

"11. That between the 6th August and the 13th November, 1886, the Official Assignee did, in spite of my protests to the *contra*, wrongfully 'accept proofs of debt amounting in the whole to £7,372 5s. 7d., whereas the correct amount of indebtedness was £1,401 12s. 1d., against about £3,000 of assets immediately recoverable, and about £3,000 of contingent assets, the former being more than sufficient to fully satisfy my debts in full." These figures are, of course, based upon Mr. Ell's own version of the state of accounts between him and Messrs. Harper and Weston. Mr. Ell never appealed against the admission of any of the proofs; and the amount stated in his letter as his indebtedness is less than that put in by him in his statement of assets and liabilities by £723. In the last paragraph of this letter Mr. Ell refers to six sections of the Bankruptcy Act as having been violated by the Official Assignee. No explanation is given by him, and a reference to the sections does not show any foundation for this charge, or any part of it.

The complaints in the memorandum of the 10th April, 1888, are as follows:—

"5. Mr. Latter is well aware that Mr. Stafford, in Wellington, in August, to their Honours said that he, for Mr. Weston, did not claim £5,138, but about £200, or any amount found due under the Act; and why or how Mr. Weston had made such a claim he did not know. But Mr. Latter is compelled to try and uphold this claim of Weston's because he has already stated in affidavit that he cannot contest it." As Mr. Latter states, he is not aware whether Mr. Stafford did or did not make the statement in question. Assuming that he did make it (and nothing of the kind appears in the report, *Ell v. Weston*, 5 N.Z.L.R., C.A. 120), it was not until the 26th April, 1887, nine months after the bankruptcy.

"6. Mr. Latter well knows Haskins's claim was paid in full, and the declaration of Haskins was kept out of my sight in a drawer by itself till 30th November, 1886, at 3.30 p.m., about, and was altered by Haskins before 10 a.m., 1st December, 1886." This is fully answered in Mr. Latter's evidence.

"8. I gave that document to Mr. Eyes, and on the following day explained to Mr. Latter the nature of the claim shown therein." This refers to the document mentioned above as purporting to be a second statement of assets and liabilities. Mr. Latter denies the alleged conversation, and it is obvious that if he had been told that this paper was a second statement of assets and liabilities he would have required that it should have been executed in proper form.

The charges in an affidavit sworn by Mr. Ell, 15th July, 1888, in addition to some already dealt with, are as follows:—

"11. That the Official Assignee did pay to H. S. Austin £175 on 27th June, 1885; £195 2s. 7d. on the 4th August, 1885. The said H. S. Austin also received £16 9s. on the 4th August, 1885, and the said H. S. Austin was my solicitor till 4th February, 1885. Acted for the Official Assignee in the above-mentioned obstructions. So that H. S. Austin had received up to August 4th £386 11s. 7d." Mr. Latter denies that any money was ever paid by him to Mr. Austin, and the orders of Court fully bear out his evidence.

"11. [There are two paragraphs in this affidavit numbered eleven.] That the said Official Assignee knew that the said H. S. Austin had been overpaid, because he, the said H. S. Austin, had filed his declaration of claim against me for costs, £361 0s. 9d., on the 7th April, 1885." Mr. Latter's evidence is that Austin's declaration in proof of debt was for £68 only. Whether Mr. Ell means the same thing by "declaration of claim against me for costs" is not quite clear. If it refers to another matter it is not shown how Mr. Latter had any knowledge of it.

On the conclusion of the inquiry, Mr. Bloxam and Mr. Latter requested me to make a note that they considered that they had been placed in a disadvantageous position through Mr. Ell having refused to appear to be cross-examined, and there being no power in the Commissioner to compel him to do so; since they should especially have wished to ask him in what way he had suffered detriment, and why he had not appealed to the Judge.

I have the honour to report that, in my opinion, the result of this inquiry may be stated as follows: (1.) That the Registrar and Mr. Hargreaves made a mistake in their reading of the order of the Supreme Court of the 29th October, 1884, and should not have gone behind the settled account to June, 1873; but that this mistake, if it was one, was made in good faith, and not under any wrong influence or from any improper motive. (2.) That all the other charges against Mr. Bloxam are either untrue or frivolous. (3.) That all the charges against Mr. Latter are either untrue or frivolous.

All this is respectfully presented to your Excellency.

Signed and sealed this 5th day of December, 1888.

(L.S.)

EDWD. T. CONOLLY.

MINUTES OF PROCEEDINGS.

MONDAY, 3RD SEPTEMBER, 1888.

COMMISSION opened and read. It was arranged that all evidence should be taken on oath. At Mr. Ell's request, Mr. McHaffie was allowed to be present, and take notes and assist Mr. Ell, it being ordered that such notes or any reports of proceedings be not published. Mr. Ell elected to proceed with his charges against Mr. Bloxam first. Mr. Ell sworn, and gave evidence.

Adjourned until to-morrow.

TUESDAY, 4TH SEPTEMBER, 1888.

MR. ELL continued his evidence. Mr. Ell applied to Commissioner to obtain authority of Colonial Secretary to summon Mr. Brook, of Wellington, accountant, as a witness. Application refused.