

(Reproduced from Tsang, Steve (ed.) (1995) *Government and Politics*, Hong Kong University Press)

Royal Instructions 1843 (source: CO381/35)

Instructions to Our Trusty and Wellbeloved, Sir Henry Pottinger Bart., Knight Grand Cross of the Most Honourable Order of the Bath, Major General in the Service of the East India Company, Chief Superintendent of the Trade of Our Subjects, trading to and from the dominions of the Emperor of China, Our Governor, and Commander in Chief, in and over Our Colony of Hong Kong and its Dependencies, or in his absence to Our Lieutenant Governor or the Officer Administering the Government of the said Colony of Hong Kong and its Dependencies for the time being Given at Our Court at Buckingham Palace, this Sixth day of April 1843 in the Sixth Year of Our Reign.

1. Whereas, We did by Our Charter under the Great Seal of Our United Kingdom of Great Britain and Ireland, bearing date at Westminster, the 5th day of April 1843, in this Sixth year of Our Reign, erect into a Separate Colony the Island of Hong Kong and its Dependencies situate between 22^o 9m and 22^o 21m North Latitude and 114^o 11m and 114^o 18m East Longitude from the Meridian of Greenwich.

And Whereas, by a Commission under the Great Seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster the 5th day of April 1843 in the Sixth Year of Our Reign, We did contribute and appoint you, the said Sir Henry Pottinger to be Our Governor and Commander in Chief, in and over the said Colony of Hong Kong, so erected by us as aforesaid, and of all Forts and Garrisons erected and established, or which should be erected and established within the same, and did further require and command you, to do and execute all things in due manner that should belong to your said Command, and the Trust the Lord reposed in you, according to the several powers and directions granted to or, appointed for the Governor of the said Colony for the time being, in and by the said recited Charter, and the Instructions under Our Sign Manual and Signet therein referred to, and according to such further powers, instructions, and authorities, as should from time to time be granted or appointed you under Our Signet and Sign Manual, 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 should thereafter be made, and enacted by virtue of Our said recited Charter. Now therefore by these Our Instructions under Our Royal Sign Manual and Signet, being the Instructions so referred to as aforesaid, in the said Charter, we do declare Our pleasure to be, that you shall, with all due solemnity, cause Our said recited Charter, together with Our said Commission to be read and published in the presence of Our Chief Officer and other, the principal Inhabitants of the said Colony, and you shall then and there take the Oaths appointed to be taken by an Act, passed in the first year of the Reign of King George the First, entituled [sic] An Act for the further security of His Majesty's person, and Government, and the Succession of the Crown, in the Heirs of the late Princess Sophia, being Protestant; and for extinguishing the hopes, of the Pretended Prince of Wales, and his open and Secret Abettors' as altered and explained by an Act passed in the 6th year of the Reign of His late Majesty King George the Third, entituled 'An Act for altering the Oath of Abjuration, and the Assurance', and for

amending so much of an Act, of the 7th Year of Her late Majesty Queen Anne, entitled 'An Act for the improvement of the Union of the two Kingdoms, as after the time therein limited required the delivery of certain lists and copies therein mentioned to persons indicted of High Treason or Suspicion of Treason' or in lieu thereof, the Oath required to be taken by an Act passed in the 10th year of the Reign of His late Majesty King George the Fourth, entitled 'An Act for the relief of His Majestys [sic] Roman Catholic Subjects' according as the said former Acts, or the said last mentioned Act, shall be applicable to your case, 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 said Oaths, the Chief Magistrate for the time being of the said Colony shall, and he is hereby required to tender and administer unto you, all which being duly performed you shall administer to such Our Chief Officers there present the said Oaths mentioned in the said Several Acts, as shall be applicable to the case of the Individual taking the same, and you are also to administer unto them the usual Oath for the due execution of their places and trusts respectively.

2. And We do authorize and require you from time to time, and at any time hereafter by yourself, or by any other to be authorized by you, in that behalf, to administer and give to all, and every such person or persons as you shall think fit, who shall hold any office or place of Trust or profit, or who shall at any time or times pass into Our said Colony, or be resident therein, such of the said Oaths in the said Several Acts contained, as shall be applicable to the case of the Individual to whom the same shall be administered.

