



NEW ZEALAND GOVERNMENT GAZETTE.

Published by Authority.

All Public Notifications which appear in this Gazette, with any Official Signature thereunto annexed, are to be considered as Official Communications made to those Persons to whom they may relate.

By His Excellency's Command,

ANDREW SINCLAIR, Colonial Secretary.

VOL. VI.] AUCKLAND, TUESDAY, JAN. 27, 1846. [No. 3.

PROCLAMATION.

By His Excellency **GEORGE GREY**,
Esquire, Lieutenant-Governor and Com-
mander-in-Chief in and over Her Majes-
ty's Colony of New Zealand, and its
Dependencies, and Vice-Admiral of the
same, &c., &c., &c.

WHEREAS, the under-mentioned Ordi-
nances enacted by the Governor of
New Zealand, with the advice and consent of
the Legislative Council thereof, were passed in
the 7th and 8th years of the Reign of Her Ma-
jesty Queen Victoria, viz.—

- No. 2. An Ordinance to make temporary Pro-
vision for the Constitution of Juries. (13th
January, 1844).
- No. 7. An Ordinance for the relief of Persons
Imprisoned for Debt. (25th June, 1844).
- No. 8. An Ordinance to establish Courts of
Requests for the more easy and speedy reco-
very of Small Debts. (27th June, 1844).
- No. 10. An Ordinance to amend "An Ordi-
nance for Licensing Auctioneers." (29th
June, 1844).
- No. 11. An Ordinance to amend "An Ordi-
nance to facilitate the transfer of Real Pro-
perty, and to simplify the Law relating there-
to." (4th July, 1844).
- No. 14. An Ordinance to amend "An Ordi-
nance to provide for the summary recovery of

compensation for damage done by Cattle
trespassing." (11th July, 1844).

- No. 15. An Ordinance to amend "An Ordi-
nance to regulate Summary Proceedings be-
fore Justices of the Peace. (16 July, 1844).
- No. 16. An Ordinance for the admission, in
certain cases, of Unsworn Testimony in Civil
and Criminal Proceedings. (16th July, 1844).
- No. 19. An Ordinance to provide a summary
mode of abating the Nuisance of Dogs wan-
dering at large in Towns. (17th July, 1844).
- No. 20. An Ordinance to remove doubts re-
specting the Legal Estate in Lands granted
to Land Claimants. (17th July, 1844).
- No. 21. An Ordinance to amend "An Ordi-
nance for regulating the Sale of Fermented
and Spirituous Liquors." (17th July, 1844).

PRIVATE ORDINANCE.

- No. 2. An Ordinance for the Naturalization of
certain German Settlers in the Colony of
New Zealand. (16th July, 1844).

Which Ordinances having been by the Right
Honorable Lord Stanley, one of Her Majesty's
Principal Secretaries of State, laid before the
Queen, Her Majesty has been pleased to con-
firm and allow the same.

Now, therefore, I, the Lieutenant-Governor,
do hereby proclaim and make known to all

whom it may concern, that Her Majesty has been graciously pleased to confirm and allow the before-mentioned Ordinances.

Given under my Hand, and issued under the Public Seal of the Colony, at Government House, (L. S.) Auckland, this twenty-first day of January, in the year of Our Lord One thousand eight hundred and forty-six.

GEORGE GREY,
Lieutenant-Governor.

By His Excellency's Command,
ANDREW SINCLAIR,
Colonial Secretary.

GOD SAVE THE QUEEN !

*Colonial Secretary's Office,
Auckland, 24th January, 1846.*

HIS Excellency the Lieutenant-Governor has given directions for the publication of the following Despatch, with the question and opinion subjoined, for general information.

By Command,
ANDREW SINCLAIR,
Colonial Secretary.

*Downing Street,
8th August, 1845.*

SIR,—I enclose copies of a correspondence with the New Zealand Company, on the subject of the authority of the legislature of New Zealand, as at present constituted, to impose taxes on Her Majesty's subjects inhabiting that colony.

I enclose also the copy of an opinion on the same subject, given for the information and guidance of Her Majesty's Government, by the Attorney and Solicitor-General, and by Sir Thomas Wilde, who held the office of Attorney-General under the last Administration.

