

charge upon that?—In this case we had no such power on the depositions. I am only speaking of what the Crown Prosecutor would do generally. It would be his duty to prefer the larger charge if he had the material for it.

99. But there was none in this case?—From start to finish there was no larger charge made in this case.

100. But in your case you had no discretion. Mr. Seddon suggests that you, in preparing the brief, would have preferred the larger charge if there had been any capable proof: if you could have brought one of £500 you would not have preferred one of £5—that is what he said.

*Rt. Hon. R. J. Seddon:* I said if there was a defalcation of £500 and one of £5 he would have taken the larger amount.

101. *Mr. Duthie.*] But what we understand was that there was nothing more than £5 that could be proved. I say that had nothing to do with it, because the Crown Prosecutor had simply to deal with the depositions in the Resident Magistrate's Court, and to make up his case upon that?—That is the practice. The procedure is that the Crown Prosecutor has to confine himself to what is in the depositions in the Magistrate's Court in formulating charges for the higher Court.

102. So that suggestion of Mr. Seddon's is incorrect?—As to these depositions it would be so.

103. *Rt. Hon. R. J. Seddon.*] During the course of the preparation of the brief was it suggested to you by Mr. Perkins, the Crown Prosecutor, that there were larger amounts than those mentioned in the depositions?—I have no recollection of his making such a suggestion to me.

104. When you were conducting the case with him, if any such larger amount had existed in the defalcations would it not have been your duty to make him acquainted with them?—Most certainly. And it was his business to tell me everything, if I was to assist him properly in the case.

105. It would have assisted the prosecution if there had been larger sums, but you had merely taken the small amounts in the course of the depositions?—No doubt that would have followed, but we took the depositions and framed our charges on them.

106. *Mr. Morrison.*] Are you aware that Mr. Perkins tried to prove twelve charges in the Magistrate's Court?—I am not aware of it, but if it is there it is correct. That was some months before, and I had nothing to do with it in that Court.

107. If the Crown Prosecutor had brought twelve cases in the lower Court, and if he dropped nine of them, and simply brought three charges, does not that show that he was satisfied that he could not prove the other nine charges?—I presume so, and it would be his duty to take that course.

108. That did not imply that the Crown Prosecutor had exhausted all the charges before you arrived?—So far as my recollection serves me, the indictment would be prepared before I got there, because the Court was to sit on the following Monday, and I got there on the Saturday, and I remember Mr. Perkins telling me he was going to send the indictments to the Judge. He would have left out all the charges in them he could not prove.

109. But if there were twelve charges that he could have proved he would have done so?—I presume so.

110. *Mr. Massey.*] Are you aware that overpayment to Mr. Nathaniel Seddon was not one of the charges in the Magistrate's Court?—I am aware on reading the depositions it was not so.

111. Referring to page 23 see Exhibit D], can you give us any idea what would be the object in asking that question from Mr. Seddon?—I cannot tell at this distance of time. I think, speaking as a professional man, it was for the purpose of clearing up matters, as other people might have been considered to have been involved in the case. Mr. Seddon was called as a witness for the defence.

112. Do you think Mr. Seddon's answer did clear it up?—I should think it did, as I read it, and it was not contradicted.

113. Would you explain in what way you think it cleared it up?—It cleared it up by showing that Nathaniel Seddon was not implicated in the charges against Wyld.

114. The overpayment to Nathaniel Seddon was no part of the case?—It was no part of the case.

115. *Hon. J. G. Ward.*] If there had been overpayment would it not have been the duty of the Crown Prosecutor to charge the Town Clerk with that?—In the Magistrate's Court it certainly would, but I know nothing of what took place there.

116. It would have transpired in the ordinary way in the Supreme Court?—Yes, it would have come up there.

117. And the fact that it does not appear in the evidence in the Supreme Court is a proof that it did not appear in the Magistrate's Court?—That would be so. If it did not appear in the lower Court it would not appear in the higher one.

*Rt. Hon. R. J. Seddon:* The witness states that if there was nothing to sustain it it would not have been the duty of the Crown Prosecutor to have brought it before the Supreme Court.

Mr. A. R. GUINNESS, Barrister and Solicitor, sworn and examined.

118. *Rt. Hon. R. J. Seddon.*] You are a barrister and solicitor, Mr. Guinness?—I am.

119. You appeared to defend the Town Clerk of Kumara in the Magistrate's Court and Supreme Court, in 1883?—Yes, I did.

120. Will you state to the Committee whether, in the course of the trial in the Magistrate's Court or the Supreme Court, anything came out in the investigations reflecting upon Mr. Nathaniel Seddon or myself?—From my recollection of the facts I believe there was nothing suggested or stated in the evidence in either Court that in any way reflected upon Mr. Nathaniel Seddon or upon yourself.

121. During the examination in the trial before the committal in the Magistrate's Court or Supreme Court, were you aware there had been a special audit of the accounts of the Borough of Kumara?—Yes; the fact was given in the evidence.