

NEW

SERIES.



THE ROYAL GAZETTE.

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Volume 5.

FREDERICTON, NEW BRUNSWICK, AUGUST 29, 1838.

Number 10.



By Authority.

By His Excellency Major General
Sir JOHN HARVEY, K. C. H.
and C. B. Lieutenant Governor
and Commander in Chief of the
Province of New Brunswick
&c. &c. &c.

A PROCLAMATION.

J. HARVEY, Lt. Governor.

WHEREAS the GENERAL ASSEMBLY of
this Province stands prorogued to
Tuesday the twelfth day of June, instant, I have
thought fit further to prorogue the said GENERAL
ASSEMBLY, and the same is hereby prorogued
to the second Tuesday in September
next.

Given under my Hand and Seal at Frederic-
ton, the sixth day of June, in the
year of our Lord one thousand eight
hundred and thirty eight.

By His Excellency's Command.
Wm. F. O'NEILL.

The following Warrant, under Her Majesty's
Sign Manual, is published for the information
of all concerned.

VICTORIA R.

WE do hereby authorize and appoint you
to enlist and attest in New Brunswick
any Soldiers or Persons desirous of enlisting
or re-enlisting, into the service of Us, our Heirs
and Successors, in execution of the provisions
contained in an Act passed in the 1st year of
Our Reign for the punishment of Mutiny and
Desertion, or which may be contained in any
future Act which may be passed for the like
purpose.

Given at Our Court at Buckingham
Palace, this 9th day of May, 1838, in
the first year of Our Reign.

By Her Majesty's Command.
HOWICK.

To the Justices of the Peace and other Civil Magis-
trates for the time being in New Brunswick.

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 right well beloved
Cousin and Counsellor, JOHN GEORGE,
Earl of DURHAM, Knight, Grand Cross of
the most Honorable Order of the Bath;

GREETING:

WHEREAS Our Royal Predecessor,
His late Majesty King William the
Fourth did by certain Letters Patent, under
the Great Seal of the United Kingdom of
Great Britain and Ireland, bearing date at
Westminster, the first day of July one thou-
sand eight hundred and thirty five, in the
sixth year of His Reign, constitute and appoint
Our right trusty and right well beloved Cousin
and Counsellor, Archibald, Earl of Gosford, to
be Captain General and Governor in Chief in
and over the Province of New Brunswick, dur-
ing His said late Majesty's Royal Pleasure, as
by the said recited Letters Patent, relation
being thereunto had may more fully and at
large appear: Now know you that we have
revoked and determined by these presents
to 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 John George, Earl of Durham, of our es-
pecial grace, certain knowledge and mere mo-
tion, have thought fit to constitute and appoint,
and do by these presents constitute and appoint
you the said John George, Earl of Durham, to
be our Captain General and Governor in Chief
in and over our said Province of New Brun-
swick in America, bounded on the Westward
by the mouth of the River Saint Croix, by the
said River to its source, and by a line drawn
due North from thence to the Southern bound-
ary of our Province of Quebec, to the North-
ward by the said Boundary as far as the West-
ern extremity of the Bay de Chaleurs, to the
Eastward by the said Bay and the Gulf of
Saint Lawrence to the Bay called Bay Verte,
to the South by a line in the centre of the Bay
of Fundy from the River Saint Croix aforesaid,
to the mouth of the Musquata River, by the
said River to its source, and from thence by a
due East line across the Isthmus into the Bay
Verte, to join the Eastern line above described,
including all Islands within six leagues of the
Coast, with all the Rights, Members, and
Appurtenances whatsoever thereunto belong-
ing; And whereas His said late Majesty, did
by certain other Letters Patent under the Great
Seal of the United Kingdom of Great Britain
and Ireland, bearing date at Westminster the

