

APPENDIX D

SUPPLEMENTARY COMMISSION AND INSTRUCTIONS, JAMES DOUGLAS, 8 OCTOBER 1862

*Supplementary Commission to be passed under the Great Seal for establishing an Executive and a Legislative Council at Vancouver Island and its dependencies.*¹

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 James Douglas Esquire Companion of Our Most Honorable Order of the Bath Greeting.

Whereas by Our Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland bearing date at Westminster the 16th day of May 1851, in the Fourteenth year of Our Reign constituting and appointing you the said James Douglas to be Our Governor and Commander in Chief in and over Our Island of Vancouver and the Islands adjacent thereto We have granted unto you and Our Council therein mentioned certain Legislative and Executive powers to be by you and the said Council exercised and performed in the manner therein provided, and by reference to the said recited Commission relation being thereunto had, will more fully and at large appear.

And Whereas we have deemed it expedient that there should henceforward be two distinct Councils in Our said Island for the purpose hereinafter mentioned. We do therefore by these presents grant, provide and declare that there shall henceforward be within Our said Island of Vancouver instead of the said first mentioned Council two distinct and separate Councils, to be respectively called the Legislative Council and the Executive Council of Our said Island.

And we do hereby further declare Our pleasure to be that all and every the powers and authorities noted in or exercised by the Council of Our Said Island so far as respects the enactment of any laws to be made within Our said Island of Vancouver and its Dependencies shall henceforth be, and the same are hereby vested in and shall be exercised by the said Legislative Council, and that all other powers and authorities whatsoever vested in or exercised by the Council of Our said Island shall be and the same are hereby vested in and shall be exercised by the said Executive Council.

And we do hereby appoint and declare that the said Executive Council and the said Legislative Council respectively shall hereafter consist of such and so many members as shall from time to time for that purpose be nominated and appointed by Us under Our sign Manual and Signet, or as shall be provisionally appointed by you until Our pleasure therein shall be known in conformity with any instructions which you may from time to time receive from Us under Our said Sign Manual and Signet.

¹ Great Britain, Colonial Office, CO 381/77, 193-212.

Provided nevertheless and We do hereby declare Our Will and pleasure to be that the total number of the Members of the said Legislative Council resident within Our said Island shall not at any time by any such provisional appointments be raised to a greater number in the whole than eight.

And we do further declare that the members of the said respective Councils shall hold their places therein during Our pleasure and not otherwise.

Given at Our Court at [blank] the [8th] day of [October] in the Twenty sixth year of Our Reign.

Additional Instructions to accompany the Commission for establishing an Executive and a Legislative Council at Vancouver Island and its Dependencies.

Additional Instructions to Our Trusty and well beloved James Douglas Esquire—Companion of Our Most Honorable Order of the Bath. Our Governor and Commander in Chief in and over Our Island of Vancouver and its Dependencies or in his absence to Our Lieutenant Governor or the Officer Administering the Government of Our said Island for the time being. Dated this 8th day of October in the 26th year of Our Reign.

Whereas by Our Commission under the Great Seal of Our United Kingdom of Great Britain and Ireland bearing date this [8th] day of [October] in the Twenty sixth year of Our Reign addressed to you Our Trusty and well Beloved James Douglas Esquire Companion of Our most Honourable Order of the Bath, Our Governor and Commander in chief in and over Our Island of Vancouver and its Dependencies, we have declared Our pleasure to be that there shall henceforth be established within Our said Island an Executive Council to consist of such and so many Members as shall from time to time be nominated and appointed by Us under Our Royal Sign Manual and Signet or as shall be provisionally appointed by you until Our further pleasure therein shall be known in conformity with any instructions which you may from time to time receive from Us under Our Said Sign Manual and Signet.

Now we do by these Our Instructions nominate and appoint the undermentioned Officers to be during Our pleasure Members of the said Executive Council, that is to say The Colonial Secretary for Our said Island, The Attorney General for Our said Island, The Treasurer for Our said Island, and the Surveyor General for Our said Island or the persons for the time being lawfully discharging the functions of such Colonial-Secretary, Attorney-General, Treasurer and Surveyor General, and you are hereby authorized and required to summon the said Officers to Our Executive Council accordingly. And we do further direct and appoint that the Members of Our said Council shall take rank and precedence therein according to the Order in which their Offices are herein before enumerated.

