

1873.

NEW ZEALAND.

COMMISSION OF HIS EXCELLENCY SIR JAMES
FERGUSSON, BART.,

WITH THE ROYAL INSTRUCTIONS ACCOMPANING SAME.

(Presented to both Houses of the General Assembly by command of His Excellency.)

COMMISSION passed under the Great Seal of the United Kingdom appointing the Right Honorable Sir JAMES FERGUSSON, Bart., to be Governor and Commander-in-Chief of the Colony of New Zealand and its Dependencies.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, to Our Right Trusty and Well-Beloved Councillor Sir James Fergusson, Baronet, Greeting.

1. 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 Fourteenth day of November, 1868, in the Thirty-first Year of Our Reign, constitute and appoint Our Trusty and Well-Beloved Sir George Fergusson Bowen, Knight Grand Cross of Our Most Distinguished Order of Saint Michael and Saint George, to be Our Governor and Commander-in-Chief in and over Our Colony of New Zealand, for and during Our Will and Pleasure, 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 Sir James Fergusson, of Our special Grace, certain Knowledge, and mere Motion, have thought fit to constitute and appoint, and do by these Presents constitute and appoint you to be, for and during Our Will and Pleasure, Our Governor and Commander-in-Chief in and over Our Colony of New Zealand and its Dependencies (hereinafter called Our said Colony). And We do hereby Authorize and Command you in due manner to Do and Execute all Things that shall belong to your said Command, and to the Trust We have reposed in you, according to and in pursuance of an Act of the Session holden in the Fifteenth and Sixteenth Years of Our Reign, intituled "An Act to grant a Representative Constitution to the Colony of New Zealand," and of an Act of the Session holden in the Thirty-first and Thirty-second Years of Our Reign, intituled "An Act to make provision for the Appointment of Members of the Legislative Council of New Zealand, and to remove doubts in respect of past appointments," and according to the several powers and authorities granted or appointed you by virtue of this present Commission, and according to such instructions as are herewith given to you, or as may from time to time hereafter be given to you 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.

2. And We do hereby Authorize and Empower you to Keep and Use the Public Seal of Our said Colony for Sealing all things whatsoever that shall pass the said Public Seal.

3. And We do further Authorize 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.

4. 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 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 Our 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 law as aforesaid, appoint under the said Seal to be Members of Our said Council.

5. And We do further Authorize 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.

6. And We do further Authorize and Empower you as you shall see occasion, in Our name and on Our Behalf, when any crime has been committed within Our said Colony, to grant a Pardon to any accomplice, not being the actual perpetrator of such crime, who shall give such information and evidence as shall lead to the apprehension and conviction of the principal Offender. And further 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.

7. And We do further Authorize 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 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 under Our Authority.

8. And whereas it has been represented to Us that the necessities of Our Service in Our said Colony occasionally require that you should absent yourself from the Seat of Government in the Province of Wellington, whereby the affairs of the said Province might be exposed to detriment if there were no Person in the place who should be Authorized to exercise the Powers and Authorities which We have by this Our present Commission given and granted to you, Our Governor: Now We do hereby Authorize and Empower you from time to time, as occasion shall require, by an instrument under the Public Seal of Our said Colony, to Assign, Constitute, and Appoint any Person to be your Deputy in the said Province of Wellington, and in that capacity to Exercise, Perform, and Execute during your pleasure, but no longer, all such Powers, Directions, and Authorities as are vested in you by this Our Commission and the instructions under Our Sign-Manual and Signet herein referred to. Provided Nevertheless, that by the appointment of a Deputy, as aforesaid, your Power and Authority as Governor of Our said Colony shall not be abridged, altered, or in any way affected, otherwise than We may at any time hereafter think proper to Direct.

9. And We do hereby further Authorize and Empower you to Exercise all Powers lawfully belonging to Us in respect of the Summoning, Proroguing, or Dissolving any Legislative Body, now or hereafter established within Our said Colony, and in respect of the Appointment of Members thereto.

10. And We do by these presents Authorize and Empower you, within Our said Colony, to Exercise all such Powers as We may be entitled to exercise therein in respect of granting Licenses for Marriages, Letters of Administration, and Probates of Wills, and with respect to the custody and management of Idiots and Lunatics, and their estates.

11. 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, until Our further Pleasure is signified therein, be 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. Provided that no such Powers or Authorities shall vest in such Lieutenant-Governor, or such other Person or Persons, until he or they shall have taken the oaths appointed to be taken by the Governor of Our said Colony, and in the manner provided by the Instructions accompanying this Our Commission.

12. And We do hereby Require and Command all Our Officers and Ministers, Civil and Military, and all other the Inhabitants of Our said Colony of New Zealand, to be Obedient, Aiding, and Assisting unto you the said Sir James Fergusson, 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 eighteenth day of February, in the thirty-sixth year of Our Reign.

By Warrant under the Queen's Sign-Manual.

C. ROMILLY

VICTORIA R.

INSTRUCTIONS to Our Right Trusty and Well-Beloved Councillor Sir James Fergusson, Baronet, Our Governor and Commander-in-Chief in and over Our Colony of New Zealand 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 Eighteenth day of February, 1873, in the Thirty-sixth Year of Our Reign.

1. Whereas by a Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing even data herewith, We have constituted and appointed you to be during Our pleasure Our Governor and Commander-in-Chief in and over Our Colony of New Zealand and its Dependencies, and have further authorized and commanded you in due manner to do and execute all things 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 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 you take the usual Oath for the due execution of the Office of Our Governor and Commander-in-Chief in and over Our said Colony, and for the due and impartial administration of Justice; which Oaths the said 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.

