he was appointed. And, moreover, by this Act there was no retrospective clause, as was in the other two Acts; and your Honours will notice that the retrospective clause was to take effect not from the time of the appointment of Judges under this clause, but from the time of the commencement of what was then the financial year. It was put back to the 1st July in that clause, which was the financial year at that time, and would go back further than the appointment. But in Mr. Justice Chapman's case there was no retrospective effect given to it in any way; he was simply to take what he could get out of the £7,700, and he could only find out what he was to get by reference to what passed on his appointment; that was his ascertainment and establishment, and nothing else. And he could only find out by going back to the terms of his appointment and to the time of the Act coming into force. He must have been paid out of annual vote, and not out of any settled sum or revenue for the purpose, until——

Mr. Justice Denniston: Why was it necessary to send the two Acts Home?

Mr. Harper: There was no necessity, your Honour, except in so far as——

Mr. Justice Denniston: But, whether it was necessary or not, the fact remains that they did not get the assent of anybody till they were sent Home?

Mr. Harper: No, your Honour; they did not get the assent of the Crown, and had therefore no force or validity within the colony till they were received from Home. This state of things went on until the Act of 1873; but that was merely for the purpose of correcting the error in past years, so far as the Judges were concerned—which is manifest on the face of the Act—and to allocate the salaries amongst the Judges for the first time since 1858. And your Honours will see that up till 1873 these salaries, which had been ascertained and established, as we say, after the appointment of the Judges, were not even allocated amongst them so as to enable them to get them individually from Her Majesty until the Act of 1873.

Mr. Justice Richmond: Might not the act of the Executive in assigning a salary be an allocation sufficient?

Mr. Harper: Sufficient, I have no doubt. My point is this: that it is all short of the security which has been ultimately found necessary in England and elsewhere for fixing the salaries once and for all.

Mr. Justice Richmond: Might it not be enough if the salary assigned is covered by the amount provided for by lump sum?

Mr. Harper: That is so, your Honour—in the same way as we shall show that Mr. Edwards's salary was ascertained and established as far as he was concerned. He could do no more—if the Legislature did not keep faith with him he at least could do no more. In all these cases—it may be technical or otherwise—these Acts were not law until they came back from England, and long after, in each case, the appointment of the different Judges. Then arises this point—I do not rely so much upon this point, but it is worth mentioning: whether even in the Civil List Acts the salaries are a charge upon the consolidated revenue.

Mr. Justice Richmond: I doubt if the term was used before the first Public Revenues Act in 1867. I think it was the present Controller-General who introduced the use of the term.

Mr. Harper: I do not attach so much importance to that. I do not think we need do so. The salaries come out of the revenues of the Crown, and these are payable to Her Majesty. The consolidated revenue at Home is payable by the Commissioner of the Treasury, and the sums are allocated on that. But I am not relying strongly on this.

The Chief Justice: You must not frighten us too much, Mr. Harper.

Mr. Harper: I will not do that, your Honour. The salaries are fixed in this indefinite way, so that you might fairly say that the Judges would have to get their salaries by taking action against the Crown. There may be instances where this might occur. As my learned friend Mr. Chapman reminds me, a deadlock, or a stonewall, or something of that sort, might occur, as it did in this particular instance with regard to Judge Edwards; and in that case the Judges are left to take action against the Crown; and that, according to what my learned friends raised yesterday, they would not be in a position to do. I want to pass over the legislation such as I have shown has taken place in New Zealand up to the passing of the Act of 1882; and I have relied on it to show, as I have already mentioned, that in the Act of 1882 there was nothing more simple or easier than to have introduced into the Act that which the other side claim now to read into the Act. This Act of 1882 is sought to be controlled by this Civil List Act of 1873. As I have already mentioned, in the Supreme Court of Victoria and in the English Acts now, in the very Act which creates those Courts the Judges and salaries are mentioned, and the fund from whence they come. Here your Honours are now asked to construe the large words which give to the Governor unlimited power of appointment, and which have been repeated Act by Act up to the Act of 1882 from the ordinance of 1844—to limit these large words—limit them, and control them, and practically take the Judges' Commissions under the Civil List Acts, and not under this Act. I beg your Honours to put a construction upon this Act of 1882 which I submit the Court can follow. There is not a particle of difference between the Act of 1882, with reference to the appointment of a Judge, and the Act of 1858 or the ordinance of 1844. There is an unlimited power of appointment reserved in a statutory manner—not by the exercise of prerogative only, but in a statutory manner—and reserved to the Governor. It is sought, as my learned friend told us yesterday over and over again, and as I have mentioned before—it is sought to interpolate in this Act the words, "Provided that the number of Judges shall not exceed the number mentioned in the Civil List Act of the time being." My learned friend says this must be read into the Act by the Court. Why? Because of the convention—the constitutional convention or principle established by the Act of Settlement. Your Honours, I take this to be my learned friend's main point in the case—his strongest point—the point upon which he relies; or, I take it, he does not succeed in the case. And I have endeavoured, whether successfully or not, to show your Honours that throughout the whole legislation of New Zealand, from the ordinance of 1844 to the Act of 1882, there has not been any attempt whatever to limit this power of appointment. On the contrary, it has