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Gt. Brit. Sovereigns, etc., 1837-1901 (Victoria)

NEWFOUNDLAND.



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INSTRUCTIONS passed under the Royal Sign Manual and Signet to the Governor and Commander-in-Chief of the Island of Newfoundland and its Dependencies.

VICTORIA R.

Dated 28th March 1876.

Instructions to Our Governor and Commander-in-Chief in and over Our Island of Newfoundland and its Dependencies, or, in his absence, to Our Lieutenant-Governor, or the Officer Administering the Government of Our said Island and its Dependencies for the time being.

Dated this 28th day of March 1876, in the thirty-ninth year of Our Reign.

Preamble.

Cites Letters Patent 28th March 1876, constituting the office of Governor.

WHEREAS by certain Letters Patent, bearing even date herewith, We have constituted, ordered, and declared that there shall be a Governor and Commander-in-Chief (hereinafter called Our said Governor) in and over Our Island of Newfoundland and its Dependencies (hereinafter called Our said Colony). And We have thereby authorized and commanded Our said Governor to do and execute in due manner all things that shall belong to his said command, and to the trust We have reposed in him, according to the several powers and authorities granted or appointed him by virtue of the said Letters Patent and of the Commission to be issued to him under Our Sign Manual and Signet, and according to such Instructions as may from time to time be given to him, under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or by Us through one of Our Principal Secretaries of State, and according to such Laws and Ordinances as are or shall hereafter be in force in Our said Colony. Now,

therefore, We do by these Our Instructions under Our Sign Manual and Signet, declare Our pleasure to be, that Our said Governor for the time being shall with all due solemnity cause Our Commission under Our Sign Manual and Signet, appointing Our said Governor for the time being, to be read and published in the presence of the Chief Justice of Our said Colony for the time being, and of the Members of Our Executive Council thereof; and We do further declare Our pleasure to be that Our said Governor and every other officer appointed to administer the Government of Our said Colony shall take the Oath of Allegiance in the form provided by an Act passed in the Session holden in the thirty-first and thirty-second years of Our Reign, intituled "An Act to amend the Law relating to Promissory Oaths"; and likewise that he or they take the usual oath for the due execution of the office and trust of Our Governor and Commander-in-Chief in and over Our said Colony, and for the due and impartial administration of justice, which said oaths the Chief Justice for the time being of Our said Colony, or, in his absence, or in the event of his being otherwise incapacitated, the Senior Judge then present, or, failing such Judge, the Senior Member present of Our said Executive Council, shall and he is hereby required to tender and administer unto him or them.

II. And We do authorize and require Our said Governor, from time to time, and at any time hereafter, by himself or by any other person to be authorized by him in that behalf, to administer to all and to every persons or person, as he shall think fit, who shall hold any office or place of trust or profit, the said Oath of Allegiance, together with such other Oath or Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided.

Publication of Commission.

Oaths to be taken by Governor.

Imperial Act, 31 & 32 Vict. c. 72.

Oaths to be administered by the Governor.

Governor to communicate Instructions to Executive Council.

III. And We do require Our said Governor to communicate forthwith to Our Executive Council for Our said Colony these Our Instructions, and likewise all such others from time to time as he shall find convenient for Our Service to be imparted to them.

Executive Council not to proceed to business unless summoned by authority of Governor.

IV. And We do hereby direct and enjoin that Our said Executive Council shall not proceed to the despatch of business unless duly summoned by authority of Our said Governor, and unless three Members at the least (exclusive of himself or the Member presiding) be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

Quorum.

Governor to preside.

V. And We do further direct and enjoin that Our said Governor do attend and preside at the meetings of Our said Executive Council, unless when prevented by some necessary or reasonable cause; and that in his absence such Member as may be appointed by him in that behalf, or, in the absence of any such Member, the Senior Member of the said Executive Council actually present shall preside at all such meetings, the seniority of the Members of the Council being regulated according to the order of their respective appointments as Members of Our said Council.

Or appoint a President.

Senior Member to preside during absence of Governor or President.

Precedence of Members.

Journals and Minutes of Council to be kept.

VI. And we do further direct and enjoin that a full and exact Journal or Minute be kept of all the deliberations, acts, proceedings, votes, and resolutions of Our said Executive Council, and that at each meeting of the said Council the Minutes of the last meeting be read over, confirmed, or amended, as the case may require, before proceeding to the despatch of any other business. And We do further direct that twice in each year a full transcript of all the Minutes of the said Council for the preceding half year be transmitted to Us through one of Our Principal Secretaries of State.

