Then, at page 366 the author states,—

"It is said that the best exposition of a statute or any other document is that which it has received from contemporary authority. *Optima est legum interpres consuetudo. Contemporanea expositio est optima et fortissima in lege.* Where this has been given by enactment or judicial decision it is, of course, to be accepted as conclusive. But, further, the meaning publicly given by contemporary or long professional usage is presumed to be the true one, even when the language has etymologically or popularly a different meaning. Those who lived at or near the time when it was passed may reasonably be supposed to be better acquainted than their descendants with the circumstances to which it had relation, as well as with the sense then attached to legislative expressions; and the long acquiescence of the Legislature in the interpretation put upon its enactment by notorious practice may perhaps be regarded as some sanction and approval of it. It often becomes, therefore, material to inquire what has been done under an Act; this being of more or less cogency, according to circumstances, for determining the meaning given by contemporaneous exposition."

Then on page 365 the author states,—

"It is said that the best exposition of a statute or of any other document is that received from contemporary authority. Where this has been given by enactment or judicial decision it is of course conclusive."

Now, I take it that my learned friend's argument, which he bases upon the authorities he quoted the day before yesterday—Reg. *v.* Cutbush, down to Bell-Cox and Hakes—was in support of the principle which is laid down in Maxwell, and we claim that that principle can be invoked in favour of the defendant, and invoked, I submit, your Honours, conclusively. In dealing with this branch of the subject, I do not suggest—in fact, it seems to me, so far as I am able to interpret the law, I cannot suggest—to your Honours that any question of invalidity could possibly arise in reference to the appointment of his Honour Mr. Justice Richmond, or his Honour Mr. Justice Chapman, or of the two later appointments, of their Honours Mr. Justice Williams and Mr. Justice Gillies. The strength of our case, to a very great extent, rests upon what I submit is the true reading of the law, that those appointments were valid in the strictest sense of the term, and that it required no Act of Parliament to validate them—that it required no recognition by Her Majesty in the shape of a Royal Commission, such as my learned friend suggested in argument, to validate those Commissions, because they were valid from their inception; and I claim that if my learned friend's admission yesterday is sound—and it seems to me he was driven to make that admission—that the virtue of a Judge's appointment rests in his Commission, and that there is no virtue in Mr. Justice Edwards's Commission, even though the Legislature passed a Civil List Act providing salary—I claim, if that is my friend's argument, then I have the most conclusive answer to that on the very principle which Sir Robert Stout invoked in favour of his case. I am sure your Honours will pardon me for a moment if I refer to the dates, because it seems to me the key to the interpretation which the Legislature and those who had the duty of advising His Excellency the Governor placed upon the Act of 1882 is to be found in the meaning which the Law Advisers of the Crown, and the Legislature, placed upon the corresponding enactment of 1858. His Honour Mr. Justice Richmond was appointed on the 12th October, 1862, and I submit it would be idle to suggest that the Commission issued on that occasion was invalid in any sense whatever, or that it derived its force from the subsequent coming into operation of the Civil List Act. I repeat that it cannot be suggested that it was either invalid in the first instance, or that it was inchoate, if I might so express it, and derived its life and validity from the subsequent coming into operation of the Civil List Act. I submit that the Commission was good because of the power of the Governor, acting on the advice of the Government of the day, under the Act of 1858, to appoint an additional Judge to the Supreme Court Bench; but, if my learned friend's argument is correct, then, inasmuch as by the Constitution Act the Civil List Act of 1863 had no force or validity until it had received the assent of Her Majesty, and the Commission was issued before any Civil List Act was in force, my learned friend is reduced to this: either to admit that that Commission was a good Commission, or to contend that that Commission was a bad Commission, and was validated by the Act of 1882; because he expressly stated yesterday that it could not derive any force from the passing of the statute of 1863. It seems to me that to that extent my learned friend has reduced his argument to an absurdity—and so also with the Commission of Mr. Justice Chapman. It was suggested, I think, by my friend himself in his argument that there was no necessity for the Queen to assent to any Act which provided for payment of the Judges of the Supreme Court. That may be so, but before any Act can have any validity it must receive either the Queen's assent or the Governor's assent, and there was no statute, there was no law in force on the 20th October, 1862, providing for the payment of the Judicial Bench. The same reasoning applies to Mr. Justice Chapman's appointment. There was no statute in force on the 23rd March, 1864, providing for an additional Judge. That statute came into operation on the 27th July, 1864. And if, as I repeat again, my friend's admission of yesterday is to be taken to be the limit of the length to which he wishes your Honours to carry his argument, then I must submit to the Court that, if the Court supports my friend's argument, it must follow that these two Commissions were issued without any authority on the part of the Governor to grant them. I submit, the statement of the proposition proves the unsoundness of the view which it records. In reference to the other two appointments, the appointments of Mr. Justice Williams and Mr. Justice Gillies, a similar question in principle arises, because at the date of these two appointments, if my friend's argument is that the Governor cannot appoint a Judge to fill an office which is already full—and I take it that that is what he wishes your Honours to hold—then the Supreme Court bench was full on the 3rd March, the date when their Honours were appointed;