draw salary from the Civil List; much less the number who shall be appointed. Others of the series, especially the Act of 1873, may seem to limit the number of the members of the Court. This is, however, a superficial view of the matter. There was a substantial financial purpose in the specification of the number of Judges and the amount of their respective salaries. Without such a specification the Government might have paid the whole amount of the grant to a smaller number of Judges, and might also have altered the rates of the salaries by augmenting some and reducing others—subject, of course, to the vested interest of existing Judges. The purpose of this Act, like that of the rest of the series, must be considered as purely financial. Had the Legislature meant to alter the Supreme Court Act it must be presumed that it would have done so in the only proper way, by an express amendment of the Act itself. Such a provision has no proper place in a money Bill.

As regards the supposed effect of the Civil List Act of 1873, it is also observable that in "The Supreme Court Act, 1882," there is the same absence of a limit to the number of Puisne Judges as in all the prior legislation respecting the constitution of the Court. It may be said that the omission of a limit was to enable the appointment of temporary Judges as occasion might require; but this matter is necessarily dealt with by a special provision, with which a limit to the number of permanent Judges would not have clashed. In truth, the Act of 1882, which, as posterior to the Civil List Act of 1873, would control it, were there a real variance, does but renew the power of appointing an unlimited number of Judges, which has existed since the first constitution of the Court, when there were no Judges holding office during good behaviour.

On the whole, I conclude that there is nothing on our statute-book to show that, as a matter of law, the appropriation of a salary need, in the case of a Judge, any more than in that of any other officer of State, actually precede the appointment.

It has been noticed in the discussion to which the appointment of Mr. Edwards has given rise that the commissions of Mr. Justice Gillies and Mr. Justice Williams, both bearing date 3rd March, 1875, were issued nearly a month before the resignations of Mr. Justice Gresson and Mr. Justice Chapman. The objection to the appointment of Mr. Edwards seems to lead to the conclusion that after these two new commissions had been issued some of the six persons who then appeared to be simultaneously holding commissions as Puisne Judges were not entitled to the office. The office could not, I assume, be granted in reversion. Unless, therefore, the subsequent action of the Legislature or Executive should be held to amount to a ratification of what was originally voidable, it would be a further inference that at the time of the appointment of Mr. Edwards there was at least one vacancy on the bench, assuming the number of Puisne Judges to be limited to four. The objection, if upheld, would in that case be fatal to the title to office not of Mr. Edwards, but of one of the other persons who have been acting as Judges unchallenged for many years past. In any case, Mr. Edwards is entitled to the benefit of the argument, for what it is worth, that the Executive Government in previous appointments has not formally observed the supposed limit to the number of Judges.

C. W. Richmond.

Enclosure 2 in No. 69.

Memorandum as to the Appointment of Mr. Justice Edwards.

At the time Mr. Justice Edwards was appointed to the Bench I expressed doubt as to the validity of his appointment. I understand that the telegrams in which I expressed doubt are before the present Government. I have since considered the matter, and now think that the appointment is legally valid so as to enable Mr. Justice Edwards to exercise jurisdiction, although no salary has been as yet appropriated to his office. I shall be prepared, if necessary, to give at length reasons for the above conclusion.

I have seen the print of a letter from Mr. Justice Edwards to the Hon. the Premier, dated the 26th February, 1891, and a memorandum of Mr. Justice Edwards as to the validity of his appointment, which accompanied the letter. As I have been made aware that these documents have been placed before the Government, I ought to state that I do not assent to all the arguments used, or the conclusions arrived at in them.

This want of assent is not confined to the references in Mr. Justice Edwards's memorandum to the question of my own appointment. As to this latter, I now mention it simply because it is referred to in Mr. Justice Edwards's memorandum, and is personal to myself. At the time of my appointment, in March, 1875, I was informed that the resignations of the former Judges had been received and recorded prior to my appointment, although they were not gazetted till afterwards. In any case the resignations of the former had been arranged, and there was no intention to permanently appoint an additional Judge. Even, therefore, if Mr. Justice Edwards's appointment be invalid, it may not follow that mine was invalid also. Even if my appointment were originally invalid, the contention that the office, after being held for sixteen years, and after Parliament has legislated on the assumption that it was properly filled, could be treated as vacant, and that the appointment of Mr. Edwards would fill it, is, I think, quite untenable (see R. Grimshaw, 10, 2 B., 747). I confine myself on this latter question, as on the former, to the purely legal aspect of the case.

Dunedin, 25th March, 1891.

Joshua S. Williams.

Enclosure 3 in No. 69.

Memorandum in Reference to the Appointment of Mr. Justice Edwards.

I understand that certain telegrams some time since forwarded by me to the Chief Justice, with reference to the then recent appointment to the Supreme Court Bench, have come under the notice