

Town Clerk had to be displaced by the Crown, and probably that was the reason the document was produced to show that Nathaniel Seddon had not been overpaid.

28. *Mr. Massey.*] What were the charges against Mr. Wyld on the occasion referred to?—The sums are mentioned on page 18. He was charged with stealing sums of £5, £2, £5, and there was also a cheque for another amount of £5.

29. Then the alleged overpayment to Nathaniel Seddon was no part of the charge?—None whatever. I am quite clear about that, and I am speaking as an expert without taxing my memory, and I could say that it could not have formed any part of the case.

30. Have you read the report from the *West Coast Times*, page 23?—Yes.

31. And, having read it, do you believe it to have been correct?—So far as I can recollect, it is quite correct.

32. I am referring to the production of the document?—I have no doubt this is a correct report of what took place at the time.

33. You produced the document, and asked a question?—Yes, so far as my memory serves me.

34. *Hon. J. McKenzie.*] You did not produce that document as part of your case?—No.

35. *Mr. Morrison.*] Did you produce the document at all?—I have no clear recollection whether I produced the document. At any rate, it formed no part of the case. It might have been referred to in the case for the Crown, which was closed at this period. It might have been produced or it might not, but it formed no part of the case for the Crown. In the Supreme Court the prosecution is confined very strictly indeed to the issue upon which the prisoner is to be tried, and if there is any attempt to go outside that issue it necessarily weakens the Crown's case against the prisoner, and the indictment would not cover it.

36. It appears to me this document is the one referred to by the auditors. The question was put to Mr. Seddon, who said, "I saw the special auditors' report as published in the paper before the meeting of the Council on the 10th November. I know its contents. I am a relation to the Mr. Seddon referred to in the auditors' report. I went through the books on my own account. I am certain that the auditors are wrong. The amount stated as overpaid to Seddon is not correct. Seddon has been paid what was due to him. The document produced is an order from Nathaniel Seddon to pay all moneys coming to him to me." It appears to me this document might have been referred to in the auditors' report?—I cannot say whether it was merely a document or a report, but we should have had the auditors' report before us whilst getting up the case. The Chief Justice in sentencing the prisoner stated that he had not taken the auditors' report into consideration, or words to that effect.

37. No doubt the auditors' report was referred to in your examination?—I have no doubt that in putting the question at that time it was for the purpose of clearing up any doubt there might be as to other people having been mixed up in the matter, because otherwise the jury might be confused as to the issue they were called upon to try.

38. *Hon. Mr. Rolleston.*] Where is it that the Judge's summing-up is referred to?—It is at page 23, at the bottom, "His Honour summed up briefly."

39. Do you recollect the points of the Judge's summing-up?—It is contained in a copy of the *West Coast Times*, but I do not know whether it is a correct copy or not, but it contains the remarks which the Judge made on sentencing the prisoner. His Honour's remarks are on page 26, at the bottom [see Exhibit D]. In these remarks the Judge said he would not take into account the report of the auditors or other matters outside the case.

40. Was the indictment confined to these smaller matters?—We had to find out such as we could sheet home, and confine ourselves to them. We went through the papers and documents, and these were the only ones we expected to get a conviction upon. The indictment was prepared before I got over to the Coast, and I merely worked up the case from the material I had. The Crown Prosecutor had prepared the indictment. I believe these were the only cases connected with these small sums upon which we could expect to get a conviction.

41. *Mr. Duthie.*] Did any of the items in the indictment have any reference to the supposed payments to Nathaniel Seddon?—No, nothing whatever. These items being deposit-moneys there was a difficulty in proving embezzlement, because embezzlement supposed that the Town Clerk had received the money from some outsider, whereas this money had been paid to him on deposit from contractors, and had been put into the borough's safe, and taken out by him, therefore that constituted larceny. We failed in proving embezzlement, and had some difficulty in proving the other cases. We just succeeded on that. The jury recommended him to mercy, and he got twelve months.

42. Then the prosecution had no reference to Nathaniel Seddon?—None whatever. I can say that without wanting to refresh my memory. I can say, as an expert, we must have confined the prosecution to the particular items, and to those alone. I am quite clear about that.

43. *Hon. J. G. Ward.*] Do I understand that if the Town Clerk had paid double the amount due to Nathaniel Seddon any mention of that would appear in your brief?—I do not think so, except any suggestions in the auditors' report that might have been alluded to or otherwise. At any rate, it was a mere passing matter, and did not relate to the charges at all.

44. *Rt. Hon. R. J. Seddon.*] Mr. Harper has stated the auditors' report was not taken into account. In going through the report of the brief prepared for the Crown Prosecutor did you come to the conclusion that the report was not sufficient evidence to go upon?—We did, and the Judge held that the auditors' report was not before the jury.

45. In going through the auditors' report and getting evidence in support of it did you put the report on one side and go upon outside matters?—We had to go to outside matters to sheet home these particular charges, but the auditors' report covered a great deal more ground.

46. You will see, on page 23 [see Exhibit D], I swore: "The amounts stated as overpaid to Seddon are not correct. Seddon has been paid what was due to him." If you had the auditors