There was no appearance at their Lordships' bar on behalf of the respondent. But, inasmuch as the question depends simply on the meaning and effect of certain statutory provisions, and as the arguments on the one side and on the other are presented very fully and ably by the learned Judges in the Court of Appeal, who differed in opinion, their Lordships are at less disadvantage than usual in dealing with an appeal *ex parte*.

By section 3 of the Act of 1895 it is provided that no license shall be granted or renewed until the electors of the district shall have determined whether the number of licenses in the district shall be continued or be reduced, or whether no licenses shall be granted in the district. Then follow provisions for the taking of a licensing poll. By section 7, subsection (1), paragraph (*o*), it is provided that if the result of any poll is disputed, any fifty electors may require an inquiry to be held in manner provided by section 48 and the subsequent sections of the Act of 1876, and that the matter in dispute shall be determined in the same manner, *mutatis mutandis*, as if the licensing poll were an electoral poll.

By section 48 of the Act of 1876 it is provided that if within fourteen days after any election any six electors make and sign a declaration in the form set out in the Sixth Schedule to the Act, and "file the same in any Resident Magistrate's Court in the district in which such election took place, or if there is no such Court in the district, then in the Resident Magistrate's Court nearest thereto, the Resident Magistrate of such Court shall hold an inquiry as to the matter alleged in such petition."

On the 25th of November, 1902, a licensing poll was taken in the Electoral District of Chalmers. The result of the poll was declared to be that no licenses should be granted in the said district.

On the 9th December, 1902, the appellants and other electors of the Electoral District of Chalmers, being above fifty in number, filed a petition in the office of the Magistrate's Court of Port Chalmers, praying that the declaration of the result of the poll might be declared void.

The petition was brought before Mr. Graham, who occasionally sits at Port Chalmers, though Mr. Carew usually sits there, while Mr. Graham is in the habit of presiding at Dunedin, which is outside the Electoral District of Chalmers. Mr. Graham was proceeding to deal with the application when the respondent, who is a storekeeper near Dunedin, and an elector of the Electoral District of Chalmers, appeared by counsel and objected to the petition being heard by Mr. Graham, on the ground that he had no jurisdiction in the matter, and that the jurisdiction was vested in Mr. Carew. On motion before the Supreme Court, Williams, J., ordered that a writ of prohibition should issue out of the Supreme Court prohibiting Mr. Graham from proceeding to hear the petition. On appeal the judgment of Williams, J., was affirmed by the Court of Appeal, Denniston, J., and Edwards, J., dissenting.

At the date when the Act of 1876 was passed there were in the Colony of New Zealand Resident Magistrates appointed and holding office under the Act of 1867. By that Act the Government was authorised to constitute throughout the colony districts to be called "Resident Magistrates' districts," and to appoint for each district a Resident Magistrate to exercise his office therein, who should hold Courts in and for such districts at such time and places as should be deemed most convenient by the Resident Magistrate, or as should from time to time be appointed by the Governor. The 19th section of the Act provided that the Resident Magistrate's Court of any district should have jurisdiction only where the cause of action had arisen, either wholly or in some material point within the district in which the action was brought, or the party sought to be charged was residing or carrying on business, or was served with the process of the Court, within such district. The jurisdiction, therefore, of Resident Magistrates and Resident Magistrates' Courts under this Act was purely local.

The Act of 1867 was repealed by the Act of 1893, which contains the following provisions in section 6: "Where in an unrepealed Act reference is made to any Act repealed by this Act, or to any provisions thereof, or to any Court, office, or officer established, constituted, or appointed under any Act hereby repealed, such reference shall be construed and shall operate as if made to this Act, or to the provisions of this Act corresponding to the provisions referred to, or to the Court, office, or officer constituted or appointed under this Act."

By the Act of 1893 the system in force under the Act of 1867 was entirely changed. Magistrates were no longer to be appointed or to hold office for particular districts. There were no longer to be separate Courts with merely local jurisdiction. The very name of the office was altered. Instead of Resident Magistrates there were to be Stipendiary Magistrates appointed to hold office "within the colony." The Magistrates' Court was no longer a collection of separate Courts. It was to be one Court throughout the whole colony. There is no provision in the Act making one Stipendiary Magistrate subordinate to another. Apart from any question of "ordinary" or "extended jurisdiction," as provided for by the Act, all Stipendiary Magistrates are of equal rank and of equal authority. In this respect the Magistrates' Court has been assimilated to the Supreme Court. "Before the Supreme Court Act," as Denniston, J., observes, "the Judges were appointed to specific districts in which alone they (except under special circumstances) had jurisdiction. In some cases two Judges were appointed to the same district. In such case each Judge would be the Judge of such district. Under 'The Supreme Court Act, 1882,' these territorial appointments were abolished. Every Judge is appointed and acts as Judge in every Court in the colony. In practice Judges are in fact resident in and act in separate judicial districts. But this does not affect their jurisdiction or right to sit and act in any part of the colony. The Supreme Court Judge who, in practice, takes, say, the Wanganui sittings is more the Judge of that Court than is his colleague."

The opinion of Edwards, J., is to the same effect: "Wherever there are two Judges or two Magistrates," says His Honour, "exercising the same jurisdiction in the same Court and at the same places, the work of the Court must of necessity be distributed by arrangement between them, but neither derives his jurisdiction from such arrangement nor is his jurisdiction limited by such