third day of December one thousand eight hun-
dred and thirty two, in the third year of His
Reign, grant, provide and declare that there
should thenceforth be within the said Province
of New Brunswick, two distinct and separate
Councils to be respectively called the Legisla-
tive Council and the Executive Council of the
said Province; And whereas we did by certain
Letters Patent under the Great Seal of our
United Kingdom of Great Britain and Ire-
land, bearing date at Westminster the nine-
teenth day of October one thousand eight
hundred and thirty seven, in the first year of
our reign, revoke certain parts of the said last
recited Letters Patent, and did make certain
other and further provisions in relation thereto;
Now know you, that we have revoked and de-
termined, and do hereby revoke and determine,
all such part or parts of the said recited Letters
Patent of the third day of December one thou-
sand eight hundred and thirty two, as now
remains in force, and also all and every part
or parts of the said recited Letters Patent of the
nineteenth day of October one thousand eight
hundred and thirty seven, and all and singular
matters and things therein contained; And we
do by these presents grant, provide and declare
that there shall henceforth be within our said
Province of New Brunswick, two distinct and
separate Councils to be respectively called the
Legislative Council of our said Province and
the Executive Council of our said Province:
And we do further direct and declare our plea-
sure to be that all and every the powers and
authorities heretofore exercised by the Legisla-
tive Council of our said Province of New
Brunswick shall continue to be exercised by
our said Legislative Council hereby re-estab-
lished: And that all the powers and authorities
heretofore vested in or exercised by the Execu-
tive Council of our said Province of New
Brunswick, shall continue to be exercised by
our said Executive Council of our said Pro-
vince hereby re-established: And we do here-
by appoint and declare that the said Executive
Council and the said Legislative Council respec-
tively, 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 the
said John George, Earl of Durham, until our
pleasure therein shall be known: Provided
nevertheless, and we do hereby declare our
pleasure to be that the total number of the
members for the time being, of our said Execu-
tive Council, shall not by any such provi-
sional appointment be raised to a greater
number in the whole than nine, and that the
total number of the Members of the said Leg-
islative Council resident within our said
Province, shall not at any time by any such
provisional appointment be raised to a greater
number in the whole than fifteen; and we do
further direct and appoint that five Members
of our said Executive Council shall be a quorum
for the dispatch of the business thereof, and
that eight Members of our said Legislative
Council shall be a quorum for the dispatch of
the business thereof, and we do further direct
and appoint that the Member of the said re-
spective Councils shall hold their respective
places therein during our pleasure and not
otherwise; and that the Senior Member respec-
tively for the time being of each of the said
respective Councils shall preside at all the de-
liberations thereof respectively, save only when
you the said John George, Earl of Durham,
shall be present and presiding at the delibera-
tions of the said Executive Council, the seniority
of the Members of the said Councils respec-
tively between themselves being determined by
such rules and regulations as are for that pur-
pose provided by such instructions as are here-
inafter mentioned; And we do hereby require
and command you to do and execute all things
in due manner that shall belong unto your said
command and the trust we have reposed in you
according to the several powers and authorities
granted or appointed you by this present com-
mission and the instructions herewith given to
you, or by such further powers, instructions and
authorities as shall at any time hereafter be
granted to 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 reason-
able laws and statutes as are now in force, or shall
hereafter be made and agreed upon by you with
the advice and consent of the Legislative Coun-
cil and Assembly of our said Province under
your Government, in such manner and form as
is hereinafter expressed; and our will and
pleasure is that you the said John George, Earl
of Durham as soon as may be after the publi-
cation of these our Letters Patent do take the
Oaths appointed to be taken by an Act passed
in the first year of the Reign of King George
the first, intitled "An Act for the further
security of His Majesty's Person and Gov-
ernment and for the succession of the Crown
in the Heirs of the late Princess Sophia, being
Protestants, 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 sixth year
of the Reign of His late Majesty King George
the Third, intitled "An Act for altering the
Oath of Abjuration and the assurance and

