

such Registrar, and the accountant, William Henry Hargreaves, ignored and disobeyed the order of this honourable Court of the 29th day of October, 1884, aforesaid, and gave credit to the said Leonard Harper as against the plaintiff for very large amounts claimed by the said Leonard Harper during the years 1870, and 1871, and 1872, and a great part of the year 1873." "35. That, in thus disobeying the order of this honourable Court, the said defendant A. R. Bloxam acted by the advice and instigation of the defendant Leonard Harper, and induced the accountant, William Henry Hargreaves, also to disobey the order of this honourable Court." The matters in paragraph 33 have been already dealt with. The action was dismissed, as will presently be referred to. The charge of fraud and conspiracy contained in paragraph 35 is the most serious of any brought against Mr. Bloxam. Mr. Ell thought fit to repeat on oath that Mr. Bloxam acted by the advice and instigation of Mr. Leonard Harper, and induced Mr. Hargreaves to disobey the order of the Court. Mr. Ell was asked more than once by me how he proposed to prove these assertions, and said that the accounts which were being taken in Wellington would prove them. Upon it being pointed out to him that if those accounts should differ from those taken by Mr. Bloxam and Mr. Hargreaves, and even should be shown to my satisfaction to be right while the others were wrong, they would not be any evidence of undue influence or of any wrong-doing, he could not suggest any other way of proving the fraud and conspiracy charged. Having carefully examined Mr. Bloxam and Mr. Harper and Mr. Hargreaves on this matter, as will appear by the evidence appended hereto, I have no hesitation in reporting my opinion that the charges made in paragraph 35 of the statement of claim above mentioned, and repeated by Mr. Ell before me, are absolutely false, and never ought to have been made. It is worthy of remark that Mr. Hargreaves, although suggested by Mr. Harper as the accountant to take the accounts, was appointed by the Court with the full sanction of both parties, and no suggestion of his being an unfit person would seem to have been made until after the accounts were completed.

"22. 10th November, 1887, is false and misleading. Mr. Bloxam says he deemed it would be more agreeable to Her Majesty's Government if he met the case on its merits. Mr. Bloxam had his choice—to stand his trial on the merits, or, at the request of his counsel and by consent of Mr. Rees, to withdraw the case without costs. The Registrar chose the latter, as more agreeable to himself." The date again refers to a letter to the Under-Secretary for Justice, Exhibit M. The remainder of the complaint refers to the action above mentioned. This action was dismissed, with costs, against all the defendants except Mr. Bloxam, on motions made by them. A question then arose as to proceeding with the action against Mr. Bloxam, who had filed a statement of defence. According to Mr. Ell's evidence, the case was withdrawn by consent, without costs. According to that of Mr. Bloxam and Mr. Martin, it was withdrawn with the same costs as had been allowed to the other defendants, and the order was drawn up accordingly, Mr. Ell contends that the order was so drawn up wrongfully. The note of Mr. Justice Ward is, "Case struck out by consent," and is silent as to costs. I suggested to Mr. Ell that he should call Mr. Justice Ward at once (his Honour being then about to leave Christchurch for Hokitika) to clear up the point; but, after taking a day to consider this suggestion, Mr. Ell declined to call him as his witness. I should have called him afterwards, on resuming the inquiry, but he was absent at the Court of Appeal. On this charge it appears to me that the presumption is in favour of the order rightly representing the decision of the Court, and that the onus rested on Mr. Ell to prove the contrary by other testimony beyond his own; and this he not only did not do, but he deliberately and after consideration declined to call the Judge, whose evidence on the point would probably have been conclusive one way or the other. Mr. Martin's version of the proceedings appears very likely to be correct—namely, that the Judge made his note before the discussion as to costs took place, and did not add to it.

I have already mentioned that at an early period of the inquiry Mr. Ell stated that accounts were then being taken at Wellington by an accountant employed by him, and wished me to call the accountant—Mr. Brook—at the public expense. This I at the time refused to do, since in my opinion those accounts should have been unnecessary, and could prove nothing on the charges against Mr. Bloxam of improper conduct. He then asked that I should see those accounts before giving my final decision on the point. After having given his evidence, as taken down and appended to this report, Mr. Ell, towards the close of the third day, asked leave to postpone the rest of his case until those accounts arrived; and on the following morning (6th September) he produced a telegram from Mr. Brook, the accountant, stating that the accounts would be at Christchurch by the 14th September; and Mr. Ell then asked that I should adjourn until that time, and should then, after looking at the accounts, decide whether I would summon the accountant as a witness. He stated that he declined to go on with his case, either against Mr. Bloxam or Mr. Latter, until the accounts arrived. I replied that I had, since the adjournment from the previous day, considered Mr. Ell's application for an indefinite adjournment, and had decided to refuse it; and I pointed out to him the unfavourable position in which he placed himself by making such an application. I reminded him that about May, 1887, he petitioned the House of Representatives to inquire into his alleged grievances against Mr. Bloxam and Mr. Latter; that about October, 1887, he again petitioned the House to the same effect; that in March last he gave to the Minister of Justice full particulars of the charges which he intended to bring, and requested him to make an inquiry; and that about June last he again brought his case before the House of Representatives: and yet that in September, when an inquiry had been granted, he was not ready, and said that he must have this new evidence. I added that the necessity for this evidence only appeared to have occurred to him when he knew that a Commission had been granted; and that if he was not ready now he could not have been so when he three times brought his case before the House of Representatives, or when, six months before, he urged the Minister of Justice to institute an inquiry; and that no unprejudiced person could arrive at any other conclusion than that these repeated applications for an inquiry were not made *bonâ fide*, and that his object was not to have the matters inquired into, but merely to bring forward his own version of them. Mr. Ell still refusing to proceed with his case, the inquiry was adjourned *sine die*.