pari materiâ when they deal with a different subject-matter. I gave an illustration where Lord Mansfield went so far as to read the Bankruptcy Act and the Poor-law together. How can they say that the Civil List Act, which allocates the salaries of the Judges, is not to be read along with the Act of 1882? If the Act is to be read along with the Act of 1882, as I submit it is, how can the Court construe certain words in sections 11 and 12 except by incorporating the Civil List Act? I submit the Court must read the 5th section with this limitation: that there are only to be one Chief Justice and four Puisne Judges. Sections 11 and 12 become quite insensible if that is not so. My friends contend that section 12 gives the Governor extraordinary powers of appointing temporary Judges, and therefore there is no harm in giving the Governor power to appoint permanent Judges. The two things are quite distinct. Parliament meets every year, and if Parliament finds that, so far as temporary Judges are concerned, there has been an attempt to flood the Bench it could step in and displace the Ministry, and advise the Governor at once to get rid of these Judges. But if their argument is correct the Bench can be flooded by Judges appointed permanently, and Parliament would be helpless. There is no power of removal except by petition to the Queen. There might thus be, in violation of all constitutional rule, perhaps twelve Judges appointed to the Supreme Court Bench, and Parliament have to provide for them, and they might still remain Judges though Parliament refused to vote their salaries. I submit that, if my friend's argument means anything, it means that Parliament has power to supersede, without reference to the Queen, by an Act, the Act of 1882. That is adding a new term to the Act of 1882. It is practically putting in a new section, which means this: that if the Governor appoints too many Judges those appointments may be revoked by Act of Parliament. I submit that is affecting the tenure of the Judges not contemplated by "The Supreme Court Act, 1882." What is the tenure of the Judges according to the Act of 1882? The tenure of the Judges is that they are to hold office during good behaviour.

Mr. Justice Denniston: Would it be good behaviour for twelve Judges to receive appointments at the same time? Obviously that would be most improper.

Sir R. Stout: It would be good behaviour as far as the Judges were concerned.

Mr. Justice Denniston: Would it? Do you contend that seriously? I should think it would not.

Sir R. Stout: It would not be misbehaviour individually, unless you could prove conspiracy. Your Honour, there can be no such thing as removing Judges in the lump, and when they came to remove a Judge on the ground of misbehaviour, how would they have to proceed? They would have to proceed on misbehaviour as a Judge individually, and the reason would be that he had received office without salary.

Mr. Justice Denniston: No; there would be a great deal more than that, surely.

Sir R. Stout: Pardon me; it would be—you received office without salary.

Mr. Justice Denniston: Surely it would be far more than that?

Sir R. Stout: I submit that if the theory is worth anything it is worth going to the extreme length with, and you would have to prove conspiracy against the twelve Judges who took office without salary, which you might never be able to do. You must have it as it affects them individually. The Court would not proceed against the Judges *in globo*. The cases would have to be heard one by one; and I submit that, so far as Mr. Harper's argument is concerned, it means this: that he is to add a new term to the tenure of Judges, which the Act does not recognise, and that new term to the tenure of Judges is this: Provided they may be removed by Act by the colonial Parliament. If the Parliament has power to remove a Judge by Act without reference to the Queen, then there is gone, I submit, the independence of the Bench. The Act of 1862 expressly altered the Act of 1858. By the Act of 1858 the Governor could remove on resolution of both Houses; but the Act of 1862 said No, this removal must be by the Queen, on the motion of both Houses; and, if necessary, I can refer to what the practice is before the Privy Council. Before the Privy Council will advise the Queen to remove a Judge, even though both Houses concur, it always asks what is the cause. The cause, I submit, must be shown. I do not deny the power of the Queen to remove a Judge on the motion of both Houses, although no cause may be shown, but I submit that if my friend is driven to this, that there is a new tenure added to the Act of 1882—that that tenure is, if they hold office they may be removed by Act passed by the colonial Parliament. Then, I submit that the words of the Act of 1882 about the Commission and assent of the Queen are not needed. How, then, does the matter stand? I submit it stands thus: that the Court has to interpret the Act of 1882. My friends have not cited a single case showing the Act is not *in pari materiâ* with the Civil List Act, nor have they, by criticism of the Act itself, attempted to show that the words of section 11, and those words of section 12, do not refer to the Civil List Act of 1873, and they have therefore to take the Act as a whole, and not to rely merely upon the general words of section 5. If that be so, then the case of Bell-Cox and Hakes——

Mr. Justice Denniston: In Dr. Barnardo's case, decided since Bell-Cox *v.* Hakes, it was held that there is a right of appeal where a *habeas corpus* has been refused. That, indeed, was suggested in Cox *v.* Hakes.

Sir R. Stout: That helps me, and I will show why. It means this: that these general words, "appeal against any order," are to be modified in this way: "appeal against any order of refusal to release," and not to appeal against an order where release has been granted. That is, practically, instead of merely excluding the right of appeal on *habeas corpus* altogether from the Court of Appeal, that they are to interpret the words "appeal against an order" when the discharge has not been granted. I submit that helps me, for it shows that the words of the Judicature Act, 19th section, are to be modified entirely by the constitutional maxim—namely, that if a person is once released by *habeas corpus* he ought not to be reimprisoned. Instead, therefore, of that injuring my argument, the effect of Bell-Cox *v.* Hakes is to show how the Court will control this matter. The Court, I submit, will see that section 5, in wide general terms, is controlled by the other sections of the Act; and, if it is controlled by the other sections, then the whole Act may be read together. Every word may have effect; every word in the Act may have meaning. If it is read the other way, I suggest that then section 11 has no meaning, and section 12 is unmeaning; and I submit