

(No. 21.)



1869.

T A S M A N I A.

LEGISLATIVE COUNCIL.

GOVERNOR'S COMMISSION AND
INSTRUCTIONS.

Laid upon the Table by Mr. Wilson, and ordered by the Council to be printed,
August 24, 1869.



THE GOVERNOR'S COMMISSION.

(L.S.)

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To Our trusty and well-beloved CHARLES DU CANE, Esquire.

GREETING—

WHEREAS We did, by certain Letters Patent under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster the Thirteenth day of March, One thousand eight hundred and sixty-two, in the Twenty-fifth Year of Our Reign, constitute and appoint Our trusty and well-beloved Thomas Gore Browne, Esquire, Companion of Our Most Honorable Order of the Bath, Colonel in Our Army, to be Captain-General and Governor-in-Chief in and over Our Island of Tasmania and its Dependencies, as upon relation being had to the said recited Letters Patent will more fully and at large appear :

Now know you that We have revoked and determined, and by these presents do revoke and determine, the said recited Letters Patent, and every clause, article, and thing therein contained :

And further know you that We, reposing especial trust and confidence in the prudence, courage, and loyalty of you the said CHARLES DU CANE, of Our especial grace, certain knowledge, and mere motion, have thought fit to constitute and appoint, and by these presents do constitute and appoint, you to be Our Governor and Commander-in-Chief in and over Our Island of Tasmania, and of all Islands and Territories lying to the southward of Wilson's Promontory in the Province of Victoria in Thirty-nine degrees Twelve minutes of South Latitude, and to the Northward of the Forty-fifth degree of South Latitude, and between the One hundred and fortieth and One hundred and fiftieth degrees of Longitude East from Greenwich, and also of Macquarie Island, lying to the South East of the said Island of Tasmania (all which Islands and Territories We declare to constitute Our Colony of Tasmania), and of all Forts and Garrisons erected and established, or which shall be erected and established, within the said Colony of Tasmania or within any of its said Dependencies, for and during Our will and pleasure :

And We do hereby authorise and command you to do and execute all things in due manner that shall belong to your said Command, and the trust We have reposed in you, according to the several powers and directions granted or appointed you by this Our present Commission, and the Instructions herewith given you, or by such further Instructions as may hereafter be given by Us, under Our Sign Manual and Signet, or by Our Order in Our Privy Council, or through one of Our Principal Secretaries of State, and according to such Laws as are now or shall hereafter be in force in Our said Colony :

And We do hereby authorise and empower you to keep and use the Public Seal of Our said Colony for sealing all things whatsoever that shall pass the said Seal :

And We do further authorise and empower you, in Our name and on Our behalf, to make and execute, under the said Seal, Grants and Dispositions of any Lands which may be lawfully granted and disposed of by Us within Our said Colony :

And We do hereby declare Our pleasure to be that there shall be an Executive Council for Our said Colony ; and that the said Council shall consist of such Persons or Officers as are now or may at any time be declared by any Law enacted by the Legislature of Our said Colony to be

Members of the said Council, and of such other persons as you shall from time to time in Our name and on Our behalf, but subject to any such Law as aforesaid, appoint under the said Seal to be Members of the said Council :

And We do further authorise and empower you to constitute and appoint in Our name and on Our behalf all such Judges, Commissioners, Justices of the Peace, and other necessary Officers and Ministers of Our said Colony as may be lawfully constituted or appointed by Us :

And We do hereby authorise and empower you, as you 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, or any respite of the execution of the sentence of any such Offender for such period as to you may seem fit ; and to remit any fines, penalties, or forfeitures which may become due and payable to Us :

And We do hereby authorise and empower you, so far as We lawfully may, upon sufficient cause to you appearing, to remove from his Office, or to suspend from the exercise of the same, any person exercising any such office or place within Our said Colony under or by virtue of any Commission or Warrant granted, or which may be granted, by Us in Our name or by Our authority :

And We do hereby further authorise and empower you to exercise all powers lawfully belonging to Us in respect of the appointment of the Members of any Legislative body now or hereafter established within Our said Colony, and in respect of the summoning, proroguing, or dissolving any such Legislative Body :

