri[illegible] giving the power of trying them for the same crime by a Judge & Jury.

But it must be remembered that at Common law the same act constitutes the crime of High Treason for which these per[illegible] are liable to be tried & which is an offence of greater gravity than felony and subjects them to the punishment of death.

The changes therefore made seem to me to be both in favour of the prisoner.

He is to be tried by the ordinary tribunals instead of by Court Martial. and his crime is reduced from High Treason to simple felony.

I think from these considerations it is plain that no international question can arise out of the trials now about to take place, and that British subjects would have no just ground of complaint if the acts were applied to them.

Nevertheless I have given instructions that the directions in your despatch shall be complied with.

I send you a memorial to the Queen on Lamirande's case upon which I have fully explained myself in the despatch in which I transmit it.

Believe me to be yours very truly

The Earl of Carnarvon

Monck

F. Oct 6.

Ld: Monck

~~Invasion~~ a Colony
in Upper Canada
since Feb 11. 40;
in L^r C. since June 8/66.

F. Oct: 5.

Lord Monck

1. Fenianism and
Mexican Anarchy.
2. The 61st Regiment.
3. Crime of Invasion
U. & L. Canada.