

of the papers have been lost. An additional reason why the papers should not throw any light upon the subject is, that no application was ever made to set aside the order (the complaint only affecting the validity of the copy and service), and when the matter was referred to in Chambers, the impropriety complained of was alluded to upon the hearing of a Chamber motion in the case, and not upon a summons specially directed to the irregularity.

6. The statements contained in the sixth paragraph of the said affidavit I believe to be wholly incorrect. For upon searching records and memoranda in my possession, I find that in all the under-mentioned cases in which the said Henry Smythies was employed as solicitor or counsel upon one side and I in the same capacity on the other side, the said Henry Smythies was unsuccessful:—Cohen *v.* Bank of New Zealand, McGarrigle *v.* Machin, Clements *v.* Edmondson, Same *v.* Dodson, Fox *v.* Campbell, Lynch *v.* Wood, McGregor *v.* Hunter, Kelly *v.* Reany, Crafts *v.* Chapman (appeal), Macandrew *v.* Latham (Court of Appeal), Logan *v.* Crawford, Russell *v.* Barton *re* Smith, Same *v.* Same *re* Howarth.

JAMES MACASSEY.

Sworn at Dunedin aforesaid, this eighth day of June,

A.D. 1872. Before me

GIBSON K. TURTON,

A Solicitor of the Supreme Court of New Zealand.

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