3. And whereas by the said recited Charter, we did authorize the Governor for the time being of Our said Colony of Hong Kong and such other persons as were in the said Charter designated to contribute and be a Legislative Council for the said Colony.

And We did by the said Charter further declare, that in addition to the said Governor, the said Council shall be composed of such public Officers within the said Colony or of such other persons within the same as should from time to time be named or designated for that purpose by Us by Our Instruction or Instructions, Warrant or Warrants, to be by Us for that purpose issued, under Our Signet and Sign Manual, and with the advice of Our Privy Council and that all such Councillors should hold their places in the said Council, at Our pleasure, and that the Governor for the time being of the said Colony with the advice of the said Legislative Council should have full power and authority to make and enact all such Laws, and Ordinances as might from time to time be required for the peace, order, and good Government of the said Colony, and that in the making all such Laws and Ordinances, the said Governor should exercise all such powers and authorities, and that he and the said Legislative Council should conform to and observe all such Rules and Regulations as should be given and prescribed in and by such Instructions, as We with the Advice of the Privy Council, should from time to time make for his and their guidance therein.

Now therefore by these Our Instructions under Our Signet and Sign Manual being the Instructions so referred to as last aforesaid, we do authorize and empower the Governor of Our said Colony (until further and other provision shall be made by Us on that behalf) by any Instruments or Instrument to be made and issued in Our name, and under the Public Seal of Our said Colony to constitute and appoint three persons being within the same to be Members of the said Legislative Council, during

Our Pleasure, and so from time to time, as often as any such person shall die or resign his seat in the said Council, or be absent from the said Colony, or be suspended by Him the Governor from such his office, or become from any cause incapable of discharging the duties thereof by any other such Instrument as aforesaid to nominate any other person being within the said Colony to fill any such Vacancy.

4. And We do declare Our Pleasure to be, that the said Legislative Council shall not be competent to act in any case unless two Members at the least of such Council, in addition to the Governor for the time being shall be present at, and throughout the Meetings of such Council.

5. And We do authorize and require you or the Governor of Hong Kong for the time being, to preside in the said Council.

6. And for ensuring punctuality of attendance of the Members of the said Council, and for the prevention of Meetings of the said Council being holden without convenient notice to the several Members thereof, it is, Our Pleasure, and we do hereby direct that you, or the Governor of Hong Kong for the time being, do frame for the guidance of the said Council such Standing Rules and Orders as may be necessary for those purposes, with such other Standing Rules and orders as may be best adapted for maintaining order and method in the despatch of business, and in the conduct of all debates in the said Council, which Rules and Orders (not being repugnant to the said recited Charter, or to these Instructions or to any other Instructions which you may receive from Us) shall at times be followed and observed, and shall be binding upon the said Council, unless the same or any of them shall be disallowed by Us.

7. It is Our Pleasure, and We do thereby direct that no Law or Ordinance shall be made or enacted by the said Council unless the same shall have been previously proposed by yourself, and that no question shall be debated at the said Council unless the same shall first have been proposed for that purpose by you. Provided, nevertheless, and it is Our Pleasure that if any Member of the said Council, shall deem any Law fit to be enacted by the said Council, or any question proper to be there debated, and shall of such his opinion transmit a written Statement to you, it shall be lawful for any such Member of the said Council to enter upon the Minutes thereof a copy of any such Statement together with the reasons upon which such his opinion may be founded.

8. And we do further direct that minutes be regularly kept of the proceedings of the said Council by the Clerk of the said Council, and that the said Council shall not ever proceed to the despatch of business until the Minutes of the last preceding Meeting have first been read over and confirmed or corrected as may be necessary.

9. And We do further require and enjoin you twice in each year to transmit to Us through One of Our Principal Secretaries of State, a full and exact copy of the Minutes of the said Council, for the last preceding Half Year.

10. And it is Our further pleasure, that you do not propose or assent to any Ordinance whatever respecting the constitution, proceedings, numbers, or mode of appointing any of the Members of the said Legislative Council, or otherwise in relation to any of the matters mentioned or referred to in the said Charter, and in these Our Instructions, which shall be in any wise repugnant to, or inconsistent with such Charter, or Instructions, but that any such Ordinance, or pretended Ordinance, shall be absolutely null and void to all intents and purposes.

