

Act, 1873.' The sum of seven thousand seven hundred pounds granted to Her Majesty under 'The Civil List Act, 1863' (hereafter called 'the said Act') for defraying the expenses of the salaries of the Judges of the Supreme Court, shall be applied in paying to the Judges—" That specifies annual salary of Chief Justice £1,700, annual salary of the Puisne Judges £1,500, making a total of £6,000. That Act is still in force in New Zealand. What next follows, keeping to what I may term the history of the Supreme Court Bench, is in 1875. It appears to have been intimated that Messrs. Justices Gresson and Chapman would retire from the bench; but their resignations were not accepted, nor formally forwarded, I believe, until the end of March. They were accepted, I believe, on the 31st March, 1875, and before that date Mr. Justice Gillies and Mr. Justice Williams had been appointed.

*Mr. Justice Denniston* : What is the power of a Judge to retire? How is the resignation accepted? There is no provision for any formal act with regard to his vacation?

*Sir R. Stout* : I do not know. It appears that in the case of Mr. Justice Chapman and Mr. Justice Gresson the resignations were accepted by the Executive Council. If I recollect aright, it is my impression it was gazetted. I have not seen the *Gazette* for some months, but I think that is so.

*Mr. Justice Denniston* : There is no preappointed form of resignation?

*Sir R. Stout* : No.

*The Chief Justice* : There was some question about Brother Williams's appointment. The statement was made to him that the resignation had been sent in, and had been recorded before the appointment.

*Sir R. Stout* : Whether that was so I do not know. They were not gazetted until the 1st April.

*Mr. Justice Richmond* : When were the salaries paid?

*Sir R. Stout* : I think the salaries, according to the Audit minute—I do not know how it happened, but Mr. Justice Chapman was paid to July. I asked the Audit how it was, and Mr. Justice Chapman seems to have drawn under his leave of absence for salary to the 23rd June, 1875, and only began drawing retiring-allowance from the 1st July, 1875. There were, apparently, funds—he was on leave before, and I do not know whether that has anything to do with it, but there were funds in the Civil List, and, though I do not know how the Audit Department arranged it, that is the minute I got from the Audit.

*Mr. Justice Richmond* : There was an overlapping of salaries.

*Sir R. Stout* : There was an overlapping of salaries till June, but only half-salary. The reason was that there were funds in the Civil List standing to the credit of the Judges.

*The Chief Justice* : Perhaps it had something to do with the pension. It may have been lying to credit of the account.

*Mr. Harper* : We have no evidence before us of this, and could not get it. I think my learned friend ought to have given us some evidence about this overlapping of salaries.

*Mr. Justice Denniston* : If it goes further on into June it must have been a mere matter of agreement.

*Mr. Harper* : I submit that we ought to have evidence on affidavit as to the state of the account.

*Sir R. Stout* : Very well; I will let you have it.

*Mr. Harper* : Something for us to see.

*Sir R. Stout* : Well, you can see this. I do not think it is of any importance, but if it is wanted we will put in an affidavit.

*The Chief Justice* : We seem to be assuming that something or other was the fact which may not have been the fact.

*Mr. Justice Denniston* : What do you suggest vacates office of a Judge?

*Sir R. Stout* : I submit that if a Judge resigns, and the Executive Government accept his resignation, the office comes to an end; but there is no preappointed way of evidencing the fact of resignation.

*Mr. Justice Denniston* : If, therefore, the statement was conveyed to Mr. Justice Williams that the resignation was recorded, and that was followed by an appointment, that would be equivalent to a vacation?

*Sir R. Stout* : Yes. Not only that, your Honour, but I would point out this also. Of course, one cannot employ it, but in the public prints it was intimated that the Judges had resigned in February.

*Mr. Justice Denniston* : Would you claim that the appointment of another Judge under the circumstances implied that the office was vacated?

*Sir R. Stout* : I do not think it is of importance in this case; but if my friends wish further information I shall be glad to furnish them with anything I can find about it from any point of view. However, it has no bearing on the question. The Court has not to decide this, I shall show, hereafter.

*The Chief Justice* : It only may be of importance, perhaps, in this way: that some stress seems to be laid, possibly by both sides—at any rate, by the other side—upon the Executive action under the Act, as being valuable for the purpose of interpreting the Act; and, if it appears to be anything, to be an inconsiderate action on the part of the Executive to give the salaries, and the salaries ran on under an arrangement is made for the purpose of earning a pension. Well, it does not seem to be of importance at all.