I departed from the usual course of proceeding in obtaining the joint opinion of the past and the present law officers of the Crown, partly on account of the magnitude and importance of the principle in debate, and partly because Sir Thomas Wilde (the only one of the former law officers now remaining at the bar) had been consulted by Lord John Russell when the charter for the government of New Zealand was issued, and was, therefore, peculiarly prepared to explain the legal grounds on which that measure had been taken, and on which it was to be defended.

You will see that the legal advisers of the Crown entertain no doubt of the right of the existing legislature of New Zealand to impose taxes and duties on the Queen's subjects inhabiting that colony. I have reason to know that other lawyers of considerable authority, and of great experience on such questions, fully concur in the same opinion. I must, therefore, conclude that Mr. Burge is in error in this case.

In the administration of the government of New Zealand, you will take the joint opinion of the Attorney and Solicitor-General, and of Sir Thomas Wilde, as the rule for your guidance; and if Mr. Burge's opinion should have been made public there (as will probably have been the case), you will give equal publicity to the joint opinion of the three legal advisers of the Crown, which I now transmit to you.

I have, &c.,

(Signed) STANLEY.

Governor GREY,
&c., &c., &c.

QUESTION submitted for the Opinion of the Attorney and Solicitor-General, and Sir Thomas Wilde; and Opinion thereon:—

Whether, for the reasons assigned by Mr. Burge, or for any other reason, there is any sufficient ground to deny that the Legislature of New Zealand, as constituted under the Act 3 and 4 Vict. c. 62, and Her Majesty's charter of 16th November, 1840, is competent to enact laws imposing duties and taxes on Her Majesty's subjects inhabiting the New Zealand Islands.

WE are of opinion that the Legislative Council of New Zealand, created by Her Majesty's charter of the 16th November, 1840, has competent authority to pass an Act imposing duties and taxes upon the Queen's subjects inhabiting that colony.

Although the Legislative Council is created by the Queen's charter, the authority to impose taxes is derived from the statute of 3 and 4 Vict. c. 62; and in order to form a correct judgment as to the extent of the authority intended to be granted by the Legislature, it is proper to consider the object of the statute and the circumstances under which it passed.

The statute authorized the Crown in its discretion to erect into an independent colony, any dependencies of the colony of New South Wales; and by sec. 3d, authority was also given to the Crown to constitute a Legislative Council in any such newly created colony, and power was given to the Council to make and ordain all such laws and ordinances as should be required for the peace, order, and good government of the new colony, the laws not being repugnant to the law of England, but subject to certain directions contained in the statute, which are immaterial to the question submitted to us.

At the time this statute passed New Zealand was a dependency of New South Wales, and was subject to the legislative authority of a Council nominated by the Crown, under the authority of 9 Geo. 4. There had been a previous statute, passed in 4 Geo. 4, c. 9, by which it was enacted to be lawful for His Majesty to constitute a Council, and that such Council should have power and authority to make laws and ordinances for the peace, welfare, and good government of the colony, not being repugnant

to the laws of England, nor to certain other matters therein contained.

That statute, in s. 27, provided and enacted that no tax should be imposed by the Council upon the vessels trading with the colony or the dependencies thereof, nor upon goods imported or exported, nor any other tax, except only such as should be necessary for local purposes. This clause of restriction operates as a legislative exposition that by the previous words a general power of taxation had been conferred, otherwise this restriction was nugatory and useless.

The statute 4 Geo. 4, expired on the 31st December, 1829; and on the 25th July, 1828, the 9 Geo. 4, c. 83, passed, which recited that it was expedient to repeal the before-mentioned statute 4 Geo. 4, but we do not find that in fact it was repealed, but it seems to have been left to expire; and by the 9 Geo. 4, c. 83, s. 20, a new power is given to the Crown to create a Council for New South Wales and its dependencies; and by s. 21 the same power is given to that Council as had been conferred on the Council 4 Geo. 4, and containing in s. 25 a restriction of the power to taxation for local purposes, but omitting the restraint in regard to taxation upon exports and imports; and New Zealand was subject to the legislative authority of the Council appointed under the 9 Geo. 4, at the time the 3 and 4 Vict. passed.