And We do hereby declare Our pleasure to be that, in the event of your death, incapacity, or absence out of the said Colony, all and every the powers and authorities herein granted to you shall be, and the same are hereby vested in such person as may be appointed by Us under Our Sign Manual and Signet to be Our Lieutenant-Governor of Our said Colony, or if there shall be no such Lieutenant-Governor in Our said Colony, then in such person or persons as may be appointed by Us under Our Sign Manual and Signet to administer the Government of the same ; and in case there shall be no person or persons within our said Colony so appointed by Us, then in the Senior Officer for the time being in command of Our Regular Troops in Our said Colony ; and such person or persons, or such Officer as aforesaid, shall have and exercise all and every the powers and authorities herein granted until Our further pleasure shall be signified therein :

And We do hereby require and command all Our Officers and Ministers, Civil and Military, and all other the Inhabitants of the said Colony, to be obedient, aiding, and assisting unto you the said CHARLES DU CANE, or in the event of your death, incapacity, or absence, to such person or persons as may from time to time, under the provisions of this Our Commission, administer the Government of Our said Colony.

In Witness whereof We have caused these Our Letters to be made Patent.

Witness Ourselves at Westminster, the Twenty-ninth day of December, in the Thirty-second Year of Our Reign.

By Warrant under the Queen's Sign Manual,

C. ROMILLY.

INSTRUCTIONS TO GOVERNOR DU CANE.

(L.S.)

VICTORIA R.

INSTRUCTIONS to Our trusty and well-beloved CHARLES DU CANE, Esquire, Our Governor and Commander-in-Chief in and over Our Colony of Tasmania and its Dependencies, or, in his absence, to Our Lieutenant-Governor, or the Officer Administering the Government of Our said Colony and its Dependencies for the time being. Given at Our Court at Osborne House, Isle of Wight, this Twenty-ninth day of December, One thousand eight hundred and sixty-eight, in the Thirty-second Year of Our Reign.

First. WHEREAS, by a Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing even date herewith, We have constituted and appointed you to be Our Governor and Commander-in-Chief in and over Our Colony of Tasmania, as therein described, for and during Our will and pleasure, and have further authorised and commanded you to do and execute all things in due manner that shall belong to your said Command, and the trust thereby reposed in you, according to the several powers and directions therein mentioned, and particularly according to such Instructions as should therewith be given to you: Now, therefore, We do by these Our Instructions under Our Sign Manual and Signet, being the Instructions so referred to as aforesaid, declare Our pleasure to be, that you shall with all due solemnity cause Our said Commission to be read and published in the presence of the Chief Justice for the time being or other Judge of the Supreme Court of Our said Colony, and of the Members of the Executive Council thereof; and you shall then and there take the Oath appointed to be taken by an Act passed in the Session holden in the Twenty-first and Twenty-second Years of Our Reign, intituled *An Act to substitute one Oath for the Oaths of Allegiance, Supremacy, and Abjuration, and for the Relief of Her Majesty's Subjects professing the Jewish Religion*, or, in lieu thereof, an Oath appointed to be taken by an Act passed in the Tenth Year of His late Majesty King George the Fourth, intituled *An Act for the Relief of His Majesty's Roman Catholic Subjects*; and likewise that you do take the 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, any Judge of the Supreme Court of Our said Colony, shall and he is hereby required to tender and administer unto you.

Second. And We do authorise and require you from time to time, and at any time hereafter, by yourself or by any other person to be authorised by you in that behalf, to administer to all and every persons or person, as you shall think fit, who shall hold any Office or place of trust or profit, the said Oath of Allegiance, together with such other Oaths as may from time to time be prescribed by any Laws or Statutes in that behalf made and provided; in which case it is Our pleasure, and We do hereby direct, that you do administer or cause to be administered to such persons such other Oath or Oaths as aforesaid.

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

Fourth. And we do hereby direct and enjoin that Our said Executive Council shall not proceed to the dispatch of business unless duly summoned by your authority, and unless Two Members at the least (exclusive of yourself or the Member presiding) be present and assisting throughout the whole of the Meetings at which any such business shall be dispatched.

Fifth. And We do further direct and enjoin that you do attend and preside at the Meetings of Our said Executive Council, unless when prevented by some necessary or reasonable cause; and that in your absence such Member as may be appointed by you 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.

Sixth. 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 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 dispatch of any other business.

