

39. On the same day Mr. Justice Williams was appointed, and he still holds office.

40. Mr. Justice Gillies took precedence as the senior Judge.

41. If the point now raised against the validity of my appointment be good, there was at the time of the appointment of Mr. Justice Gillies one vacancy on the Supreme Court Bench, owing to the invalidity of the appointment of Mr. Justice Chapman (see paragraph 36 hereof).

42. Mr. Justice Gresson and Mr. Justice Chapman resigned office on the 1st April, 1875.

43. For the period between the 3rd March, 1875, and the 1st April, 1875, there were therefore seven Judges holding commissions and drawing salaries—namely, Sir George Arney, C.J., Mr. Justice Johnston, Mr. Justice Gresson, Mr. Justice Richmond, Mr. Justice Chapman, Mr. Justice Gillies, and Mr. Justice Williams.

44. The result is, that, if the point raised against my appointment is good, then the appointment of Mr. Justice Williams was “unconstitutional and illegal;” there was at the time of my appointment a vacancy existing upon the Supreme Court Bench, and my appointment is valid.

45. Lastly, I have to say that “The Supreme Court Act, 1882,” in clear terms warrants my appointment. It is a statute later in date than any of the Acts which have been supposed to control it, and it cannot therefore be controlled by them; it in no respect clashes with the principles of the Constitution Act; and, whether it was or was not a desirable measure, it regulates my rights and status, which I conceive to be unimpeachable.

Judge's Chambers, Wellington, 26th February, 1891.

W. B. EDWARDS.

Enclosure 2 in No. 55.

MEMORANDUM of Mr. Justice EDWARDS as to the Circumstances connected with his Appointment as a Judge of the Supreme Court of New Zealand.

1. Soon after the termination of the session of Parliament of 1889, Mr. T. W. Lewis, Under-Secretary for Native Affairs, waited upon me at my office in Wellington and informed me that he was commissioned by the Hon. the Minister for Native Affairs then holding office to ascertain whether I would accept the position of Commissioner under the Native Land Act of 1889.

2. Mr. Lewis then informed me that the Hon. the Minister for Native Affairs considered that the Commissioner should receive the same salary and allowances as the Chief Judge of the Native Land Court, and, further, that if I accepted the appointment I should be at liberty to continue the practice of my profession as a barrister and solicitor.

3. I was at that time unaware that the Act had been passed, or, indeed, that any such provision was contemplated, and of this I informed Mr. Lewis.

4. Mr. Lewis explained to me the nature of the proposed appointment, and at his request I accompanied him to his office in the Government Buildings, and he then gave me a copy of the Act.

5. I informed Mr. Lewis that I thought that it was improbable that I could accept the office of Commissioner at less salary and allowances than those of a Supreme Court Judge, but that I would consider the matter, and let him know shortly my determination upon it.

6. At the same time I informed Mr. Lewis—as the fact was—that I had in the preceding month of May had a careful balance of my books made for partnership purposes for the four years which had elapsed since the death of a former partner, and that the result showed that I was making a net income of £2,250 per annum.

7. Shortly after this interview I again saw Mr. Lewis, and I intimated to him that I had determined to adhere to my first impression, and that I would not accept the office unless I received as Commissioner the same salary and allowances as those of a Judge of the Supreme Court, and unless I was also at liberty to carry on the practice of my profession so far as it was possible to do so. I heard nothing further about the matter for some time, and I considered that the negotiation was at an end.

8. On the 15th October, 1889, however, I received a message from the Hon. the Native Minister requesting me to call upon him at the Government Buildings.

9. I did so, and the Hon. the Native Minister formally offered me the appointment of Commissioner, at a salary of £1,200 a year and £1 1s. per day travelling-allowance, with the liberty of private practice. The Hon. the Native Minister also informed me that it was estimated that the work would last from five to ten years.

10. I then informed the Hon. the Native Minister that since Mr. Lewis had spoken to me upon the matter, a change had taken place in my business arrangements, and that it was hardly likely that I could accept the appointment, and that if I did so I did not think that I could accept less than I had already stated—namely, the salary and allowances of a Judge of the Supreme Court, with liberty of private practice. I also informed the Hon. the Native Minister that my books had been balanced and my income from my practice had been found to be as previously stated.

11. I may here say that I had never met the Hon. the Native Minister before this occasion, and that I did not even know him by sight. I had had no communication whatever except with Mr. Lewis and with the Hon. the Native Minister.

12. After some consideration I determined to accept the appointment, provided I received the salary and allowances of a Judge of the Supreme Court, and I had a guarantee of a three years' engagement, but not otherwise; and I intimated this determination to the Hon. the Native Minister.

13. I received no further communication from the Hon. the Native Minister for some time, and I understood that he had left Wellington shortly after my decision was communicated to him.

14. In the meantime I had an opportunity of considering the matter and of conferring confidentially with one or two friends from different parts of the colony, who are leaders of the Bar,