for amending so much of an Act of the seventh
year of Her late Majesty Queen Anne, in-
titled "An Act for the improvement of the
union of the two Kingdoms as after the time
therein limited, requires the delivery of cer-
tain Lists and Copies therein mentioned to
Persons indicted of High Treason or mis-
prision of Treason," or in lieu thereof the
Oath required to be taken by an Act passed
in the tenth year of the Reign of His late
Majesty King George the Fourth, intitled
"An Act for the relief of His Majesty's Ro-
man Catholic Subjects," according as the
said former Acts, or the said last mentioned
Act shall be applicable to your case; and like-
wise that you take the usual Oath for the due
execution of the office and trust of our Captain
General and Governor in Chief of our said
Province, and for the due and impartial admin-
istration of justice; and further that you take
the Oath required to be taken by Governors of
Plantations, to do their utmost that the several
Laws relating to Trade and the Plantations be
duly observed: all which said Oaths our Execu-
tive Council in our said Province, or any
three or more of the Members thereof have
hereby full power and authority and are required
to tender and administer unto you: all which
being duly performed you shall administer unto
each of the Members of the said Executive
Council and of the said Legislative Council
respectively, such of the said Oaths mentioned
in the said several Acts as shall be applicable
to the case of the individual Member of our
said respective Councils taking the same: and
you are also to administer to them the usual
Oath for the due execution of their places and
trusts: And we do further give and grant unto
you the said John George, Earl of Durham, full
power and authority from time to time and at
any time hereafter by yourself or by any other
to be authorized by you in that behalf to ad-
minister and give such of the said oaths in the
said several Acts contained as shall be applic-
able to the case of the individual to whom the
same shall be administered to all and every such
person and 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 Province or be resident or abiding therein:
And we do hereby authorize and empower
you to constitute and appoint Judges and in
cases requisite commissioners of Oyer and
Terminer, Justices of the Peace, and other ne-
cessary Officers and Ministers in our said
Province for the better administration of
Justice, and putting the Laws into execution,
and to administer or cause to be administered
unto them such oath or oaths as are usually
given for the due execution and performance
of offices and places and for the clearing of
truth in Judicial Causes: And we do hereby
give and grant unto you the said John George,
Earl of Durham, full power and authority in
case any person or persons commissioned or
appointed by us to any office or offices within
our said Province of New Brunswick, shall in
your opinion be unfit to continue in our ser-
vice to suspend such person or persons from
their or their several employments until our
pleasure shall be known: And we do hereby
give and grant unto you full power and author-
ity to suspend any of the Members of our said
Executive and Legislative Councils respectively,
from sitting, voting, and assisting therein
if you shall find just cause for so doing: And
if it shall at any time happen that by the death,
departure out of our said Province, suspension,
or resignation of any of our said Councilors or
otherwise, there shall be a vacancy in either of
our said Councils, our will and pleasure is that
you signify the same unto us by the first oppor-
tunity, that we may under our Sign Manual
and Signet, constitute and appoint others in
their stead: but that our affairs at that dis-
tance may not suffer for want of a due number
of Councilors, we do hereby give and grant unto
you the said John George, Earl of Durham full
power and authority to choose as many Persons
out of the principal Freeholders, Inhabitants of
our said Province of New Brunswick as shall
be necessary to supply any vacancy or vacan-
cies, which may from time to time occur in the
Councils or either of them, which person so
chosen and appointed by you, shall be to all
intent and purposes Councilors in our said
Province until their appointment shall either
be confirmed or disallowed by us. And we do
hereby give and grant unto you the said John
George, Earl of Durham, full power and author-
ity with the advice and consent of our said
Executive Council from time to time as need
shall require, to summon and call General As-
semblies of the Freeholders and Settlers in the
said Province under your Government, in such
manner and form as has been already appointed
and used, or according to such further powers,
instructions and authorities as shall at any time
hereafter be granted or appointed you under
our Sign Manual and Signet, or by our order
in our Privy Council. And our will and plea-
sure is that the persons thereupon duly elected
by the major part of the Freeholders of the
respective Counties and places, and so returned
shall before their sitting take such of the Oaths
mentioned in the said several Acts as shall be
applicable to the case of the individual taking
the same, which Oaths you shall commission
fit persons under our Seal of our Province of