The Council appointed under the 9 Geo. 4, was in no respect a representative body, and the only power of taxation given to the Council is comprised in the words above quoted; and it is manifested by s. 25, (the restrictive clause), that the Legislature had intended to give the power of taxation by the previous general words, otherwise, as before stated, the restriction would have been nugatory and useless. The object of the statute 3 and 4 Vict. c. 62, was, as before stated, to enable the Crown to erect into an independent colony any of the dependencies of New South Wales, and, as appears by the recital, to appoint a Legislative Council of the same character as that which existed in New South Wales, and to the powers of which New Zealand was then subject, and for the same purposes; that is, to make laws and ordinances for the peace, welfare, and good government of the colony to be newly created; and power is given to the New Zealand Council to be nominated by the Crown, in precisely the same words as those which had conferred the power of taxation upon the Council of New South Wales.

We therefore are of opinion, that the power to make laws and ordinances for the peace, order, and good government of the colony of New Zealand, conferred upon the Council the power of taxation for local purposes. In some statutes a power to impose taxes has been given to local legislatures in express terms in addition to general words, such as those contained in the statute in question; and in other statutes, after the use of similar general words, a restriction has been inserted limiting the power to impose taxes to certain specified purposes. But we

think that the power to impose taxes has always been deemed to be conferred by, and comprised within, the same words as are used in the 3 and 4 Vict. c. 62, or words of similar import, and that such power has been generally exercised without being questioned; and we are of opinion, that such words are usual, apt, and proper words to confer the power.

We are also of opinion, that the construction of such words is not governed nor in any respect depend upon the nature of the constitution of the legislative body to which they are applied, but that they equally confer the power of taxation upon a legislative body nominated by the Crown under the authority of an Act of Parliament, as they bestow upon a legislative body which may possess more or less of a representative character.

We have duly considered the opinion of Mr. Burge, with all the respect due to the authority of that gentleman, before we arrived at the conclusion we have stated. We agree with Mr. Burge, that in determining upon the authority of the legislature of New Zealand, the point to be considered is the construction of the statute of 3 and 4 Vict. c. 62, but we cannot concur in the opinion that the construction of the statute is at all affected by the principles of the common law to which he refers. The power conferred by the statute may be well collected from what is therein declared to be the object of the enactment, which was the general government of the colony, and from the language in which the authority of the council is expressed. If the construction of the words of the statute in regard to the power of taxation was, as suggested by Mr. Burge, to depend upon the representative character of the legislative body to which they might refer, such a rule would in its application lead to questions of no slight difficulty, as to how little or how much of the principle of representation being imparted to the body would entitle the words to the larger or more limited construction.

We think that the object and intention of the Legislature, as they are to be collected from the statute, require that the statute should be constructed to confer the power upon the council now governing New Zealand, of imposing taxes and duties for local purposes; and with due deference, we do not think that the reasons assigned by Mr. Burge, nor any other that occur to us, furnish any well founded doubt upon the subject.

(Signed) **FREDERICK THESIGER,
FITZ ROY KELLY,
THOMAS WILDE.**

Temple, 30th July, 1845.

CROWN GRANTS.

*Colonial Secretary's Office,
Auckland, 13th January, 1846.*

THE undermentioned Deeds of Grant are now lying at this Office ready for delivery—and His Excellency the Lieutenant-Governor

directs it to be notified, that for every Deed not taken up within three months after the date of this *Gazette*, a fee of five shillings will be charged for each month it may remain beyond that period, according to the "Crown Grants' Ordinance," Session V, No. 3.

In cases where it is impossible for the Grantee to attend in person to receive his Deed, it will be delivered to the bearer of an authority according to the subjoined form, certified by a Magistrate, or by a Solicitor of the Supreme Court.

Form of Authority for a Deed of Grant.

I hereby authorise A. B. of _____ to receive the Deed of Grant in my favor, for

WITNESS, (Signature of Grantee.)
Signature of a Magistrate, or of a }
Solicitor of the Supreme Court. }

Lands acquired by Exchange Credits.

