

Registrar was not merely that he had made mistakes, but that he had wilfully falsified the accounts.

"5. The certified accounts were promised by the Registrar by the 23rd December, upon payment of fees to Registrar, £11 5s., for forty-five hours at 5s. per hour. These fees I handed to Mr. Austin on 22nd December, 1884."

"6. Time after time I was promised the certificates by the Registrar and my then solicitor, Mr. H. S. Austin, and not until nearly the end of February, 1885, did I get any information. I was then told I must pay £88 4s. further fees before I could see them." Mr. Bloxam's evidence makes this quite clear. Mr. Hargreaves's fees were to be paid as well as the Registrar's before the certificates would be issued.

"7. On the 11th day of March, 1885, I called upon the Registrar and paid fees, £88 4s. After I had done so I demanded the certificates. He refused to give them to me, and said he would hand them to Mr. H. S. Austin, although he knew I had, on the 4th day of February, 1885, withdrawn Mr. H. S. Austin's retainer, and had given him (the Registrar) written notice of same." If Mr. Ell had not withdrawn from the inquiry, as hereinafter mentioned, he would probably on cross-examination have admitted that an order had been made, but not drawn up, to substitute Mr. Lynch for Mr. Austin as Mr. Ell's solicitor on payment of Mr. Austin's costs, and that those costs had not been paid. And, in addition to this, Mr. Bloxam states that he gave notice to Mr. Hoban, solicitor, agent at Christchurch for Mr. Lynch, that the certificates would be handed to Mr. Austin, and that neither Mr. Lynch nor Mr. Hoban took any steps to prevent this.

"8. I then applied to the Registrar for office-copies of certificates, and obtained them on the 13th March, 1885, when I at once saw that the Registrar had ignored order of Court, suppressed evidence contained in his own notes of evidence, and had also adopted the figures in statement rendered to him by the defendants on the 5th December, 1884, and by that means had wronged me in the sum of over £3,000." The order of Court said to have been ignored is that of the 29th October, 1884, Exhibit A, which states that if the Registrar and accountant are satisfied that there was a settled account, or what was so intended, between the parties, covering all transactions between 1870 and 1873, such settled accounts were not to be disturbed. Mr. Bloxam and Mr. Hargreaves both admit that there had been a settled account between the parties to June, 1873, but that it was incorrect according to the evidence. They therefore considered that under the terms of the order of the 29th October, 1884, they were justified in going behind that settled account, since they were to be satisfied. In this reading of the order it appears to me that they were wrong; but this error, if it was an error, was committed in perfect good faith and from no wrong motive. No evidence was given before me as to the alleged suppression of evidence, and Mr. Bloxam and Mr. Hargreaves both deny that they adopted either Mr. Ell's or Mr. Martin's accounts, but that, on the contrary, they considered every item, and came to the best conclusion that they could.

"9. On the 10th day of June, 1885, the defendant, by consent, paid into Court to the credit of cause £2,404 6s. 9d." This is correct.

"10. In August and September, 1885, the Registrar did sign and issue incorrect order or orders that were used to my detriment by the defendants." This charge is an exceedingly vague one. It appears by Mr. Ell's evidence that by some confusion he appealed against an order which he did not intend to appeal against. Exhibits E, F, I, and J show that one order was made on the 26th August, 1885, and three orders on the 2nd September, 1885. E and F, both made the 2nd September, are identical except as to the name of the defendant, being in different actions. I, made the same day, is in one of the actions to vary the certificates. Mr. Ell's statement that on the 2nd September there was no motion before the Court to vary the order of the 5th August, but that both motions were to set aside the certificates, is incorrect. The orders appear to agree with the notes of the late Mr. Justice Johnston, cited in Mr. Bloxam's evidence.

"11. In May, 1886, the Registrar sent a telegram to the Court of Appeal, Wellington, which is untrue, and tended to mislead their Honours presiding." This telegram is Exhibit G appended to the evidence. The alleged untrue statements are, that Mr. Bloxam called Mr. Ell's attention to the receipt, and that Mr. Harper brought further evidence that a sum of £250 had not been paid. This refers to an item of £250 for which a receipt had been given on the back of a mortgage given by Ell (Exhibit D). It appears probable that when this receipt was produced Mr. Bloxam may have said to Mr. Martin, "You cannot go behind this;" and Mr. Hargreaves's evidence is clear that Mr. Bloxam was in favour of giving Mr. Ell credit for the item. Its existence was unknown either to Mr. Ell or to his solicitor until it was produced, and there was and is no evidence that any money passed at the time; and subsequent investigation of the deeds satisfied Mr. Bloxam and Mr. Hargreaves that the £250 had not been paid. If this was an error, it was obviously an error made in good faith. The assertion that the telegram of the 19th May is untrue and misleading is apparently entirely unfounded.

"12. On the 5th June, 1886, Sir James Prendergast, Chief Justice of New Zealand, ordered the accounts to be taken in accordance with the Supreme Court rules; and from the 9th July, 1886, until 4th August, 1886, the Registrar on several occasions adjourned the meetings for the reason, he said, that the documents had not returned from Wellington. That is false." The order referred to was made by the Court of Appeal. The certificate appears as Exhibit H. From the reported judgment (4 N.Z.L.R., C.A., 141) it does not appear that the account was sent back because a settled account had been reopened, although that ground was pressed by Ell's counsel, but because the account to be taken should in the first instance have been brought in by the party accounting. There were several meetings for the purpose of taking the accounts, or in reference thereto, between the 14th July and 11th August, 1886. Mr. Ell alleges that the Registrar falsely asserted that certain papers had not arrived from Wellington; but this allegation is not supported by the facts, since some of the papers evidently did not come to hand until the 28th August. In the meantime, on the 6th August, 1886, Mr. Ell had been made a bankrupt, and he still remains