and prescribes merely that the salary of a Judge shall not be diminished during the continuance of his commission, and omits the reference to a salary payable by law to a Judge at the time of his appointment. At the time of the passing of the Act of 1858 there was provision made by law for a Chief Justice and one Judge. The Court, by section 2, is to consist of a Chief Justice and not only such other Judge, but such other Judges, as the Crown shall from time to time appoint. It would be a very strong thing to hold that the 6th and 7th sections so limited the powers given by section 2 as to prevent more than one Judge being appointed before a Civil List Act had been passed to provide for his salary. The provisions of the Supreme Court Act of 1882 on the subject of judicial appointments and the tenure of the judicial office are nothing more than a re-enactment in slightly different terms of the provisions of the Act of 1858. "The Civil List Act, 1873," stands in the same relation to "The Supreme Court Act, 1882," as sections 64 and 65 of the Constitution Act stood to the Act of 1858. If, as I think, the power of appointment of Judges is not controlled in the earlier Act, neither is it controlled in the later. The same words being used, the intention to confer the same powers must be presumed. Against the intention of the Legislature to make the fixing a salary to the office by law a condition precedent to the appointment to it, the course of legislation from 1862 to 1873 may be invoked as a further argument. The Civil List Acts in force during that period did not affix any salary to the office of a Judge, but simply granted to the Crown a lump sum for the payment of Judges. The appointments of Mr. Justice Richmond in 1862, and of Mr. Justice Chapman in 1863, were both made before the law came into force which affixed a salary to their office. The appointments of Mr. Justice Gillies and myself in 1875 were made about a month before the gazetting of the resignation of Mr. Justice Gresson and Mr. Justice Chapman. The provisions of the Act of Settlement as to fixing and ascertaining the salaries of Judges are not in force as law in the colony. Even if they were, the Act does not prescribe that the salary of a Judge must be absolutely fixed and ascertained by statute at the instant of his accepting office. Where not directly enforced by statute the provisions of the Act of Settlement can only be looked at here as embodying a salutary constitutional principle which it is desirable to follow. It cannot be suggested that there was a real infringement of any constitutional principle in the circumstances of any of the appointments above mentioned. In the case of Mr. Justice Richmond and Mr. Justice Chapman, it would have been only in the very remotely improbable case of the Crown declining to assent to the Acts providing for their salary that any difficulty could have arisen. Both Houses of the Legislature had previously sanctioned their appointments by doing all they could without the concurrence of the Crown to fix their salary. It would only be by inserting in the Act of 1858, under which these appointments were made, a provision which it does not contain—viz., that the attaching by law a salary to the office of Judge shall be a condition precedent to the appointment—that these appointments could be invalidated. The proviso to the 5th section of the Act of 1882 appears to me to operate not as the confirmation of doubtful appointments, but as a recognition of the original validity of the appointments. The proviso may therefore be invoked to show that the construction which the plaintiff seeks to place upon the Act of 1858, and which would have made these appointments, as well as the appointment of Mr. Justice Edwards, originally invalid, is not the correct one. It was said that to hold that the Crown has power to appoint Judges without limit would be destructive of the independence of the Bench. The answer to that is, first, that, whether that be so or no, we cannot mould legislation to suit our own views; and, secondly, that there are checks against the abuse of the power which in most cases may, as I shall endeavour to show, be trusted to work efficiently—viz., the power which the General Assembly has over the public revenue, and the power of the Crown to remove on an address of both Houses. It is quite clear that the Crown has no power by any contract, promise, or engagement to pledge the credit of the colony to the payment of a salary for life to any Judge beyond the number provided for by the Civil List Act. The Legislature has by that Act granted a specific supply for judicial purposes, and has also given by the Supreme Court Act express power to pay a salary to a temporary Judge. These provisions of themselves negative the implication of any power to further pledge the public credit for the payment of Judges. Apart, however, from these provisions, no such power could be implied. The power to make appointments of any kind must always be subject to the right of Parliament to refuse to provide funds for the payment of the appointee if Parliament considers the appointment unnecessary. Take, for instance, the case of an office held during pleasure. If the Crown in its discretion thought it necessary to appoint, say, another Resident Magistrate for whose salary no appropriation had been made, the course of proceeding would be as follows: The