694. John Kelly, sixty-one acres and two roods, Suburban Allotment No. 58.

695. John Kelly, forty-four acres, Suburban Allotment No. 51.

696. John Kelly, sixty-six acres, Suburban Allotment No. 11, of Section No. 10.

697. John Kelly, thirty-six acres, one rood, and twenty-four perches, Suburban Allotment No. 9, of Section No. 10.

698. John Kelly, fourteen acres, two roods, and sixteen perches, Suburban Allotment No. 1, of Section No. 10.

699. John Monk, twenty-five acres, Suburban Allotment No. 28, of Section No. 8.

700. John Monk, twenty-two acres and two roods, Suburban Allotment No. 27, of Section No. 8.

701. Robert Maunsell, six acres, one rood, and eleven perches, Suburban Allotment No. 25, of Section No. 6.

702. William Greenwood, sixteen acres, two roods, and six perches, Suburban Allotment No. 40, of Section No. 5.

703. Percival Berrey, twenty acres, Suburban Allotment No. 127.

704. William Smellie Grahame, four acres, Suburban Allotment No. 21, of Section No. 3.

705. William Smellie Grahame, twenty-three acres, Suburban Allotment No. 47.

706. William Smellie Grahame, twenty-seven acres, two roods, and thirty-eight perches, Suburban Allotment No. 21, of Section No. 1.

707. William Smellie Grahame, forty acres and thirty-six perches, Suburban Allotment No. 23, of Section No. 1.

708. William Smellie Grahame, forty-one acres, Suburban Allotment No. 25, of Section No. 1.

709. William Smellie Grahame, twenty-six acres, three roods, and four perches, Suburban Allotment No. 24, of Section No. 1.