And we do declare Our pleasure to be that you do forthwith communicate to Our said Executive Council these Our additional Instructions and likewise all such others from time to time, in the execution of which their consent and concurrence are requisite, and which you shall find convenient for Our Service to be imparted to them.

And it is Our pleasure that you do attend and preside at the meetings of Our said Executive Council.

And it is Our pleasure that Our said Executive Council shall not proceed to the despatch of Business unless duly summoned by your Authority, nor unless two members at least, exclusive of yourself, be present and assisting throughout the whole of the meetings at which any such business shall be despatched.

And it is Our pleasure that a full and exact Journal or Minute be kept by the Colonial Secretary 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 preceding Meeting shall be read over, confirmed, or amended, as the case may require, before proceeding to the Despatch of any other business.

And it is Our pleasure that in the execution of the several powers and authorities committed to you by the said Commission you do in all cases consult with the Executive Council, excepting only when the matters to be decided shall be of such a nature that in your judgment Our Service would sustain material prejudice by consulting the said Council thereon, or shall be too unimportant to require their advice, or too urgent to admit of such 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 Executive Council the measures which you may have so adopted, with the reasons thereof.

And it is Our pleasure that no question shall be brought before the said Executive Council for their advice or decision, excepting only such questions as may be proposed by you for that purpose. Provided nevertheless, that if any member shall, by application in writing request you so to propose any question, it shall be competent to any such member to record upon the said Minutes such his written application, together with the answer which may be returned by you to the same.

And we do authorize you, in your discretion and if it shall in any case appear right so to do, 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 the said Executive Council. Provided nevertheless that every such proceeding shall be fully reported to Us by the first convenient opportunity, together with the grounds and reasons thereof. And we do further direct that in every case it shall be competent to any Member of the said Council to record at length on the said Minutes the grounds of any advice or opinion he may give upon any question brought under the consideration of such Council, and also that twice in each year or full transcript of all the said Minutes for the preceding half year be transmitted to Us through one of Our Principal Secretaries of State.

And whereas by Our said Commission we have further declared Our pleasure to be that there shall thenceforth be established within Our said Island a Legislative Council to consist of such and so many Members as shall from time to time be nominated and appointed by Us under Our Royal Sign Manual and Signet, or as shall be provisionally appointed by you until Our further pleasure therein shall be known.

Now therefore by these Our Instructions under Our Sign Manual and Signet, we do nominate and appoint the undermentioned Officers to be during Our Pleasure Members of the said Legislative Council that is to say The Chief Justice, The Colonial Secretary for Our said Island, The Attorney General for Our said Island, The Treasurer of Our said Island and The Surveyor General for Our said Island, or the persons for the time being lawfully discharging the functions of Chief Justice, Colonial Secretary, Attorney General, Treasurer, and Surveyor General, together with such other persons being residents within the said Island as are now Members of the Council constituted by Our Commission addressed to you James Douglas and bearing date the 16th day of May 1851 or as may hereafter be appointed by Us by any instrument under Our Sign Manual and Signet, or as may be provisionally appointed by you until Our pleasure therein shall be known, and you are hereby authorized and required to summon to Our said Legislative Council all such Officers and persons as aforesaid. Provided that every such Officer or person who shall be elected to be a Member of the General Assembly of Our said Island shall upon taking his seat therein cease to be a member of Our said Legislative Council, but every person having an Official Seat in the said Council shall again become a Member of Our said Council on ceasing to be a Member of the General Assembly.

Provided also that the number of unofficial Members of the said Council shall not by any such provisional appointment as aforesaid be raised above the number of four.

Provided also and we do further direct and appoint that the Members of Our said Legislative Council hereinbefore designated shall take rank and precedence in the said Council according to the Order in which their Offices are hereinbefore enumerated, and that all other² the Members of Our said Council shall take rank and precedence therein according to the date of their respective appointments, or according to the order in which their names are mentioned in the Instrument of appointment.

And we do further direct that in Our said Legislative Council three Members shall be a quorum for the despatch of business, and that the Member present who shall be first in rank and precedence shall preside at every meeting of such Council and shall have a casting vote in case the votes of the Members of Council shall be equally divided, which casting vote the said presiding Member shall have in addition to his original vote as Member of Council.

² The original text is not fully decipherable.