

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recited that it was expedient to repeal the before-mentioned statute 4 Geo. 4, but we do not find that in fact it was repealed, but it seems to have been left to expire; and by the 9 Geo. 4, c. 83, s. 20, a new power is given to the Crown to create a Council for New South Wales and its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