2. And We do Authorize and Require you from time to time and at any time hereafter, by you or by any other Person to be Authorized by you in that behalf, to Administer to all and to every Person or Persons, as you shall think fit, who shall hold any Office or Place of Trust or Profit, the said

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.

3. 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.

4. And We do hereby Direct and Enjoin that Our said Executive Council shall not proceed to the Despatch of Business unless duly summoned by your Authority, nor 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 despatched.

5. And We do further Direct and Enjoin that you do Attend and Præside 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 Præside 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.

6. 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 and Confirmed or amended, as the case may require, before proceeding to the Despatch of any other business.

7. And We do hereby 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.

8. And We do Authorize 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, any such proceeding, with the Grounds and Reasons thereof.

9. And in the execution of so much of the Powers as are vested in you by Law for Assenting to, or Dissenting from, or of Reserving for the signification of Our Pleasure, Bills which may have been passed by the Legislature of our said Colony, We do direct and enjoin you to guide yourself, as far as may be practicable, by the following Rules, Directions, and Instructions, that is to say:—

10. 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 Act such things as have no proper relation to each other; and no Clause is to be inserted in or annexed to any Act which shall be foreign to what the title of such Act imports, and no perpetual Clause is to be part of any temporary Law.

11. You are not to Assent in Our Name to any Bill of any one of the Classes hereinafter specified, that is to say:—

- (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 yourself.
- (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 the Treaty.
- (6.) Any Bill interfering with the Discipline or Control of Our Forces in the 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 the 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 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 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 you are to transmit to Us by the earliest opportunity the Bill so Assented to, together with your Reasons for Assenting thereto.

12. You will 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 in such cases as may seem to you necessary, 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.

13. And Whereas We have by Our said Commission Authorized and Empowered you, and 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: Now We do hereby Direct and Enjoin you to do and upon the Judge presiding at the trial of any Offender who may from time to time be 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, where 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 Question in opposition to the judgment of the majority of the Members thereof.

14. Whereas by the said recited Act of the Session holden in the Fifteenth and Sixteenth Years of Our Reign, it was, among other things, provided that at any time during the continuance of the Office of any Superintendent of a Province, it should be lawful for Us to remove him from such Office, on receiving an Address signed by the Members of the Provincial Council of such Province praying for such Removal: And Whereas it was by the said Act further enacted, that it should be Lawful for Us, in and by any Letters Patent to be issued under the Great Seal of the United Kingdom, from time to time to Constitute and Establish within any District or Districts of New Zealand one or more Municipal Corporation or Corporations, and to grant to any such Corporation all or any of the Powers which, in pursuance of the Statutes in that behalf made and provided, it is competent for Us to grant to the Inhabitants of any Town or Borough in England and Wales, incorporated in virtue of such Statutes, or any of them, and to qualify and restrict the exercise of any such Powers in such and the same manner as by the Statutes aforesaid, or any of them, We may qualify or restrict the exercise of any such Powers as aforesaid in England: Provided always, that all provisions of any such Letters Patent, and all By-Laws or Regulations made by any such Corporation, should be subject to Alteration or Repeal by any Ordinance or Act of the Provincial Council for the Province in which any such Corporation might be established, or of the General Assembly, according to their respective Powers therein before declared: And Whereas it was by the said Act further enacted, that whereas it might be expedient that the Laws, Customs, and Usages of the Aboriginal or Native Inhabitants of New Zealand so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves in all their relations to and dealings with each other, and that particular Districts should be set apart within which such Laws, Customs, or Usages should be so observed, it should be lawful for Us, by any Letters Patent to be issued under the Great Seal of the United Kingdom, from time to time, to make provision for the purposes aforesaid, any repugnancy of any such Laws, Customs, or Usages to the Law of England, or to any Law, Statute, or Usage in force in New Zealand, or in part thereof, in anywise notwithstanding: And Whereas it was by the said Act further enacted, that it should be lawful for Us, by any such Letters Patent as therein mentioned, or Instructions under Our Sign-Manual and Signet, or signified through one of Our Principal Secretaries of State, to delegate to the Governor any of the Powers thereinbefore reserved to Us, respecting (amongst other things) the Removal of Superintendents of Provinces, the Establishment of Municipal Corporations, and the Preservation of Aboriginal Laws, Customs, and Usages: And Whereas it was by the said Act further provided, that it should not be lawful for any Person other than Ourselves, Our Heirs, or Successors, to Purchase, or in anywise Acquire or Accept from the Aboriginal Natives Land of or belonging to, or used or occupied by, them in common as Tribes or Communities, or to accept any Release or Extinguishment of the Rights of such Aboriginal Natives in any such Land as aforesaid, and that no Conveyance or Transfer, or Agreement for the Conveyance or Transfer, of any such Land, either in perpetuity, or for any term or period, either absolutely or conditionally, and either in Property, or by way of Lease or Occupancy, and no such Release or Extinguishment as aforesaid should be of any Validity or Effect, unless the same were made to or entered into with and accepted by Us, Our Heirs or Successors: Provided always, that it should be lawful for Us, Our Heirs and Successors, by Instructions under Our Sign-Manual and Signet, or signified through one of Our Principal Secretaries of State, to Delegate Our Powers of Accepting such Conveyances or Agreements, Releases or Relinquishments, to the Governor of New Zealand, or the Superintendent of any Province within the Limits of such Province.

Now We do hereby Delegate to you all and every the said Powers by the said Act reserved to Us which are hereinbefore recited.

15. 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.

16. 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.

17. 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 the Colony of New Zealand 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 "Returns" more particularly specified, with reference to the State and Condition of Our said Colony.

18. 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.

V. R.