

47. Now, the scale of costs is practically very much in excess of what would be allowed for a case in the Supreme Court?—As far as counsels' fees are concerned. The witnesses' expenses would be heavier, because the witnesses would have to go to Christchurch. Part of Mr. Wason's bill was made up of a fee for a solicitor, instructed by Mr. Wason, to appear on behalf of the returning officer. Then there was an item of £89 16s. for Mr. Poyntz, who was engaged on behalf of Mr. Wason in getting up particulars as to the votes. His expenses were consented to; witnesses' expenses were consented to; as was also the item for the counsel for the returning officer, 19 guineas.

48. Taking it in this way, the total amount allowed, partly on taxation and partly by consent, was £372 11s. 9d. Presuming all the items had been contested, what amount do you think would then have been allowed on taxation. I mean if it was an ordinary action in the Supreme Court?—Presuming everything to have been the same, the counsels' fees would have been the only thing different. Counsels' fees would probably then have been 50 guineas, and one-third less for a second counsel, if the case had been of sufficient importance,

49. *Mr. Dick.*] How much did Mr. Stout really get?—If Mr. Ivess had succeeded in the whole of the petition, Mr. Stout would have been allowed 100 guineas, and the junior two-thirds of that. In the Supreme Court, on costs taxed as between solicitor and client, Mr. Stout would have been about 50 to 60 guineas, and junior counsel one-third less respectively.

50. Are all the other expenses the same as they would have been in the Supreme Court?—Very nearly. Some items of 13s. 4d. would then have been 6s. 8d.

51. Allowance for witnesses the same?—Yes.

52. *The Chairman.*] Mr. Poyntz's expenses would not have been allowed in the Supreme Court?—Not as between party and party.

53. You have no particulars of how Mr. Poyntz's account was made up?—No, because the item was consented to.

54. You do not know if it was full payment, or payment of a balance.—No.

55. Then, there are Mr. Crispe's costs, I see?—He appeared on behalf of the returning officer, by direction of Mr. Wason.

56. If this bill of Mr. Wason's had been taxed in the ordinary way, you think the amount allowed would not have been nearly so much?—Yes; certainly it would not.

57. To what extent do you think there would have been a reduction?—In round numbers, it must have been reduced by £60 or £70, including the item for counsel for the returning officer.

58. And you would have struck off the charge for Poyntz?—Not as taxing between solicitor and client. I should have satisfied myself that he had been properly employed, and that receipts were given for his charges.

59. Suppose Mr. Wason and his solicitors had quarrelled, and fought the thing, do you not think there would have been a very material reduction?—Yes; very likely.

60. Apart from the fact that there is no specific provision on the subject of costs, was there anything about the trial which made the case a more arduous one than an ordinary case in the Supreme Court?—Generally, it was of more importance. It was entirely new work, and I know all the counsel were very much engaged in getting the law up. I know, too, that it was very laborious for the Judges. Of course, I only know these facts incidentally.

61. Apart from its being a new line of business, was there any special reason why you should allow larger fees in this case than in ordinary cases?—Not in respect to witnesses. The expenses for witnesses were here allowed by consent. Had it been otherwise it would have had to be proved that they had been paid. I have no doubt they were actually paid.

62. *Mr. Fitzgerald.*] Would they have been paid exactly the same as was charged for them if the case had been a Supreme Court one?—Probably they would have been paid more in that case, because they would have had to come to Christchurch instead of being in the district. The rate per diem, I believe, was the same.

63. Was not this taxation of Mr. Wason's bill in the nature of a friendly action between the parties?—Yes.

64. *Mr. Turnbull.*] What induced you to adopt the English precedents as a whole, as a guide. You have apparently not considered the difference in magnitude of the cases?—I adopted the same principle only in this respect, that counsel's fees should be on a more liberal scale than for a Supreme Court case.

65. *Mr. Wynn-Williams.*] Supposing you put it this way. Suppose Mr. Stout was allowed 110 guineas, what would the leading counsel have been allowed in a similar case at home?—I had to take into consideration the time Mr. Stout was away from his business.

66. If a lawyer had come from Wellington to Ashburton, would you have allowed more?—As between solicitor and client the taxing master has no option. If an individual chooses to have counsel from a distance he must pay for it. But I should not have allowed more on that account, as taxing between party and party.

67. As to the junior counsel, did you take into consideration the importance of the case, or simply allow him fees by scale?—The junior is almost always given one-third less than the leader.

68. But, as taxing master, do you exercise no discretion as to the number of counsel. Supposing there had been a third counsel?—A second counsel is almost always considered necessary. I should not have allowed a third counsel, nor, if the case had been of no importance, a second.

69. But do you not exercise your judgment as to the importance of the case; this seems to me a simple case?—I may say that the decision in the election petition case for Lyttelton had been allowed to stand over. The question was, whether aliens were entitled to vote or not. It was expected the same question would be raised in this case, and I believe the Judges expected Mr. Stout to argue it. However, it was not gone into, by agreement of counsel, before the trial. The junior counsel got up the case.

70. You said this was a new kind of litigation. It seems to me that it is not new?—All the counsel had to get up the new law.