11. And you are expressly enjoined not to propose or assent to any Ordinance whatever whereby any person may be impeded or hindered from celebrating or attending the worship of Almighty God in a peaceable and orderly manner, although such worship may not be conducted according to the rites and ceremonies of the Church of England.

12. And We do further direct that you do not propose or assent to any Ordinance whatever, whereby Bills of Credit, or other negociable [sic] Securities of whatever nature may be issued in lieu of money on the credit of the said Colony, or whereby any Government paper currency may be established therein, or whereby any such Bills, or any other paper currency, or any coin, save only the Legal Coin of the Realm may be made or declared to be a legal tender, without special permission, from Us in that behalf first obtained.

13. And it is Our further pleasure that you do not propose or assent to any Ordinance whatever for raising money by the institution of any public or private lotteries.

14. And We do further direct that you do not propose or assent to any Ordinance whatever, whereby any grant of money or Land, or other donation or gratuity may be made by the said Legislative Council to you.

15. And We do further direct that you do not propose or assent to any Private Ordinance whatever, whereby the property of any Individual may affected, in which there is not a Saving of the Rights of Us, Our Heirs and Successors, and of all Bodies Politic and Corporate and of all other persons, excepting those at whose instance, or for whose especial benefit, such Ordinance may be passed, and those claiming by, from, through and under them.

16. And it is Our Will and Pleasure that you do not propose or assent to any Ordinance whatever to which Our assent has once been refused without express leave for that purpose first obtained from Us.

17. And it is Our further Will and pleasure that all Laws, or Ordinances to be enacted by the said Legislative Council shall henceforth be styled 'Ordinances enacted by the Governor of Hong Kong, with the advice of the Legislative Council thereof', and that no other style or form shall ever henceforth be observed in any such enactment, and that all such Laws and Ordinances be drawn up in a simple and compendious form avoiding as far as may be, all prolixity and tautology.

18. And We do hereby require you with all convenient speed to transmit to Us, through one of Our principal Secretaries of State, a transcript in duplicate of every such Ordinance as aforesaid duly authenticated under the public Seal of the said Colony, and by your own signature. And We do direct that every such Transcript be so transmitted by the earliest occasion next after the enactment of the said Ordinance.

19. And We do further declare Our pleasure to be that in the Month of January, or at the earliest practicable period, at the commencement of each year, you do cause a complete collection to be published for general information, of all Ordinances enacted during the preceding Year.

20. And We do further direct that all Ordinances made by you with the advice of the said Legislative Council, be distinguished by Titles, and that the ordinances of each year be also distinguished by numerical marks commencing in each successive year with the number one, and proceeding in Arithmetical progression to the number corresponding with the total number of Ordinances

enacted during the Year, and that every such Ordinance be directed into Successive Clauses or paragraphs, distinguished in like manner by numerical marks, and that to every such Clause be annexed in the margin a short summary of its contents.

21. And We do further declare Our pleasure to be, that in the passing of all Laws, each different matter be provided for by a different Law, without intermixing into one and the same Act such things as have no proper relation to each other, and that no Clause or Clauses, be inserted in, or be annexed to, any Act which shall be foreign to what the Title of such respective Act imports, and that no perpetual Clause be part of any temporary Law, and that no Act whatever be suspended, altered, contained, revived, or repealed by general words, but the title and date of such Act so suspended, altered, continued, revived, or repealed, be particularly mentioned and expressed in the enacting part.

22. You are also to take care that in all Laws or Ordinances to be passed by Our said Legislative Council, in any case for levying money, or imposing Fines, Forfeitures and Penalties, express mention be made that the same are granted or reserved to Us, Our Heirs, and Successors for the public uses of the said Colony and the support of the Government thereof, as by the said Law or Ordinance shall be directed.

23. And we do hereby further declare Our Will and Pleasure to be that all Questions proposed and debated in the said Legislative Council shall be decided by the majority of voices and that the Governor for the time being of the said Colony shall in the said Legislative Council have both an original vote, and (in case of the Votes being equally divided) a casting vote, and We do further declare Our Pleasure to be, and do ordain and appoint that it shall be competent to the Governor of the said Colony, and he is hereby authorized to make and promulgate as an Ordinance of the said Governor and Legislative Council any Ordinance which may have by him been proposed for the adoption of the said Council, even tho' all the Members of the said Council except himself shall have voted against the adoption and passing thereof and every Ordinance so made and promulgated as aforesaid shall, until the same may be repealed or disallowed by Us have the force and authority of Law in the said Colony as fully as if it had been adopted by the unanimous Votes of all the Members of the said Council.

