

ailed to sustain his case, adverted at some length to the opening statement of Mr. Smythies, and suggested that this Court should respect the proceedings of another Court. It was monstrous to say that, while there was an application pending in the Supreme Court, this Court should be asked to do what would directly defeat the object of the application.—Mr. Smythies, the plaintiff's solicitor, was examined by Mr. Macassey. He gave evidence respecting the arguing of the case at the Supreme Court, and also respecting the judgment given.—Mr. Orbell was also briefly examined.—The Magistrate said the case was one which required to be carefully considered, and it was probable that, by giving judgment at once, matters would be more complicated than they were at the present time. It had come to his knowledge that there were proceedings pending in the Supreme Court that he should take notice of. He would consider the whole bearings of the case, and give judgment on that day week.

WEDNESDAY, 11TH NOVEMBER.

*Orbell v. Jones.*

The Magistrate gave judgment in this case. He said that he had reserved his decision to take into consideration the point as to whether the case trenched upon the province of the Supreme Court. He could come to no other decision than that there was nothing before him to stop the jurisdiction of his Court. He would therefore give judgment for the plaintiff for £95 17s. 7d., together with costs. Upon the application of Mr. Macassey, execution was stayed to give time for appeal.

This is the exhibit, marked with the letter "D," referred to in the annexed affidavit of James Macassey, sworn before me, at Dunedin, this 8th day of May, 1872.

HENRY HOWORTH,

A Solicitor of the Supreme Court of New Zealand.

E.

In the Supreme Court of New Zealand, Otago and Southland District.

Between HENRY SMYTHIES, Plaintiff; and ALFRED AUGUSTUS CATAMORE, Defendant.

DECLARATION.

THE plaintiff says that on the eleventh day of November, in the year of our Lord one thousand eight hundred and sixty-eight, Frank Alfred Orbell, in the Resident Magistrate's Court of the District of Dunedin, recovered against the defendant ninety-five pounds seventeen shillings and sixpence, together with one pound ten shillings for his costs of suit, whereof the defendant was convicted. That after the said judgment, and whilst the amount thereby recovered and every part thereof remained unsatisfied, the said Frank Alfred Orbell, by deed bearing date the thirteenth day of November, one thousand eight hundred and sixty-eight, for valuable consideration assigned the said judgment and the sum thereby recovered unto the plaintiff, and the plaintiff and the said Frank Alfred Orbell have not nor hath either of them obtained any execution or satisfaction of the said judgment. And the same, together with interest thereon after the rate of eight per cent. per annum, is still due and unsatisfied: wherefore the plaintiff claims to recover the sum of one hundred and ten pounds.

This is the exhibit marked with the letter "E," referred to in the annexed affidavit of James Macassey, sworn before me at Dunedin, this 8th day of May, 1872.

HENRY HOWORTH,

A Solicitor of the Supreme Court of New Zealand.

PLEAS.

The twentieth day of June, in the year of our Lord one thousand eight hundred and seventy.

THE defendant, by James Macassey, his solicitor, says,—

1. That he denies all the material allegations in the declaration contained.
2. And for a further plea to the said declaration, the defendant saith,—

That after the said Frank Alfred Orbell, in the declaration mentioned, had recovered the said sum of ninety-five pounds seventeen shillings and sevenpence against the said defendant in the Resident Magistrate's Court at Dunedin, as in the declaration mentioned, it was made to appear to this honorable Court, and this honorable Court adjudged and determined, that the Resident Magistrate's Court in the declaration mentioned had no jurisdiction to pronounce or enforce its judgment for the recovery of the said sum of ninety-five pounds seventeen shillings and sevenpence so awarded as aforesaid to the said Frank Alfred Orbell against the said defendant.

That on the twenty-fourth day of February, one thousand eight hundred and sixty-nine, the honorable Court, by a rule bearing date on that day, required Alfred Rowland Chetham Strode, Esquire, a Resident Magistrate for the District of Dunedin, in the declaration mentioned (being the Resident Magistrate who had awarded the said sum of ninety-five pounds seventeen shillings and sevenpence to the said Frank Alfred Orbell against the said defendant), and the said Frank Alfred Orbell to show cause why a writ of prohibition should not issue out of this Court prohibiting all further proceedings upon the plaint or summons of the said Frank Alfred Orbell against the said defendant for the recovery of the said sum of ninety-five pounds seventeen shillings and sevenpence; and the said rule having been duly served upon the said Alfred Rowland Chetham Strode and the said Frank Alfred Orbell, and notice thereof given to them, this Court did on the fifth day of March, one thousand eight hundred and sixty-nine, order and determine that the said rule of the twenty-fourth day of February, one thousand eight hundred and sixty-nine, should be made absolute, and a writ of prohibition issued out of this honorable Court prohibiting all further proceedings upon the said plaint or summons of the said Frank Alfred Orbell against the said defendant for the said sum of ninety-five pounds seventeen shillings and sevenpence; and the defendant also saith that in pursuance of the said rule of the fifth day of March, one thousand eight hundred and sixty-nine, a writ of prohibition (with the proper and necessary indorsements thereon) was on the eighth day of March, one thousand eight hundred and