710. William Smellie Grahame, seventy-one acres and two roods, Suburban Allotment No. 146.

711. Alfred Nesbit Brown, three acres, three roods, and nine perches, Suburban Allotment No. 23, of Section No. 3.

712. Alfred Nesbit Brown, eighteen acres and one rood, Suburban Allotment No. 16, of Section No. 9.

713. Thomas Henry, thirty-three acres, Suburban Allotment No. 42.

714. Thomas Henry, forty-one acres, Suburban Allotment No. 43.

715. Thomas Henry, forty-six acres, Suburban Allotment No. 46.

716. Percival Berrey, six acres and thirty-six perches, Suburban Allotment No. 26, of Section No. 6.

717. Percival Berrey, three acres, three roods, and nine perches, Suburban Allotment No. 24, of Section No. 3.

718. William Greenwood, twenty-one acres and two roods, Suburban Allotment No. 1, of Section No. 8.

719. William Greenwood, eighty-seven acres, Country Lot No. 1.

720. David White, six hundred acres, Country Lot No. 10.

721. James Woolly, forty-five acres, Suburban Allotment No. 150.

722. James Woolly, one hundred and ten acres, Suburban Allotment No. 158.

723. James Woolly, twenty acres, Suburban Allotment No. 79.

724. James Woolly, fifty-four acres, Suburban Allotment No. 154.

725. James Woolly, forty-one acres, Suburban Allotment No. 164.

726. James Woolly, sixty-six acres, Suburban Allotment No. 159.

727. William Smellie Grahame, twenty acres, Suburban Allotment No. 80.

728. William Smellie Grahame, one hundred and fifteen acres, Suburban Allotment No. 149.

729. Phillip Callan, fifty-six acres, Suburban Allotment No. 156.

730. William White, sixty-four acres, Country Allotment No. 77.

731. William Smellie Grahame, seventy-seven acres, Country Allotment No. 86.

732. William Richardson Gundry, one hundred and five acres and two roods, Country Allotment No. 114.

733. John Kelly, seventy acres, one rood, and thirty-seven perches, Country Allotment No. 141.

734. Hastings Atkins, sixty-six acres, Country Allotment No. 75.

735. John Ross, seventy-two acres, one rood, and three perches, Country Allotment No. 110.

736. Henry Walton, sixty-one acres, Country Allotment No. 63.
737. John Shedden Adam, ninety-one acres, Country Allotment No. 83.
738. John Shedden Adam, eighty-nine acres, Country Allotment No. 84.
739. John Shedden Adam, seventy-four acres and two roods, Country Allotment No. 85.
740. Alexander Alderdice, twelve acres and one rood, Country Allotment No. 133.
751. Donald McDonald, four acres, three roods, and twenty perches, Suburban Allotment No. 3, of Section No. 5.
752. Donald McDonald, nine acres, Suburban Allotment No. 9, of Section No. 6.
753. Donald McDonald, four acres, three roods, and twenty-seven perches, Suburban Allotment No. 4, of Section No. 5.
754. George Gimbel, ninety-one acres, Country Allotment No. 65.
755. William Brown, eighty-two acres and one rood, Country Allotment No. 76.
756. William White, one hundred and seventy-five acres, Country Allotment No. 28.
757. Clement Partridge, one hundred and sixty acres, Country Allotment No. 22.
758. Joseph Wright, fifty-nine acres, three roods, and twenty-eight perches, Allotment No. 124.
759. Thomas Florance, fifty-four acres, Country Allotment No. 64.
761. John Marmon, eighty-eight acres and two roods, Country Allotment No. 62.
762. Clement Partridge, twenty-one acres, three roods, and thirteen perches, Suburban Allotment No. 148.
763. Henry Pearson, seventy-nine acres and three roods, Country Allotment No. 79.
764. Alexander Kennedy, ninety-two acres, Suburban Allotment No. 48.
765. James Woolly, one rood and fourteen perches, Town Allotment No. 36, of Section No. 44.
766. James Woolly, one rood and twelve perches, Town Allotment No. 37, of Section No. 44.
767. James Woolly, one rood and twenty-seven perches, Town Allotment No. 40, of Section No. 44.
768. James Woolly, one rood and twenty-seven perches, Town Allotment No. 41, of Section No. 44.
769. James Woolly, one rood and three perches, Town Allotment No. 35, of Section No. 44.
770. James Woolly, one rood and twenty-six perches, Town Allotment No. 42, of Section No. 44.
771. James Woolly, one rood and three perches, Town Allotment No. 34, of Section No. 44.
772. James Woolly, one rood and fourteen perches, Town Allotment No. 33, of Section No. 44.
773. James Woolly, one rood and two perches, Town Allotment No. 28, of Section No. 44.
774. James Woolly, one rood and fourteen perches, Town Allotment No. 14, of Section No. 44.
775. James Woolly, one rood and twenty-six perches, Town Allotment No. 23, of Section No. 44.
776. James Woolly, one rood and twenty-seven perches, Town Allotment No. 24, of Section No. 44.
777. James Woolly, one rood and thirty perches, Town Allotment No. 26, of Section No. 44.
778. James Woolly, one rood and twenty-nine perches, Town Allotment No. 25, of Section No. 44.
779. James Woolly, one rood and thirty-one perches, Town Allotment No. 27, of Section No. 44.
780. James Woolly, one rood and fifteen perches, Town Allotment No. 15, of Section No. 44.
781. James Woolly, one rood and sixteen perches, Town Allotment No. 15, of Section No. 44.
782. James Woolly, one rood and eighteen perches, Town Allotment No. 17, of Section No. 44.
783. James Woolly, one rood and eighteen perches, Town Allotment No. 31, of Section No. 44.
784. James Woolly, one rood and nineteen perches, Town Allotment No. 18, of Section No. 44.
785. James Woolly, one rood and eleven perches, Town Allotment No. 30, of Section No. 44.
786. James Woolly, one rood and four perches, Town Allotment No. 29, of Section No. 44.
787. James Woolly, one rood and seven perches, Town Allotment No. 32, of Section No. 44.
788. James Woolly, forty-five acres, Country Allotment No. 140.
789. James Woolly, two hundred and eight acres, Country Allotment No. 43.
790. James Woolly, three hundred and thirty acres, Country Allotment No. 55 a.
791. James Woolly, two hundred and twenty acres, Country Allotment No. 55.
792. James Woolly, three hundred and twenty acres, Country Allotment No. 54.
793. James Woolly, two hundred and forty-six acres, Country Allotment No. 46.
794. James Woolly, one hundred and sixty acres, Country Allotment No. 45.

