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SMYTHIES v. RUSSELL.

By virtue of this writ to me directed, I did, at Dunedin within my district, on the ninth day of November, one thousand eight hundred and sixty-nine, seize and take divers goods and chattels in the possession of and belonging to the within-named James Ure Russell. That on the tenth day of November aforesaid, while in possession of the said goods and chattels, I received from the said James Ure Russell notice, as the fact was, that on the ninth day of September, one thousand eight hundred and sixty-eight, and after the making of the rule of the twenty-first day of February, one thousand eight hundred and sixty-eight, in the said writ mentioned, he made a certain deed of arrangement for the benefit of his creditors in pursuance of Part XVIII. of "The Bankruptcy Act, 1867;" which deed was duly filed in the Supreme Court at Dunedin aforesaid, and gazetted in manner required by law. That on the fourteenth day of September aforesaid, the Supreme Court of New Zealand at Dunedin aforesaid, by order made on that day, declared the said deed of arrangement to have been completely executed. That such order was drawn up on the said tenth day of November, one thousand eight hundred and sixty-nine, and notice thereof given to me as aforesaid by the said James Ure Russell; and the said order being in full force, and no leave or order having been obtained from the said Supreme Court or any Judge thereof by the within-named Henry Smythies to issue the within writ of *fiery facias*, I, for the reasons aforesaid, withdrew and directed my bailiffs to withdraw from possession of the said goods and chattels. The following is a true copy of the order of the fourteenth day of September, one thousand eight hundred and sixty-eight, hereinbefore mentioned and referred to:—

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

In the matter of the Deed of Arrangement of and between James Ure Russell, of Dunedin, Master Mariner, and his Creditors, dated the ninth day of September, one thousand eight hundred and sixty-eight, made under the provisions of "The Bankruptcy Act, 1867."

On Monday, the fourteenth day of September, one thousand eight hundred and sixty-eight.

UPON reading the said deed filed herein on the said ninth day of September, one thousand eight hundred and sixty-eight, and notice of the filing thereof gazetted in the *Otago Daily Times* of the same day, and upon reading the list of the creditors and statement of the property of the said James Ure Russell, and affidavit thereto annexed, filed herein upon the said ninth day of September, one thousand eight hundred and sixty-eight, and notice of the said James Ure Russell's application to this honorable Court for a declaration by the said Court of the complete execution of the said deed pursuant to the said Act gazetted in the *Otago Daily Times* on the said ninth day of September, one thousand eight hundred and sixty-eight, and upon reading the joint and several affidavits of the said James Ure Russell, David Ure Amalders, Henry Rudd, and John Stamper, filed herein on the twelfth day of September aforesaid in support of the said application, and upon hearing the application of the said James Ure Russell to the Court for this purpose this day made, this Court doth declare the complete execution of the said deed according to the provisions of the said Act.

By the Court.

(I.S.)

ALFRED A. CATAMORE,
Registrar.

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

In the matter of "The Law Practitioners Act Amendment Act, 1871;" and in the matter of HENRY SMYTHIES, at present of Naseby, in the Province of Otago, Gentleman; and in the matter of the Petition of the said Henry Smythies, under the said "Law Practitioners Act Amendment Act, 1871."

I, HENRY HOWORTH, of Dunedin, in the Province of Otago and Colony of New Zealand, a Barrister and Solicitor of the Supreme Court of New Zealand, and a Member of the Council of the New Zealand Law Society, make oath and say:—

1. That I have read the petition of the above-named Henry Smythies, presented to their Honors Sir George Alfred Arney, Chief Justice, and the other Judges of the Supreme Court of New Zealand, when assembled in Dunedin.

2. That, with respect to the statement in the said petition, "Your petitioner is a member of the profession in England, and there exists no impediment to his practising there upon renewing his certificate in the usual way," I say that when I was in England, in the month of June, one thousand eight hundred and sixty-six, I searched the Rolls of Attorneys at the offices of the Law Society of England, and found that Mr. Smythies' name was on the Rolls, but on inquiring of the Secretary (whose name I do not at present recollect) if any objection existed to Mr. Smythies practising in England, he the said Secretary then referred to another book of record, and found that the said Henry Smythies had been convicted of forgery; and he further informed me that the practice of the Law Society was not to take any action in the matter until such convicted person applied for his certificate, —then it was the invariable practice of the Society to instruct counsel to move that he be struck off the Rolls; and I also inquired of the said Secretary if he knew of any circumstances in Mr. Smythies' favour, or if there was any record of any making an exception in his case, and he said he knew of no exceptional circumstances in his case, and there was no record of any.

3. That with respect to the statements contained in another paragraph of the said petition, "And a verdict of guilty was recorded on the second count for uttering;" and also in another paragraph, "In stating the facts of this case, your petitioner has been obliged to make out a case of not guilty upon the charge of forgery," I say that I have seen an office copy of the record of the conviction of the said Henry Smythies for forgery and uttering, and it therein appears that the said Henry Smythies was found guilty of forgery as well as of uttering; and in the report of the case in Vol. II., Carrington.