New Brunswick to tender and administer unto
them, and until the same shall have been so
taken no person shall be capable of sitting,
though elected. And we do hereby declare
that the persons so elected and qualified shall
be called and deemed the General Assembly of
our Province of New Brunswick. And that
you the said John George, Earl of Durham,
with the advice and consent of our said Legisla-
tive Council and Assembly or the the major
part of them respectively, shall have full power
and authority to make, constitute, and ordain
Laws, Statutes and Ordinances for the public
peace, welfare and good government of our said
Province and of the people and inhabitants
thereof, and such others as shall resort thereto,
and for the benefit of us, our heirs and suc-
cessors, which said Laws, Statutes and Ordinances
are not to be repugnant but as near as local
circumstances will admit, agreeable to the Laws
and Statutes of this our United Kingdom of
Great Britain and Ireland: Provided that all
such Laws, Statutes and Ordinances of what
nature or duration soever, be within three
months or sooner after the making thereof
transmitted to us under the Public Seal of our
said Province for our approbation or disallow-
ance of the same, as also duplicates thereof by
the next conveyance: And in case any or all
of the said Laws, Statutes and Ordinances not
before confirmed by us, shall at any time be
disallowed and not approved 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 you the said John
George, Earl of Durham, then such and so
many of the said Laws, Statutes and Ordinances
as shall be so disallowed and not approved
shall from thenceforth cease, determine, and
become utterly void and of none effect, any
thing to the contrary thereof notwithstanding.
And to the end that nothing may be passed or
done by our said Legislative Council or Assem-
bly, to the prejudice of us, our heirs and suc-
cessors, we will and ordain that you the said
John George, Earl of Durham, shall have and
enjoy a negative voice in making and passing
all Laws, Statutes and Ordinances as aforesaid;
and you shall and may likewise from time
to time, as you shall judge it necessary, adjourn,
prorogue and dissolve all General Assemblies
as aforesaid. And we do hereby authorize and
empower you to keep and use the Public Seal
for sealing all things whatsoever that shall pass
the Public Seal of our said Province: and we
do hereby give and grant unto you full power
and authority when you shall see cause or shall
judge any offender or offenders in criminal
matters, or for any fines or forfeitures due unto
us, fit objects of our mercy to pardon all such
offenders and to remit all such offences, fines
and forfeitures; and we do by these presents
give and grant unto you John George, Earl of
Durham, full power and authority, without ex-
pecting any further especial warrant from us,
from time to time to give order and warrant
for the preparing of Grants of the custodies of
Idiots and Lunatics, and their Estates as are
or shall be found by inquisition thereof, taken
or to be taken and returnable in our Courts of
Chancery, and thereupon to make and pass
Grants and Commitments under our Public
Seal of our Province of New Brunswick, of the
custodies of all and every such Idiots and Lu-
natics and their Estates to such person or per-
sons, suitors in that behalf, as according to the
Rules of Law and thence and practice in those
and the like cases you shall judge meet for that
trust; and we do by these presents authorize
and empower you the said John George, Earl
of Durham, to collate any person or persons to
any Churches, Chapels, or other Ecclesiastical
Benefices within our said Province of New
Brunswick, as often as any of them shall hap-
pen to be void. And it is our further will and
pleasure that all public monies raised by any
Act made or hereafter to be made as aforesaid,
within our said Province be issued out by war-
rant from you, by and with the advice and con-
sent of our said Executive Council and dis-
posed of by you for the support of the Govern-
ment of our said Province, or for such other
purposes as shall be particularly directed in
and by such Act, and not otherwise. And
we do likewise give and grant unto you
full power and authority by and with the advice
and consent of our said Executive Council in
our name, and on our behalf, to grant and dis-
pose of under the public seal of our said Pro-
vince, such Lands, tenements and heredita-
ments within the said Province as now are
or hereafter shall be in our power to grant or dis-
pose of provided nevertheless, and we do hereby
require that in granting and disposing of
all such Lands, tenements and hereditaments
you do conform to and observe the provisions
in that behalf contained in any Act or Acts
made or to be made by the Governor, Legisla-
tive Council and Assembly of our said Pro-
vince, for regulating the sale and settlement
thereof: And we do hereby declare our plea-
sure to be that all such grants shall be entered
upon record by such officer or officers as shall
be appointed thereunto, and shall be good and
effectual in Law against Us, our Heirs and
Successors: And we do hereby declare, ordain
and appoint that you, the said John George,
Earl of Durham, shall and may hold, execute
and enjoy the office and peace of our Captain