795. James Woolly, one hundred and sixty acres, Country Allotment No. 44.

796. James Woolly, two hundred and sixty-three acres, Country Allotment No. 42.

797. James Woolly, one hundred and ninety-three acres, Country Allotment No. 34.

798. James Woolly, two hundred and fifty-six acres, Country Allotment No. 33.

799. James Woolly, sixty-five acres and one rood, Country Allotment No. 74.

800. Edward Stillard, seventy acres and twenty perches, Country Allotment No. 117.

801. Peter Greenhill, eighty-six acres, three roods, and twenty-six perches, Country Allotment No. 142.

802. Peter Greenhill, eighty-nine acres, Country Allotment No. 143.

Free Grant.

15. Principal Officers of Ordnance, twenty-six acres, one rood, and thirty perches, Town Section No. 5, and parts of Nos. 12 and 13.

The following Deeds have been issued from this Office without having been previously Gazetted as lying ready for issue.

Original Land Claims.

346. Wesleyan Missionary Society, forty acres, being Claim No. 390.

347. Wesleyan Missionary Society, ninety acres, being Claim No. 390 a.

348. Wesleyan Missionary Society, one hundred and sixty acres, being Claim No. 390 b.

349. Wesleyan Missionary Society, four acres, being Claim No. 390 c.

350. Wesleyan Missionary Society, fifty-three acres, being Claim No. 389.

351. Wesleyan Missionary Society, five hundred acres, being Claim No. 389 e.

352. Wesleyan Missionary Society, one hundred acres, being Claim No. 389 f.

353. Wesleyan Missionary Society, four hundred acres, being Claim No. 389 d.

354. Wesleyan Missionary Society, two hundred acres, being Claim No. 398 e.

355. Wesleyan Missionary Society, one thousand acres, being Claim No. 389 b.

356. Wesleyan Missionary Society, fifty acres, being Claim No. 389 a.

Lands acquired by Exchange Credit.

741. Thomas Holmes and William Joseph Pettit, eighty-two acres, one rood, and sixteen perches, Country Allotment No. 105.

742. Thomas Holmes and William Joseph Pettit, eighty-two acres, one rood, and sixteen perches, Country Allotment No. 106.

743. Thomas Holmes and William Joseph Pettit, eighty acres and three roods, Country Allotment No. 107.

744. Thomas Holmes and William Joseph Pettit, eighty acres, two roods, and twenty-eight perches, Country Lot No. 108.

745. Thomas Holmes and William Joseph Pettit, sixty acres and three roods, Country Allotment No. 116.

746. Thomas Holmes and William Joseph Pettit, eighty acres and three roods, Country Allotment No. 109.

747. Thomas Holmes and William Joseph Pettit, eighty-five acres, Country Allotment No. 111.

748. Thomas Holmes and William Joseph Pettit, eighty acres and three roods, Country Allotment No. 112.

749. Thomas Holmes and William Joseph Pettit, one hundred and five acres and two roods, Country Allotment No. 113.

750. Thomas Holmes and William Joseph Pettit, sixty acres and three roods, Country Allotment No. 115.

760. James O'Neil, eighty-six acres, three roods and thirty-seven perches, Country Allotment No. 135.

By Command,

ANDREW SINCLAIR,

Colonial Secretary.

Colonial Secretary's Office.

Auckland, 24th January, 1846.

HIS Excellency has been pleased to appoint

J. JERMYN SYMONDS, Esq.,

of Her Majesty's 99th Regt., to be His Excellency's Private Secretary.

By Command,

ANDREW SINCLAIR,

Colonial Secretary.

In the Supreme Court of New Zealand.

JOSEPH MORRIS, deceased, intestate.

PURSUANT to the Rule of this Honorable Court, the Creditors of the above-named deceased are, on or before the seventeenth day of March next, to come in and prove the debts, before Thomas Outhwaite, Esquire, Registrar of the said Court, at his Office in the Court House, Queen-street, Auckland, or in default thereof, they will be peremptorily excluded from all benefit arising from the said Estate.

THOMAS OUTHWAITE,

Registrar.

Supreme Court Office,

Auckland, 15th January, 1846.

CHRISTOPHER FULTON, Government Printer, Auckland.