

on the whole, great. It tends to secure an impartial and fearless administration of justice, and acts as a salutary safeguard against any arbitrary action of the Executive. The mischief likely to result, if the construction contended for by the respondent be adopted, is forcibly pointed out by one of the learned Judges who held the appointment now in question to be valid. He said: "In the present case, until such time as the matter may be finally dealt with by Parliament, the position will undoubtedly remain most unsatisfactory. The Judge is absolutely dependent upon the Ministry of the day for the payment of any salary, and has to come before Parliament as a suppliant to ask that a salary be given him. It is difficult to conceive a position of greater dependence. No Judge so placed could, indeed, properly exercise the duties of his office. One of these duties, for instance, is the trial of petitions against the return of members of Parliament. How could a Judge in this position be asked to take part in such a trial? Against the occurrence of such a state of things obviously neither the power of the purse which Parliament has, nor the power of removal by address, can be a sufficient protection." Nevertheless, weighty as these considerations are, if the natural meaning of the general words used be to confer the power contended for, and if there be no other provisions in the Act showing that this was not the intention of the Legislature, effect must be given to the enactment, without regard to the consequences. But it cannot be disputed that it is legitimate to read every part of an Act in order to see what construction ought to be put upon any particular provision contained in it. Now, the sixth section of the Supreme Court Judges Act provides that "A salary equal at least in amount to that at which at the time of the appointment of any Judge shall be then payable by law shall be paid to such Judge so long as his patent or commission shall continue and remain in force." The language of this section is imperative and general. How can its requirements possibly be complied with in any reasonable sense in the case of a Judge to whom at the time of his appointment there was no salary payable by law? Is this not a clear indication of the intention of the Legislature that there should be no appointment of a Judge unless at the time of his appointment there was a fixed salary payable to him by law in respect of his office? It is inconceivable that it should have intended to enable the creation of two classes of Judges, the one entitled by law from the time of their appointment to a salary unalterable during the continuance of their commission, the other without any legal right to salary at all. There was some controversy as to what the salary "then payable at law" referred to. Their Lordships think this is made clear by a reference to the Civil List Act of the same year, which must be read with the sixth section of the Supreme Court Judges Act. It was said in the Court below that this and the other Civil List Acts, to which reference will have to be made, were mere money Bills; but though the parliamentary incidents of such Bills are no doubt special, when they pass into law, they do not, in their Lordships' opinion, differ from any other Acts of the Legislature. "The Civil List Act, 1858," provides that "there shall be payable to Her Majesty the several sums mentioned in the schedule to this Act instead and in lieu of the sums mentioned in the schedule to the Constitution Act of the 15th and 16th Victoria." The schedule to the Civil List Act contains these words: "Chief Justice, £1,400; First Puisne Judge, £1,000; Second Puisne Judge, £1,000." Reading the two statutes together, the effect of "The Civil List Act, 1858," clearly is to provide that the salaries of the Chief Justice and of the two Puisne Judges "shall be those respectively set against their several offices in the schedule." This Act, though reserved for the signification of Her Majesty's pleasure on the 21st August, 1858, did not receive the Royal assent until the 25th July, 1859, but it is significant that its second clause provided that it "should be deemed to take effect on and after the 1st July, 1858," immediately prior to the Supreme Court Judges Act which came into force on the 3rd of July following. What was meant, therefore, in the sixth clause of the Supreme Court Judges Act by the salary payable by law to a Judge on his appointment does not admit of doubt. There was a fixed salary payable to the Chief Justice and one Puisne Judge under the Constitution Act, and "The Civil List Act, 1858," made provision for the payment of a fixed salary to the Chief Justice and to two Puisne Judges respectively, which could only be altered by fresh legislation. But the sixth section of the Supreme Court Judges Act is not the only one which throws light on the construction to be put upon the second section of that Act. The seventh section empowers the Governor in Council, at any time during the illness or absence of any Judge appointed as aforesaid, or for any other temporary purpose, to appoint a Judge or Judges of the Supreme Court to hold office during his Excellency's pleasure; and it provides that every such Judge shall be paid such salary, "not exceeding the amount payable by law to a Puisne Judge of the said Court" as the Governor in Council shall think fit to direct. This section clearly implies that there will be a fixed salary payable to any person filling the office of Puisne Judge of the Supreme Court. If a Puisne Judge can be appointed to whom there is no amount payable as salary, what will be the operation of this section? The superannuation clauses point in the same direction, though perhaps not so forcibly. They imply, however, that every Judge of the Supreme Court will be entitled to an annual salary at the time of his resignation. Returning now to the second clause, which is more immediately under consideration, it is to be observed that even if it be confined, by reference to other parts of the Act, to the appointment of Judges to whom a fixed salary is payable by law at the time of their appointment, every word of the section—the main object of which was manifestly to define the constitution of the Supreme Court and to prescribe the mode of the appointment of the Judges—would still be necessary and would have full effect. In view of the considerations to which attention has been called their Lordships are of opinion that the section can, consistently with other parts of the Act, only be construed as vesting in the Governor the appointment of Judges to whom an ascertained salary is payable by law at the time of their appointment. None of the Judges in the Court below appear to have doubted the expediency of such a construction if it be legitimate, and their Lordships think that it is the only one which will give full and consistent effect to all the provisions of the Act. Their Lordships have dealt thus fully with the construction of "The Supreme Court Judges Act, 1858," although it is not the statute which now regulates the