

in the opinion of this Council, it is absolutely essential, in the interests of the people as a whole, that all Judges of the Courts of Justice of the colony should have a secure tenure of office."

Resolution passed by the Committee of the New Plymouth Chamber of Commerce on the 12th September, 1894: "That, in the opinion of this Committee, it is essential that Judges of a Court having such extensive jurisdiction as the District Court should have as secure a tenure of office as the Judges of the Supreme Court."

Resolutions passed by the Hawera Borough Council: "1. That, in the opinion of this Council, it is highly desirable, in the interests of the community as a whole, that the Bench of Justice should be placed in a position of absolute independence as regards tenure of office and remuneration. 2. That this Council desires to record its approval of the action recently taken by Mr. District Judge Kettle to secure the independence of the Judges of the District Court. 3. That copies of these resolutions be forwarded to the Government and members of the House of Representatives on this coast."

Resolution passed by the Palmerston North Borough Council, 12th June, 1895: "1. That this Council wishes to express its approval of the action taken by District Judge Kettle to have the Judges of the District Court placed in a position of absolute independence. 2. That the Council indorses the resolutions on this subject passed by the Legislative Council on the 16th October, 1894, and by most of the Borough Councils, local bodies, and chambers of commerce on this coast. 3. That copies of these resolutions be forwarded to the Premier and to His Excellency the Governor."

Presentment of Grand Jury at Supreme Court sittings, Wanganui, 26th September, 1894: "The Grand Jury desire to present to this honourable Court that in their opinion it would give the public greater confidence in the proper administration of justice if the tenure of office of the Judges and Magistrates of the inferior Courts was made more secure than at present."

Report of Public Petitions Committee upon Judge Kettle's petition *re* tenure of office, &c., of District Court Judges: "Referred to the Government for favourable consideration." 28th September, 1894, petition No. 6.

EXTRACT FROM JUDGMENT OF MR. JUSTICE WILLIAMS IN *ATTORNEY-GENERAL v. EDWARDS*  
(9 N.Z. L.R., p. 376).

"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."

EXTRACT FROM JUDGMENT OF LORD HERSCHELL IN *BUCKLEY v. EDWARDS* (L.R., Appeal Case 1892, A.C. 396).

"Their lordships need not dwell on the importance of maintaining the independence of the Judges. It cannot be doubted that, whatever disadvantages may attach to such a system, the public gain is, on the whole, great. It tends to secure an impartial and fearless administration of justice, and acts as a salutary safeguard against arbitrary action of the Executive."

EXTRACTS FROM SIR R. STOUT'S ARGUMENT IN *ATTORNEY-GENERAL v. EDWARDS*. (Reported in Blue-book, Sess. II., 1891, H.-13.)

(P. 73): "I shall also show that this is admitted: that, without such permanency, and without a permanent vote, there is no independence of the Bench."

(P. 78): "According to Hearn it was absolutely necessary that, if the Judges were to be independent, their salaries should be ascertained and established, and be removed beyond the control even of Parliament. . . ." (P. 79): "On every ground Hearn lays down the principle that, in order to secure the independence of the Bench, two things are necessary—first, a *fixed tenure*; and, secondly, a *fixed salary*. That is the view of all our constitutional writers. . . . Story, in his book on the 'Constitution of the United States' (3rd ed., p. 473, par. 1627) says: 'It is observable that the Constitution has declared that the Judges of the inferior Courts, as well as of the Supreme Court of the United States, shall hold their office during good behaviour. . . .' Paragraph 1629 quotes from the *Federalist*: 'Next to permanency in office nothing can contribute more to the independence of the Judges than a fixed provision for their support. . . . In the general course of human nature a power over a man's subsistence amounts to a power over his will, and we can never hope to see realised in practice the complete separation of the judicial from the legislative power in any system which leaves the former dependent for pecuniary resource on the occasional grants of the latter. Enlightened friends to good government in every State have seen cause to lament the want of precise and explicit precautions in the State Constitution on this head.'"

"It may be said that in England this law was passed to preserve Judges from interference by the Crown. No doubt in those days that was the evil to be avoided. . . . But I submit that, although the power of the Crown has been lessened, there is just as good reason now for insisting on the independence from Crown control, and that can only be accomplished by carrying out the principle laid down in the Act of Settlement. . . . I submit there is a concurrence of constitutional authorities as to what is necessary for the due independence of the Bench."

(P. 92): "I need not submit to the Court that this is a most important case as far as affecting the Supreme Court Bench is concerned, because if it is held hereafter that an Executive is to have the power to multiply Judges of the Supreme Court without any provision being made for their salaries, and that those Judges so appointed have to depend on an annual vote of Parliament, or, as it turned out in the session of 1890, no vote of Parliament, then the independence of the Supreme Court Bench is gone—there is no such thing in existence. It is all very well for the other side to say that what had to be guaranteed against in the old days was the interference of the Crown. That was so. But I submit that in these latter days there is—and the Americans have seen it, and have wisely provided for it—just as much need, perhaps more need, of having the judicial Bench looked upon as an independent part of the State authority as there is for having