

No. 15.

The CROWN SOLICITOR to the ATTORNEY-GENERAL.

SIR,—

Wellington, 31st March, 1892.

I have the honour to inform you that I have this afternoon received a cable from my London agents that in the case of *The Attorney-General v. Edwards* the argument has been concluded, and judgment reserved.

I have, &c.,

The Hon. the Attorney-General, Wellington.

HUGH GULLY,
Crown Solicitor.

No. 16.

The AGENT-GENERAL to the Hon. the PREMIER.

Agent-General's Office, London, 31st March, 1892.

SIR,—

Attorney-General v. W. B. Edwards.

I have the honour to inform you that, in accordance with the instructions contained in your letter (I. '91/728), No. 1,682, of the 12th August last, I have paid Messrs. Mackrell and Co. the sum of £500, by cheque on the Foreign Imprest Account. Voucher for the payment goes to the Treasury by this mail.

I enclose extracts from the *Times*, referring to the proceedings before the Judicial Committee of the Privy Council. Yesterday the argument in the case was concluded, and the Court reserved its judgment.

I have, &c.

The Hon. the Premier, Wellington.

W. B. PERCEVAL.

Enclosures in No. 16.

(The *Times*, Thursday, 24th March, 1892.)

LAW REPORT, 23RD MARCH.—JUDICIAL COMMITTEE OF THE PRIVY COUNCIL.

Present—The Lord Chancellor, Lord Watson, Lord Hobhouse, Lord Herschell, Lord Macnaghten, Lord Hannen, and Sir Richard Couch.

Buckley (Attorney-General of New Zealand) v. Edwards.

THIS was an appeal from a judgment of the Court of Appeal of New Zealand of May 27th, 1891, refusing a motion, made on behalf of the Attorney-General of New Zealand, that the respondent, Mr. Worley Bassett Edwards, should show by what warrant and authority he claimed to exercise the office of Judge of the Supreme Court of New Zealand, or that his commission of office of Judge of the Supreme Court should be cancelled.

Sir Horace Davey, Q.C., Mr. Rigby, Q.C., and Mr. J. G. Butcher were counsel for the appellant; Sir Walter Phillimore, Q.C., and Mr. Danckwerts for the respondent.

The question to be determined in the appeal was whether the respondent, Mr. Edwards, who claimed to have been duly appointed a Puisne Judge of the Supreme Court of New Zealand by virtue of a commission, dated March 2nd, 1890, had, in fact, been validly appointed. It appears that by "The Civil List Act 1863 Amendment Act, 1873," a sum of £7,700 per annum was set apart for the payment of the salaries of the Chief Justice and four Puisne Judges of the Supreme Court of the colony. By "The Supreme Court Act, 1882," the Court was constituted to consist of the Chief Justice and such other Judges of the Court as the Governor, in the name of the Queen, should from time to time appoint. In 1889, the Native Land Courts Amendment Act was passed, and Mr. Edwards, the respondent, who was a practising barrister in the colony, was offered the appointment of Chief Commissioner of the Native Land Court, which he declined. Later on the Government offered him the office of Chief Commissioner with a Judgeship of the Supreme Court at a salary of £1,500 per annum—the same as the existing Puisne Judges—which he accepted, and Lord Onslow, the then Governor of New Zealand, issued a commission purporting to appoint him a Puisne Judge of the Supreme Court. He was also appointed, under an Order in Council, a Commissioner of the Native Land Court. No salary as Puisne Judge was provided for Mr. Edwards by the General Assembly of New Zealand, but he appeared to have been paid from a source called "The Unauthorised Expenditure Account," which is sanctioned by "The Public Revenue Act, 1878." The respondent's appointment as Commissioner under the Native Land Act came to an end in March, 1891, and the Attorney-General subsequently filed a statement of claim against Mr. Edwards calling upon him to show by what authority he claimed to hold the office of a Puisne Judge, and praying that the commission might be cancelled. The appellant contended that the Governor of New Zealand had no power to appoint Mr. Edwards to be a Judge or to issue the commission, and that Mr. Edwards never had any legal warrant for exercising the office. The respondent claimed to have been validly appointed. The matter was argued before the Court of Appeal in May, 1891, when the Chief Justice and Mr. Justice Connolly were of opinion that as there was no vacancy in March, 1890, by death, removal, or resignation of any of the four then existing Puisne Judges, and as the General Assembly had not provided out of the revenue for the salary and allowances of a fifth Judge, there was no power on the part of the Crown to appoint the respondent. The majority of the Court, however, consisting of Justices Richmond, Williams, and Denniston, were of a contrary opinion, and held that under "The Supreme Court Act, 1882," and the other legislation, the Crown had power to appoint an additional Puisne Judge, and that the respondent had been validly appointed. From this judgment the present appeal was instituted.

The arguments were unfinished when their Lordships rose for the day, and will be resumed on Wednesday next.