24. And whereas by the said recited Charter we have authorized the Governor of Our said Colony for the time being to summon as an Executive Council such persons as should from time to time be named or designated by Us, in any Instructions under Our Signet and Sign Manual, to be addressed to him in that behalf. Now We do by these Our Instructions declare Our Pleasure to be that the Members of the said Executive Council shall be nominated and appointed in such and the same manner as is hereinbefore provided with respect to the nomination and appointment of the Members of the before mentioned Legislative Council, the number of the Members of the said Executive Council being always three in addition to the Governor of the said Colony.

25. And We do declare Our Pleasure to be that you do communicate to Our said Executive Council, these Our Instructions, and likewise all such others from time to time, wherein their consent and concurrence are requisite, and as you shall find convenient for Our Service to be imparted to them.

26. And We do hereby declare, and it is Our pleasure, that Our said Council shall not proceed to the despatch of business, unless duly summoned by

your authority, and unless two Members at least, exclusive of yourself or in your absence, exclusive of the Member presiding, be present and assisting throughout the whole of the Meetings at which any such business shall be despatched.

27. And it is Our pleasure that you do attend and preside at the Meetings of Our said Executive Council unless when prevented by some necessary and reasonable cause; and that in your absence the Senior Member of the Council actually present shall preside at all such Meetings.

28. And We do further direct and Command, 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 preceding Meeting shall read over, confirmed or amended as the case may require before proceeding to the despatch of any other business.

29. And it is Our further Will and pleasure, and We do hereby command, that in the execution of the several powers and authorities granted and committed to you by Our said Charter and Commission, and these Our Instructions, or by any additional Instructions hereafter to be given to you by Us you do, (as often as Our Service may seem to you to require it) consult and advise with Our said Executive Council.

30. And it is Our further Will and pleasure that no questions shall be brought before Our said Executive Council for their advice or direction, excepting only such questions as may be proposed by you for that purpose: Provided nevertheless, and it is Our Will and pleasure that if any Member shall deem it expedient that any question should undergo the deliberation of the said Executive Council, and shall by application in writing to you, request and propose that such question should be so discussed, it shall be competent to any such Member to enter upon the Minutes of the said Executive Council such his written application to you, together with the answer which may be returned to you to the same. And it is Our Will, and We do further direct, that if in any case you see sufficient cause to dissent from the opinion of the major part, or of the whole of Our said Executive Council, upon any questions brought by you under their consideration, it shall be competent to you, upon any such occasion to execute the powers and authorities vested in the Governor of Our said Colony of Hong Kong for the time being, by the said Charter and Commission, and these Our Instructions, in opposition to such their opinions, it being nevertheless Our Pleasure that in every case, it shall be competent to any Member of Our said Council to record at length on the Minutes of the said Council the grounds and reasons of any advice or opinion he may give upon any question brought under the consideration of such Council, and it being also Our pleasure, that in the event of your acting upon any action in opposition to the advice of the whole, or the major part of the said Executive Council, you do, by the first opportunity, transmit to Us, through One of Our Principal Secretaries of State, a full explanation of the grounds of every such measure, together with complete copies of the Minutes, if any, of the said Executive Council relating thereto. And we do further direct that twice in each year, a full transcript of all the Minutes of the Executive Council of the preceding half year be transmitted through One of Our Principal Secretaries of State.

31. And whereas We did by Our said recited Charter give and grant to the Governor of Our said Colony of Hong Kong for the time being full power and authority in Our name and on Our behalf, but subject nevertheless to such Provisions as might be in that respect contained in any Instructions which might from time to time be

addressed to the said Governor for that purpose to make and execute in Our name, and on Our behalf, under the Public Seal of the said Colony Grants of Land to Us belonging within the same to private persons for their own use and benefit, or to any persons, bodies politic or corporate, in trust for the public uses of Our subjects there resident, or any of them. Now We do hereby direct that no Grant to Land in the said Colony be made by you, or by your authority to any person or persons for his, her or their private use and benefit gratuitously, or except by way of sale, for the best price that can be obtained for the same, and it is Our further Will and pleasure that no such Land shall be sold or let except at public Auction, that at every such Auction the Land to be then sold or let be put at a reserved or minimum price equal to the fair and reasonable price and value or Annual Rent thereof.

