

grants, and carrying out the decrees of the Court?—The Act of 1873, section 13, provides that all administrative duties shall be carried out by the Chief Judge, and also the Act of 1865.

120. *Mr. Stewart.*] Does it not seem that there were administrative duties, as apart from the judicial duties, which he must have done?—I may mention that my predecessor was Mr. Domett; but he was not a Judge at all, and he had the administrative work then. He was Secretary of Crown lands, and he was not a Judge of the Court.

121. Can you state what duties of an administrative character you had to perform outside of those which you conceived to come within your duties as Judge?—I had the preparation of the documents of Native grants—nominally by me, but mostly by the Chief Clerk—and very extensive correspondence. In one year—I forget which it was now—I found that the letters written from my office were, with the exception of the Colonial Secretary's office, the most numerous of any establishment of the Government. There were about seven thousand letters I wrote during the year, including correspondence with the Natives and the Government: also constant correspondence with, and attendance upon, European purchasers and their solicitors. I had to see to the carrying-out of the different decisions of the Court, and to assess the Native land duties under the Act of 1873. I had the whole work of the department, which extended down into the South Island. I had to hold Courts at Dunedin, and, as I told you, I had a more extensive correspondence than any department except that of the Colonial Secretary.

122. *Mr. Bell.*] When a man wished to approach the Native Land Court for anything, who was the official to whom he ought to go?—To myself.

123. *Hon. Sir R. Stout.*] The point is this: Had you any duties outside those of dealing with titles of Natives to Native land?—Yes.

124. What were they?—Carrying through the purchases afterwards.

125. Yes, that was after the decree of the Court?—Yes.

126. But I mean prior to the decree of the Court. You had nothing to do with Native lands generally except to find out who were the owners?—I did not find out the owners.

127. The Court did?—Yes.

128. Yes; but you, as Chief Judge of the Court, had to see that your officers got the requisite claimants. When the Courts were held and made a decree giving the title to some one, you had to see that it was carried out by the proper deeds and documents being prepared?—Yes.

*Hon. Sir R. Stout:* Yes, that is what I understand.

129. *The Chairman.*] Mr. Fenton made a remark just now about having had large correspondence with Natives and Europeans. It is not usual in other Courts for Judges to correspond with litigants. What was the nature of this correspondence that was carried on?—With the public, just the same as the Colonial Secretary or the Minister of Justice, or any other executive department of Government.

130. With respect to matters coming before the Court, or with other matters? I do not understand the position. It seems peculiar. A Judge as Judge does not correspond with people—that is, a Judge of the Supreme Court?—But when I was in my office I was not a Judge.

131. That is exactly what the Committee seem to want to be made clear. If not a Judge, what were you?—I was nothing more than an ordinary executive officer—like the Secretary for Crown Lands. In fact, my predecessor as administrator of the Court, Mr. Domett, was also Secretary for Crown Lands. He was Secretary to the Crown Lands Department. It was not a Ministerial office then.

132. *Hon. Sir R. Stout.*] It is not a Ministerial office now. Mr. McKerrow is Secretary now?—I thought it was a Ministerial office. However, my predecessor carried on the work. It was not very large then. He was not a Judge, but he used to do all the correspondence then.

*Mr. Stewart:* It seems to me that Mr. Fenton's position was somewhat analogous to that of the Wardens on the goldfields, who correspond with persons.

*Hon. Sir R. Stout:* That is what I think.

*The Chairman:* In respect to the Wardens of the goldfields, they are under the Justice Department in regard to their judicial functions, but they are under the Mines Department in regard to their administrative functions.

*Mr. Fenton:* I should like to make my meaning clear, because it struck me when I read this memorandum of the Attorney-General that it was a misunderstanding of my duplicate positions that was underlying the whole of that paper. I observe that there is only one part of the paper in which I was exercising judicial functions—that is, during Dr. Buller's application for an order. The whole of the other business referred to was carried on by me as an administrative officer. I was in the Legislative Council when it was found that there were over five hundred Crown grants in arrear. The Act of 1869 handed the preparation of these and of all future grants over to me, and I had all the Crown Lands business to do afterwards. It was a very heavy correspondence—with the Surveyor-General and other officers of the Government, and so on. The Committee will understand that the department was a new one, and I am free to admit that in the commencement we made mistakes. But we gradually found out errors of system, and corrected them. But there was an enormous amount of outside work which I cannot minutely describe to the Committee. If I had what we call our District Register Book before me I could go through a page, in which every block of land is entered.

*Hon. Sir R. Stout:* One of the books is here, and I understand its use. On one page is marked the order made in connection with a block, and on the other everything that is done in connection with it.

*Mr. Fenton:* If the book is produced, it will show what I did in my office, and what was done by the Court—what was done outside and so on when I got an order from a Court—that is to say, a Judge and an Assessor. If there was anything on the face of it which showed excess of jurisdiction I objected to it: otherwise I executed it, whether I agreed with it or not. As I said in my