

before the Commencement of the last-mentioned Act, as you, with the Advice of Our said Executive Council of such Province, shall judge to be expedient, under the existing Circumstances of such Township or Parish; subject nevertheless to such Instructions touching the Premises as shall or may be given you by Us under Our Signet and Sign Manual, or by Our Order in Our Privy Council, or through One of Our Principal Secretaries of State."

(Commission dated 1st July 1835.)

No. 3.

COPY of a DESPATCH from LORD GLENELG to the EARL of DURHAM, dated 21st April 1838.

My Lord,

Downing Street, 21st April 1838.

I have the Honour herewith to transmit to your Lordship the Instructions under Her Majesty's Signet and Sign Manual accompanying your Lordship's Commission as Governor of Lower and Upper Canada; you will perceive that they recognize certain Instructions addressed to the late Earl of Dalhousie, which appear to have been transcribed with little Variation from the Conquest of the Province of Quebec till Lord Dalhousie's Appointment, and to have been referred to during the whole of that Period as the Rule for the Guidance of all subsequent Governors. Those Instructions, however, have in many respects become obsolete and inapplicable to the present Condition of the Canadian Provinces, and in some respects are at variance with the Law; in referring your Lordship to them Her Majesty has consequently instructed you to observe them only so far as they are exempt from Objections of this Nature.

The more obvious and as it would seem the more convenient Course being that of a complete Revision of the Instructions, in order to adapt them to the existing Law and Condition of the Canadas, I should have thought it my Duty to complete such a Revision before your Lordship's Assumption of the Government, had it not appeared that no such Change could be made at the present Moment without prejudging some of the more important Questions which await your Lordship's Investigation, and the future Decision of the Queen and of Parliament. It appeared to me, therefore, in the Choice of Difficulties, that the least inconvenient Course would be that of adhering to the Practice observed ever since Lord Dalhousie's Appointment, by referring you to the standing Instructions under which he acted, so far as the Law or the actual State of the Canadas may admit of the Observance and Execution of them. Your Lordship will find that this Qualification will in many respects prevent your adopting those standing Instructions as the Guide of your official Conduct. I would especially notice Three Topics to which this Remark applies: First, the old standing Instructions are at variance with the Rules which have been followed for the last Six Years respecting the Alienation of the unsettled Lands of the Crown; those Rules as laid down by the Earl of Ripon must be considered as in full Force: Secondly, the old standing Instructions suppose the Existence of the Constitution of 1791, and therefore are to that Extent inapplicable to the present State of the Law in the Lower Province; Thirdly, the old standing Instructions having been framed before the passing of the Law for the Relief of the Roman Catholics from the Disabilities under which they formerly laboured in this Country are in many Particulars conceived in a Spirit opposed to the Principles of Religious Toleration as now understood and practised.

It is almost superfluous to observe that to this Extent they must be regarded as obsolete.

Subject to these and to some less considerable Exceptions of the same Kind, the old standing Instructions will be found by your Lordship to be a valuable Guide upon various Topics of general and permanent Policy, to which your Attention will be called in the Administration of the Government of the Canadian Provinces.

The Earl of Durham, G.C.B.  
&c. &c. &c.

I have, &c.  
(Signed) GLENELG.