Seventh. And We do further direct and enjoin that, in the execution of the powers and authorities committed to you by Our said Commission, you do in all cases consult with Our said Executive Council, excepting only in cases which may be of such a nature that, in your 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 you to act in respect of any such matters: Provided that in all such urgent cases you do subsequently, and at the earliest practicable period, communicate to the said Council the measures which you may so have adopted, with the reasons thereof.

Eighth. And We do authorise you in your discretion, and if it shall in any case appear right, to act in the exercise of the power committed to you by Our said Commission in opposition to the advice which may in any such case be given to you by the Members of Our said Executive Council: Provided nevertheless, that in any such case you do fully report to Us by the first convenient opportunity every such proceeding, with the grounds and reasons thereof.

Ninth. And for the execution of so much of the powers as are vested in you by Law for assenting to, or dissenting from, or reserving for the signification of Our pleasure, Bills which have been passed by the Legislature of Our said Colony, We do further direct and enjoin that you guide yourself, as far as may be practicable, by the following rules, directions, and instructions; that is to say,—

Tenth. You are as much as possible to observe in the passing of all Laws that each different matter 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 that no Clause or Clauses be inserted in or annexed to any Act which shall be foreign to what the title of such Act imports, and that no perpetual Clause be part of any temporary Law.

Eleventh. You are not to assent in Our name to any Bill of any of the classes hereinafter specified; that is to say,—

- I. Any Bill for the Divorce of persons joined together in Holy Matrimony:
- II. Any Bill whereby any Grant of Land or Money or other Donation or Gratuity may be made to yourself:
- III. 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:
- IV. Any Bill imposing Differential Duties:
- V. Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty:
- VI. Any Bill interfering with the discipline or control of Our Forces in the Colony by Land and Sea:
- VII. Any Bill of an extraordinary nature and importance whereby Our Prerogative, or the Rights and Property of Our Subjects not residing in the Colony, or the Trade and Shipping of the United Kingdom and its Dependencies, may be prejudiced:
- VIII. 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 the Colony of Our pleasure thereupon, or unless you shall have satisfied yourself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case you are authorised 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 on Us by Treaty; but you are to transmit to Us by the earliest opportunity the Bill so assented to, together with your reasons for assenting thereto.

Twelfth. You shall take care that all Laws assented to by you in Our name, or reserved for the signification of Our pleasure thereon, shall, when transmitted by you, be fairly abstracted in the margins, and be accompanied with such explanatory observations as may be required to exhibit the reasons and occasion for proposing such Laws; and you shall also transmit fair Copies of the Journals and Minutes of the Proceedings of the Legislative Bodies of Our said Colony, which you are to require from the Clerks or other proper Officers in that behalf of the said Legislative Bodies.

Thirteenth. And whereas we have by Our said Commission authorised and empowered you as you shall see occasion, in Our name and on Our behalf, to grant to any person 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 you 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 you a written Report of the case of such Offender; and such Report of the said Judge shall by you be taken into consideration at the first Meeting thereafter which may be conveniently held of Our said Executive Council, at which the said Judge may be specially summoned to attend; and you shall not pardon or reprieve any such Offender as aforesaid, unless it shall appear to you expedient so to do, upon receiving the advice of Our Executive Council therein; but in all such cases you are to decide either to extend or to withhold a Pardon or Reprieve, according to your 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 your reasons, at length, in case you should decide any such questions in opposition to the judgment of the majority of the Members thereof.

Fourteenth. And We do further direct and enjoin that you do, to the utmost of your power, promote Religion and Education among the Native Inhabitants of Our said Colony, or of the Lands and Islands

thereto adjoining, and that you do especially take care to protect them in their persons, and in the free enjoyment of their possessions; and that you do, by all lawful means, prevent and restrain all violence and injustice which may in any manner be practised or attempted against them.

Fifteenth. And We do further direct and enjoin that all Commissions granted by you 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.

Sixteenth. And We do further direct and enjoin that you do forward to Us punctually from year to year, through one of Our Principal Secretaries of State, such Annual Returns as have been customarily transmitted to Us from Our Colony of Tasmania relative to the Revenue and Expenditure, Militia, Public Works, Legislation, Civil Establishments, 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.

Seventeenth. And whereas great prejudice may happen to Our Service and to the Security of Our said Colony by the absence of the Governor, you shall not upon any pretence whatever 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, except for the purpose of visiting any neighbouring Colony for periods not exceeding One Month at any one time, nor exceeding in the aggregate One Month for every Year's Service in the Colony.

V.R.