

LETTER FROM MR. J. E. DENNISTON TO MR. E. G. JELlicoe.

DEAR SIR,—

20th January, 1886.

I have received a letter from Mr. Ell, asking me to make an affidavit of the facts of the judgment in his favour in a criminal action for libel tried at Christchurch, in which I was his counsel. In that case, after the verdict was recorded, I drew the Court's attention to the fact that the verdict carried costs, with which the Judge ultimately concurred. It is obvious, however, that these facts cannot and ought not to be proved by the affidavit of counsel. They ought, if necessary, to appear on the records of the Court. But it is not, in my opinion, necessary that anything should appear as to costs on the face of the judgment. The right to costs is given by 6 and 7 Vict., cap. 96 (Lord Campbell's Act) adopted in New Zealand by the adopting Ordinance of 1845 (8 Vict., No. 8). By the 8th section, "If judgment is given for the defendant he shall be entitled to recover from the prosecutor the costs sustained by the said defendant, such costs to be taxed by the proper officer." It requires no judgment or order by the Court other than the entry of judgment for the defendant, and all you would have to do is to make out your costs, and have them taxed as of course. When taxed they can be sued for (see *Richardson v. Maher* L.R. 8 Ex. 69, 42 L.J. Ex. 68).

You will excuse this statement of what may be quite familiar to you; but I gather from Ell's letters that there is some misconception as to his position, and these points of practice are not always at one's fingers' ends.

Yours faithfully,

J. E. DENNISTON.

E. G. Jellicoe, Esq., Solicitor, Wellington.

No. 13.

AFFIDAVIT BY MR. ELL.

AN Affidavit in support of the humble Petition of the Colonists of New Zealand on behalf of George Waldoock Ell, praying for redress, presented to Parliament by Thomas Duncan, Esq., M.H.R., on the 7th July, 1892.

I, GEORGE WALDOOCK ELL, make oath and say as follows:—

1. As stated in said petition, I have been put to more than £2,000 expense since December, 1884, by the maladministration of their duty by the Registrar and Official Assignee at Christchurch.
 2. That I paid the said Registrar in December, 1884, £11 5s.
 3. That I paid the said Registrar in March, 1885, £90 6s.
 4. That the account of Stewart, Holmes, and Denniston is £78.
 5. That M. J. Lynch's account paid is £6 6s.
 6. That Hammersley received about £60.
 7. That H. S. Austin was paid in June and August, 1885, £370.
 8. That Mr. Jellicoe received about £300.
 9. That Austin and Haskins received, in May and June, 1886, about £100.
 10. That I paid the said Registrar, in January, 1886, £100.
 11. That a case heard in action 683, in Wellington, before Mr. Justice Richmond, through documents and evidence being suppressed, and thereby His Honour and jury were deceived, and I was taken by surprise, cost me over £300.
 12. That I paid Mr. A. S. Paterson £14 10s.
 13. That I was compelled to go to Timaru in 1885, which cost me about £10.
 14. That stamps on motions, deeds, affidavits, and office-copies of documents that I was compelled to obtain, and would not have been in any way required had the Registrar done his duty, has cost about £100.
 15. That my printing account in Wellington is more than £70.
 16. That printing in Christchurch cost me £20.
 17. Mr. Kember's account is £105.
 18. That my journeys to Timaru, Dunedin, Wellington, and Gisborne have cost me more than £100.
 19. That it has cost me since I have been in Wellington in 1887, about £800.
 20. That I submit I am entitled to £200 a year since December, 1884, by reason of the false documents issued by the public servants, which has wasted my life since that date, £1,500.
- That Mr. W. L. Rees has on several occasions endeavoured to assist me in getting these wrongs adjusted, and expended money, but to what amount I do not know.

G. W. ELL.

Sworn at Wellington, this 18th day of August, 1892, before me—JACKSON PALMER, a Solicitor of the Supreme Court of New Zealand.

No. 14.

CORRESPONDENCE BETWEEN MR. ELL AND SIR R. STOUT, AND OPINION BY SIR R. STOUT.

DEAR SIR,—

Premier's Office, Wellington, New Zealand, 21st March, 1887.

I have looked over your papers, and I do not think it is possible for me to interfere in the case; and even if I had time to do so, which I have not, the case requires a solicitor on the spot to attend to it, and I do not practise as a solicitor; I only appear in Court as a barrister. You should obtain the aid of some able and intelligent lawyer in Christchurch to attend to your business. It is impossible for one at a distance to render you any assistance.

I return your papers by book-post, and would have written you before, but I promised to look over your papers; until I had done so, I deferred sending a reply.

Yours truly,

ROBERT STOUT.

G. W. Ell, Esq., 140, Chester Street, West, Christchurch.