32. And it is Our Pleasure, and We do further direct you to ascertain what particular lands it may be proper to reserve in the said Colony for public Roads, and other Internal Communications whether by Land or Water, or as the Sites of Towns, Villages, Churches, School houses, or Parsonage House, or as places for the interment of the dead, or as places for the future extension of any existing Towns or Villages, or as places fit to be set apart for the recreation and amusement of the Inhabitants of any Town or Village, or for promoting the health of such inhabitants, or as the Sites of Quays, or Landing places, which it may at any future time be expedient to erect from or establish on the Sea Coast, or which it may be desirable to reserve for any other purpose of public convenience, utility, health, or enjoyment, and you are to cause such tracts, pieces, or parcels of Land, as may appear best adapted to answer and promote the several public purposes before mentioned, to be distinguished in the public charts of the said Colony, or in some other authentic manner, and it is Our Will and pleasure and We do strictly enjoin and require you that you do not on any account, or on any pretence whatsoever grant, convey, or describe to any person or persons any of the Lands so specified as fit to be reserved as aforesaid, nor furnish or suffer any such Lands to be occupied by any private person for any private purposes.

33. And whereas We have by the said recited Charter authorized the Governor of Our said Colony for the time being, upon sufficient cause to him appearing to suspend from the exercise of his office, within Our said Colony, any person exercising the same under and by virtue of any Commission or Warrant, granted or to be granted by Us or in Our name, or under Our Authority. Now We do charge and require you that before proceeding to any such suspension, you do signify by a statement in writing to the person so to be suspended the grounds of such your intended proceeding against him, and that you do call upon such person to communicate to you in writing a statement of the grounds upon which he may be desirous to exculpate himself and that you transmit both the said statements to Us through one of Our principal Secretaries of State by the earliest conveyance.

34. And it is Our pleasure that all commissions to be granted by you to any person or persons, for exercising any office or employment in or concerning Our said Colony of Hong Kong, be granted during pleasure only, and that whenever you shall appoint to any vacant office or employment any person not by Us specially directed to be appointed thereto, you shall at the same time expressly apprise such person that such appointment is to be considered only as temporary and provisional until Our allowance or disallowance thereof be signified.

35. And whereas by the said Charter hereinbefore recited, we have given and granted unto the Governor of Our said Colony of Hong Kong for the time being, full power and authority 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 free and unconditional pardon, or a pardon subject to such conditions, as by any law or ordinance hereafter to be in force in Our said Colony, may be thereunto annexed, or any respite of the sentence of any such offender, for such period as to such Governor may seem fit. Now We do hereby require and enjoin you to call upon the Judge presiding at the trial of any such offenders, to make to you, a written report of the cases of all persons who may from time to time be condemned to suffer death by any sentence of any Court within the said Colony and such reports 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 shall be specially summoned to attend, and you shall not pardon or reprieve any such offenders 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 withhold a pardon or reprieve according to your own deliberate judgement, 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 judgement of the majority of the Members thereof.

36. And whereas you 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 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. Now We do hereby signify Our pleasure that all such returns be accurately prepared, and punctually transmitted to Us from year to year, through one of Our principal Secretaries of State, and that no Officer in Our said Colony, within whose department it may be to contribute any return or returns for the purposes aforesaid, or to prepare the same when so contributed, shall be entitled to receive, or shall receive from you, any warrant for the payment of his official salary, which may become due and payable to him so long as such duty as aforesaid shall be in arrear, or remain unperformed.

37. And We do hereby declare Our pleasure to be, that the preceding Instructions shall be taken and understood as addressed to the Governor for the time being of Our said Colony, or to the officer for the time being administering the Government thereof, notwithstanding the same or any part thereof, may be in terms addressed to you, the said Sir Henry Pottinger.

38. And We do hereby reserve to Ourselves, Our Heirs and Successors, full power and authority from time to time, to revoke, alter, renew, or explain, these Our Instructions or any part thereof.