Minutes to be sent home half-yearly.

VII. And We do further direct and enjoin that, in the execution of the powers and authorities committed to Our said Governor by Our said Letters Patent, he shall in all cases consult with Our said Executive Council, excepting only in cases which may be of such a nature that, in his judgment, Our service would sustain material prejudice by consulting Our Council thereupon, or when the matters to be decided shall be too unimportant to require their advice, or too urgent to admit of their advice being given by the time within which it may be necessary for him to act in respect of any such matters. Provided that in all such urgent cases he shall subsequently, and at the earliest practicable period, communicate to the said Executive Council the measures which he may so have adopted, with the reasons thereof.

Governor to consult Executive Council.

Proviso. Urgent cases.

VIII. And We do authorize Our said Governor, in his discretion, and if it shall in any case appear right, to act in the exercise of the power committed to him by Our said Letters Patent, in opposition to the advice which may in any such case be given to him by the Members of Our said Executive Council. Provided, nevertheless, that in every such case he shall fully report to Us by the first convenient opportunity such proceeding with the grounds and reasons thereof.

Governor may act in opposition to the Executive Council.

Reporting grounds for so doing.

IX. And whereas We have by Our said Letters Patent provided that the Legislative Council of Our said Colony shall be constituted in the manner therein appointed: Now We do declare Our pleasure to be that Five Members of the said Legislative Council shall be a quorum for the despatch of the business thereof.

Legislative Council.

Quorum.

X. And We do authorize and empower Our said Governor, from time to time, by an Instrument under the Public Seal of Our said

President.

Colony, to appoint one Member of the said Legislative Council to preside therein, and to remove him and appoint another in his stead.

Standing Rules and Orders.

XI. And We do confirm all Standing Rules and Orders heretofore made by Our authority for ensuring punctuality of attendance of the Members of the said Legislative Council, and for the prevention of meetings of the said Council being held without convenient notice to the several Members thereof, and for maintaining order and method in the despatch of business, and in the conduct of all debates in the said Council; and We do authorize and empower the said Legislative Council to make such other and further Rules and Orders as may to them appear requisite for the above-mentioned purposes, not being repugnant to these Our Instructions, or to any other Instructions which Our said Governor may receive from Us.

Minutes of proceedings to be kept.

XII. And We do further direct and enjoin that Minutes shall be regularly kept of the proceedings of the said Legislative Council, and that at each meeting of the said Council the Minutes of the last preceding meeting be read over, confirmed, or amended, as the case may require, before proceeding to the despatch of any other business. And We do further direct and enjoin that Our said Governor shall transmit fair copies of the Journals and Minutes of the proceedings of the Legislative Bodies of Our said Colony, which he is to require from the Clerks or other proper Officers in that behalf of the said Legislative Bodies.

Copies of Minutes to be transmitted.

Oaths to be administered to Members of Assembly.

XIII. And whereas We have empowered Our said Governor, by Our said Letters Patent, to summon and call together the General Assembly of Our said Colony, We do further direct and enjoin that the persons thereupon duly elected to be members of the said Assembly shall, before

their sitting, take the said Oath of Allegiance, which Oath he shall commission fit persons, under the Seal of Our said Colony, to tender and administer unto them; and until the same shall be so taken, no person shall be capable of sitting though elected.

XIV. And in the enactment of Laws within Our said Colony, We do direct and enjoin that Our said Governor observes, as far as may be practicable, the following Rules and Instructions (that is to say):—

Rules to be observed in the enactment of Laws.

XV. The style of enacting such Laws shall be by "The Governor, Lieutenant - Governor, or Officer Administering the Government (as the case may be), Council and Assembly," and no other.

Style of Laws.

XVI. In the passing of all Laws, each different matter is to be provided for by a different Law, without intermixing in one and the same Law such things as have no proper relation to each other, and no Clause is to be inserted in or annexed to any Law which shall be foreign to what the title of such Law imports, and no perpetual clause is to be part of any temporary Law.

Different subjects not to be mixed in the same Law.

No Clause to be introduced foreign to what the title imports.

Temporary Laws.

XVII. Our said Governor is not to assent in Our name to any Bill of any of the classes hereinafter specified, that is to say:—

Description of Bills not to be assented to.

