*Mr. Justice Conolly*: I said, till the two Houses of Parliament here had approved, not Parliament in the general sense of the three estates.

*Mr. Chapman*: So I understood, your Honour. Well, my submission is, that, however true that may be, it cannot be supposed for a single instant that Ministers can ever have looked at Acts of Parliament which had gone Home for the sanction of the Queen—a sanction which, for all they knew, might be withheld—it is quite impossible, I say, to suppose that Ministers ever supposed that they were acting under the authority of those Acts. It is impossible to suppose that Ministers would ever be so badly advised, with the Constitution Act staring them in the face, and telling them that no Act had any force or validity whatever until it had received the assent of the Queen—it is quite impossible to suppose that they could be so badly advised as to think that they were acting under the sanction of those Acts of Parliament. The Queen's assent might be refused. I apprehend that, as these Acts had no sanction at all, they might be revoked by the two Houses of Parliament; so that my learned friend's contention that Parliament at least had made Judges independent, and that they were dependent only on the Queen, has no force, because Parliament the day after the Act had been passed might revoke its request to the Queen for her assent, and the Act would be nothing at all. It would be a curious constitutional question if it should ever arise, but I apprehend that the words of the Constitution Act would be too strong to be got over. These Acts have no force whatever till they have received the assent of the Queen. They palpably could not have any force to bind the Parliament which made them, for Parliament would only have to pass a revoking Act, and then the assent of the Queen would give no force to those Acts. Therefore I say that even the argument of my learned friend that Parliament binds itself has no force, because the two Houses could not bind themselves until the Queen had given her assent. These Acts, so far as validating or rendering constitutional any act of Ministers is concerned, are the same as if they had never been drafted. My learned friend, I submit, is really driven into a corner in order to support his contention of the constitutional principle by such an argument as that. If the constitutional principle exists, then the appointments were bad. I am not denying its advisability; and the existence of the principle as something which ought to govern Ministers. I say nothing about this, as this is not the place to discuss that sort of thing; but if the constitutional principle exists to the extent to which my learned friend submits, then the fact of these Acts not having received the assent of the Crown does not affect the validity of the Acts one iota. Then, my learned friend says it does not matter at all, because these Judges have been named Judges in the Commission, because it is specially put in in an affidavit specially filed. I really feel ashamed to say anything about this.

*Sir R. Stout*: That was not my agument.

*Mr. Justice Denniston*: That was not Sir Robert Stout's argument at all.

*Mr. Chapman*: My learned friend said something about it. He did not say it in those words, but he read the Commission.

*Mr. Harper*: He said it was an estoppel on the Crown.

*Sir R. Stout*: I said you had to read the Commission to find that they were Judges *de facto* at the time of the Commission.

*Mr. Chapman*: My learned friend said that it was an acknowledgment under the Seal of the Colony that these Judges were acting *de facto*. Well, we have an acknowledgment under the Seal of the Colony that Judge Edwards is acting *de facto*.

*Sir R. Stout*: That is the reason we are bringing *quo warranto*.

*Mr. Justice Denniston*: Sir Robert Stout argued that previous to the Act of 1882 the Judges' names appeared as Judges in the Royal Commission, and if you wanted to find out what they were you would find it in that Commission. I understand that to be a very different thing from saying that their appointment was validated by the Commission.

*Mr. Chapman*: I do not propose to occupy the time of the Bench any more. In order to save time, we have arranged to take different branches of argument, and my learned friend Mr. Cooper has something to say.

*Mr. Theo. Cooper*: May your Honours please, I shall take up very little time of the Court after the elaborate argument of my learned friend Mr. Harper, followed by my learned friend Mr. Chapman, but I have a few words to say upon the construction of the statutes, and on one or two minor points, also in relation to several cases quoted by my learned friend Sir Robert Stout. I shall confine my observations to the statutes themselves practically; and I submit that if your Honours trace the history of the Supreme Court from the earliest times of this colony to the present day, you will find one golden thread, if I may so term it, running through it, and that is, a reservation to the Governor of the power to appoint Judges. I shall not trespass too much upon your Honours' time if I first refer to the Charter. When this colony was separated from New South Wales in 1840 there was a Governor of the colony appointed, and a power reserved to appoint Judges. At page 7, Domett's "Ordinances," we find that under the charter of 1840 the authority or power was delegated by the Queen to the Governor. It says, "And we do hereby authorise and empower the Governor of our said Colony of New Zealand for the time being to constitute and appoint Judges, and, in cases requisite, Commissioners of Oyer and Terminer, Justices of the Peace, and other necessary officers and ministers in our said colony for the impartial and due administration of justice." Of course, the colony was then a Crown colony. Later on, before the Constitution Act, we find in the Charter of 1846, when the colony was divided into two provinces, and we had a Lieutenant-Governor and a Governor, who was practically Governor-General of the whole colony, the same power reserved. In Domett's "Ordinances," p. 36, appears the following: "And we do hereby authorise, empower, and require the respective Governors of the said provinces respectively from time to time"—in almost the same words which appear in our Act of 1882—"in our name and on our behalf to constitute and appoint Judges and, in cases requisite, Commissioners of Oyer and Terminer." Then, referring again to the constitution of the Court—the colony still being a Crown colony—the ordinance of