(2.) Am satisfied you not justified administering judicial oath to person not in your opinion coming within first schedule. (3.) This expression of opinion is at your disposal unreservedly. If Judge appointed under section 5, cannot see how his right and duty to perform all judicial duties, including Court of Appeal, can be limited. J. E. DENNISTON,
Judge of Supreme Court.

No. 14.

Mr. Justice RICHMOND to His Honour the CHIEF JUSTICE.

(Urgent telegram.)
His Honour the Chief Justice, Wellington. Blenheim, 12th March, 1890.
(1.) I AM of opinion that the power is not limited in law to the four for whom salaries are provided. (3.) I have no objection to the Chief Justice, in communication with the Government, making any use of my opinion which he thinks proper. I consider the appointment without previous permanent provision for the salary is open to objection on constitutional grounds. If the Chief Justice continues to entertain doubt as to the legality of the appointment, he should certainly not be asked to swear in Mr. Edwards. C. W. RICHMOND.

No. 15.

Mr. Justice WILLIAMS to His Honour the CHIEF JUSTICE.

(Urgent telegram.)
His Honour the Chief Justice, Wellington. Dunedin, 12th March, 1890.
I AGREE with you in seriously doubting authority. If appointment is not justified by law you could no doubt compromise yourself by administering oath. Constitutional question cannot be entirely severed from legal question, because in a question of construction presumption would be that Legislature did not intend to override recognised constitutional principles. I think, at any rate, you should have the fullest opportunity of discussing the matter with the other Judges before being called upon to administer the oath, and also that you should hear what the Attorney-General has to urge. If appointment is within the law, then, however contrary to constitutional practice you might consider it, of course you are bound to administer the oath. What judicial functions is it intended that Mr. Edwards is to perform is quite beside the question, as the duties of a Judge are fixed by statute. You can show this to Government, either unofficially or otherwise, as you think desirable. JOSHUA S. WILLIAMS.

No. 16.

Mr. Justice CONOLLY to His Honour the CHIEF JUSTICE.

(Urgent telegram.)
His Honour the Chief Justice, Wellington. Auckland, 12th March, 1890.
SECTION 5 of Supreme Court Act would appear on first view to give the Governor power to appoint an unlimited number of Judges during good behaviour; but, taking into account the limitation of salaries to four, in addition to the Chief Justice, by the Civil List Act, and also that section 12 of the Supreme Court Act provides for the appointment and payment of acting or temporary Judges, I am of opinion (1) that the power to appoint permanent Judges is limited to those for whom salaries are provided by the Civil List Act, as otherwise Mr. Edwards would remain a Judge for life or during good behaviour, although without salary or any future claim for pension, despite the return to work of Justice Richmond; (2) that you would be justified in declining to administer the oath for an office which cannot be made; (3) that if you hold, as I do, that an increase in the number of permanent Judges can only be made by Act of Parliament, you may at least decline to administer the oath until Parliament has passed either an amending or a Declaratory Act; (4) you may make my opinion known to the Government in any manner that you may think fit.
EDW. T. CONOLLY,
Judge of Supreme Court.

No. 17.

The Hon. Sir F. WHITAKER to the Hon. the PREMIER.

(Confidential telegram. Take precedence.)
The Hon. Sir H. A. Atkinson, Wellington. Auckland, 11th March, 1890.
I AM of opinion that the Governor, under "The Supreme Court Act, 1882," has full power to appoint Mr. Edwards as a Judge of the Supreme Court, either under clause 5 or clause 12 of the Act. The advantage of an appointment under the latter clause is that it contains an appropriation of salary. "The Civil List Act, 1873," is merely an Appropriation Act, and was not intended to limit, and does not limit, the power of appointment conferred by "The Supreme Court Act, 1882." The swearing-in is a purely ministerial Act, involving no responsibility, constitutionally or otherwise, on the part of the administrator of the oath, who has no constitutional ground, that I can see, on which to base a refusal to act. In fact, I fail to see any constitutional question involved. There may be a question as to the propriety of the appointment, and an appropriation for salary, if asked for, may be refused; but this is a matter exclusively between the Assembly and the Executive Government. If the Chief Justice has scruples about the administering the oath, the only alternative I see is the substitution of some one else to do so. FRED. WHITAKER.