1. Any Bill for the divorce of persons joined together in Holy Matrimony.

2. Any Bill whereby any grant of land or money or other donation or gratuity may be made to himself.

3. Any Bill whereby any paper or other currency may be made a legal tender, except the coin of the realm or other gold or silver coin.

4. Any Bill imposing differential duties.

5. Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty.

6. Any Bill interfering with the discipline or control of Our forces in Our said Colony by land and sea.

7. Any Bill of an extraordinary nature and importance whereby Our prerogative, or the rights and property of Our subjects not residing in Our said Colony, or the trade and shipping of the United Kingdom and its dependencies, may be prejudiced.

8. Any Bill containing provisions to which Our assent has been once refused, or which have been disallowed by Us:—

Unless such Bill shall contain a clause suspending the operation of such Bill until the signification in Our said Colony of Our pleasure thereupon, or unless Our said Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorized to assent in Our name to such Bill unless the same shall be repugnant to the law of England, or inconsistent with any obligations imposed upon Us by Treaty. But he is to transmit to Us, by the earliest opportunity, the Bill so assented to, together with his reasons for assenting thereto.

XVIII. And We do further direct and enjoin Our said Governor to transmit to Us, through one of Our Principal Secretaries of State, a transcript in duplicate of every Law which has been assented to by him in Our name, together with a marginal abstract thereof duly authenticated under the Public Seal of Our said Colony, and that such transcript shall be accompanied with such explanatory observations as may be required to exhibit the reasons and occasion for

Proviso. Urgent cases.

Laws to be sent home duly authenticated, and to have marginal abstracts.

proposing such Laws; and that in case any such Law shall at any time be disallowed, and so signified by Us, Our Heirs and Successors, under Our or their Sign Manual and Signet, or by Order of Our or their Privy Council unto him, then such Law as shall be so disallowed shall from thenceforth cease, determine, and become utterly void and of none effect, anything to the contrary thereof notwithstanding.

Disallowance of Laws.

XIX. And whereas We have by Our said Letters Patent authorized and empowered Our said Governor as he shall see occasion, in Our name and on Our behalf, to grant to any offender convicted of any crime in any Court, or before any Judge, Justice, or Magistrate within Our said Colony, a pardon, either free or subject to lawful conditions: Now We do hereby direct and enjoin Our said Governor to call upon the Judge who presided at the trial of any offender who shall have been condemned to suffer death by the sentence of any Court within Our said Colony to make to Our said Governor a written report of the case of such offender, and such report of the said Judge shall by Our said Governor be taken into consideration at the first meeting thereafter which may be conveniently held of Our said Executive Council, where the said Judge may be specially summoned to attend; and Our said Governor shall not pardon or relieve any such offender as aforesaid, unless it shall appear to him expedient so to do, upon receiving the advice of Our Executive Council therein, but in all such cases he is to decide either to extend or to withhold a pardon or relieve, according to his own deliberate judgment, whether the Members of Our said Executive Council concur therein or otherwise; entering, nevertheless, on the Minutes of the said Council a Minute of his reasons at length, in case he should decide any such questions in opposition to the judgment of the majority of the Members thereof.

Pardon Power, Regulation of.

Judge's report to be laid before the Executive Council.

Governor to take the advice of the Council in such cases.

May exercise his own judgment.

Entering his reasons in the Minutes of Council.

XX. And We do further direct and enjoin that all Commissions granted by Our said Governor to any person or persons to be Judges, Justices of the Peace, or other Officers, shall, unless otherwise provided by law, be granted during pleasure only.

Blue Book.

XXI. And whereas Our said Governor will receive through one of Our Principal Secretaries of State a Book of Tables in Blank, commonly called the "Blue Book," to be annually filled up with certain Returns, relative to the Revenue and Expenditure, Militia, Public Works, Legislation, Civil Establishment, Pensions, Population, Schools, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures, and other matters in the said "Blue Book" more particularly specified with reference to the state and condition of Our said Colony: Now We do hereby direct and enjoin that all such Returns be accurately prepared, and punctually transmitted to Us from year to year through one of Our Principal Secretaries of State.

Governor's absence.

XXII. And whereas great prejudice may happen to Our Service and to the security of Our said Colony by the absence therefrom of Our said Governor, he shall not upon any pretence whatsoever quit Our said Colony without having first obtained leave from Us for so doing under Our Sign Manual and Signet, or through one of Our Principal Secretaries of State.

V. R.