General, and Governor in Chief in and over
our said Province of New Brunswick, with all
the rights, members and appurtenances whatso-
ever, together with all and singular the powers
and authorities hereby granted unto you for
and during our will and pleasure, and in case
of your death or absence out of our said Pro-
vince of New Brunswick, we do by these pre-
sents give and grant all the singular the
powers and authorities herein to you granted
to our Lieutenant Governor for the time being
of our said Province, or in the absence of any
such Lieutenant Governor to such person as
we may by Warrant under our Sign Manual
and Signet authorize and appoint to be the
administrator of the Government of our said
Province, such powers and authorities to be by
him executed and enjoyed during our pleasure.
But if upon your death or absence out of our
said Province of New Brunswick, there be no
person upon the place commissioned and ap-
pointed by us to be our Lieutenant Governor
or specially appointed by us to administer the
Government within our said Province our will
and pleasure is, that until your return from
any such absence or until our further pleasure
shall be known the senior Military Officer for
the time being in command of our forces with-
in our said Province of New Brunswick shall
take upon him the administration of the Go-
vernment thereof and shall execute in our
said Province this our Commission and the
aforesaid instructions and the several powers
and authorities therein contained in the same
manner and to all intents and purposes as
other our Captain General and Governor in
Chief should or ought to do: And we do
hereby command all our Officers and Ministers,
Civil and Military and all other the Inhabi-
tants of our said Province to be obedient,
aiding and assisting unto you, the said John
George, Earl of Durham, in the execution of
this our commission and of the powers and
authorities therein contained. IN Witness
whereof, We have caused these our Letters to
be made patent, Witness ourself at Westmin-
ster, the thirtieth day of March, in the first
year of our reign.

By Writ of Privy Seal,
EDMUNDS.

Upon the special recommendation of His
Excellency Sir John Harvey, the Honorable
William Black has been replaced by the Queen,
with his former rank and precedence, in Her
Majesty's Executive Council of this Pro-
vince, of which Mr. Black consequently be-
comes the senior Member. Mr. Black's
mandamus having been received, the Honorable
Gentleman took the oath and his seat at
the Council held on the 2d of August. It will
also be seen by the following copy of a Dis-
patch from the Right Honorable the Secretary
of State, that, upon His Excellency's sugges-
tion and recommendation, co-ordinate rank
with Members of the Executive Council (ac-
cording to the dates of their respective ap-
pointments) was assigned to the Puisne
Judges of Her Majesty's Courts in this Pro-
vince. An extract of a Dispatch assigning
rank to the Master of the Rolls next to the
Chief Justice is also published.

Duplicate, No. 63.

Downing Street, 17th January, 1838.

Sir,—I have had the honor to lay before the
Queen your Dispatch of the 7th December,
No. 67, on the subject of the precedence of the
Puisne Judges in New Brunswick. Her
Majesty has been graciously pleased to sanc-
tion the alteration which you have suggested in
the prescribed table of precedence, and to
command that in New Brunswick the Puisne
Judges should enjoy co-ordinate rank with the
Members of the Executive Council and should
take precedence with them according to the
dates of their respective appointments to the
Bench or to the Council.

I have the honor to be, Sir,
Your most ob't. humble servant,
GLENELG.

Major General Sir JOHN HARVEY, &c. &c. &c.

Extract, No. 94.

Downing Street, 26th May, 1838.

"With regard to the precedence of the
Master of the Rolls, Her Majesty, following
the practice in the analogous case in this Coun-
try, is pleased to assign to that officer, Rank
immediately below the Chief Justice."

Major General Sir JOHN HARVEY, K. C. B. &c.
&c. &c.HEAD QUARTERS FREDERICTON,
21st August, 1838.

MILITIA GENERAL ORDER.

It being found that the days appointed for the
General Inspection of the Militia of the City of
Saint John, would interfere with those appointed
for holding the Courts of the Quarter Sessions,
and Inferior Courts of Common Pleas, the
Commander in Chief has been pleased to order
that the City Militia be inspected on Monday
the 17th day of September—the Rifle Battalion
on Tuesday the 18th—and the Sea Fencible
Battalion on the 19th September, on the Sands
near Saint John.

By Command,
GEO. SHORE, A. G. M.