Enclosure 2 in No. 3.

REPORT of the Trial of HENRY SMYTHIES, before Mr. JUSTICE ERLE, at the Central Criminal Court, London, on the 22nd August, 1849, on charges of Forgery and Uttering.

1524. *Henry Smythies* unlawfully forging and uttering a paper-writing, purporting to be a consent of Richard Soden to be the next friend to the infants in a certain Chancery suit, with intent to defraud the said Richard Soden: other counts, varying the manner of stating the charge.

Mr. Serjeant Byles, with Messrs. Bodkin and Huddleston, conducted the prosecution.

Frederick Bull:—I am managing clerk to Mr. Meyrick, who was the London agent of the firm of James and Smythies, attorneys, at Aylesbury. I attended to the conduct of a suit of Miles *v.* Miles in the Court of Chancery. Mr. Smythies, the defendant, was the attorney for the plaintiffs in that suit. Mr. James, his partner, did not interfere in the management of that suit in the slightest. In October last year the plaintiff's solicitor was changed. This is the order of the Court for the change; it is dated 10th October, 1848. (*This was produced by James Fluker, managing clerk to Mr. Kirk, who was the attorney substituted for Mr. Smythies.*) After the change of attorneys took place, a bill of costs was prepared by Mr. Smythies, and carried into the Master's office. This is it (*produced*). It is made out to Mr. Richard Soden, as debtor to Mr. Henry Smythies. The amount is £355 5s. 11d., and is signed Henry Smythies. It is the handwriting of Mr. Smythies. An action was brought against Mr. Soden for the recovery of that bill of costs. This is the *nisi prius* record in that action (*produced*). A bill of particulars is annexed. The writ was issued on Friday, 16th February, 1849. The plea was "Never indebted." An order was afterwards made for taxing the bill. This is it (*produced*). In pursuance of that order an appointment was made before Mr. Baines, the Taxing Master, on 3rd April: the bill of costs was then laid before the Master. Mr. Fluker (Mr. Kirk's managing clerk), Frederick Miles, myself, and Mr. Smythies attended, and another assistant clerk of Mr. Kirk's, at the Master's chambers in Staples Inn. There is a charge in the bill of costs for taking the retainer of Mr. Soden in writing. There are no dates to the items. This date of 29th May, 1847, in the margin, is Mr. Smythies' writing. The item is, "Attending you when you consented to become next friend, and taking your consent in writing, 6s. 8d." When the Master's attention was drawn to that item, the retainer was handed to the Master; that was in consequence of the Master's asking when that consent was given, because on that consent Mr. Soden would only become liable from the date of that consent. Mr. Smythies produced the retainer to the Master. The date was fixed as 29th May, 1847, by Mr. Smythies, and in consequence of that, the item of journey to town to consult with counsel, three guineas, and rail and expenses, one guinea, was taken off by the Master, as being antecedent to the retainer. The Master, in my presence, marked the retainer as a document produced before him. These are his initials on it, and the date, "3rd April, 1849." Mr. Smythies did not give any account of it when he produced it, that I recollect; he merely handed it in. Some observation was made by the Master as to the proof of the retainer being a question in the cause, and not to be decided by him there at chambers. Mr. Fluker had an opportunity of seeing the retainer; either I or the Master handed it immediately to him. Mr. Fluker handed it to Frederick Miles, and they both read it, and the assistant clerk also. At that time I was not at all aware whether there had been a written retainer or not. A letter of Mr. Soden's was also produced to the Master by Mr. Smythies. I do not know the date of it. On the back of the retainer there is endorsed "Richard Soden's consent to be next friend," in Mr. Smythies' writing. The body of the retainer is in his writing. The action stood for trial in the Exchequer on Thursday, 26th April. The record was withdrawn on that day. I attended a consultation of counsel with Mr. Smythies, and it was after that that the record was withdrawn. The papers in the suit and action were taken from Mr. Meyrick's office on Monday morning, 7th May, about ten o'clock, by Mr. Smythies. The retainer was among those papers. Mr. James afterwards came to our office—I think on the same day; he was then told of the removal of the papers. The letter that was produced to the Master by Mr. Smythies was, I believe, dated 12th May, 1847.

Cross-examined by Mr. W. H. Cooke:—Do you remember, when that letter was produced, the Master saying, "Why, this letter is sufficient consent of Mr. Soden, without troubling you any further?"—No; I do not remember that. I do not remember any observation of the Master's with reference to the letter. To the best of my belief it was handed to Mr. Fluker without any comment of the Master. It was first produced and shown to the Master, and by the Master handed to Mr. Fluker. We did not get the letter admitted by Mr. Soden's attorney to be his handwriting; we gave notice to admit, but I do not think this letter was amongst them. Mr. James was a clerk to Mr. Duncan, solicitor to the Eastern Counties Railway. I believe he acted under Mr. Duncan as long as Mr. Duncan continued there. I do not know that it was on 12th May that Mr. Duncan ceased to be connected with the Company. I do not at all know when it was; I think it was in May. Mr. Meyrick is brother-in-law of Mr. James. I do not know in what way Mr. James was connected with the Eastern Counties Railway; he acted with Mr. Duncan, and was there for some years, but I do not know at all in what respect. The business at Aylesbury was all transacted by Mr. Smythies; Mr. James lived in Palace Yard; he went down occasionally, but seldom. I remember Mr. Smythies on one occasion, I do not know when, saying something about having lost the retainer. I should say that was before we went to the Master to tax, but I do not know. I think in consequence of that I searched among the papers for such a document. It may have been the same day we went before the Master that he told me he had lost the retainer, or it may have been during the suit. The suit was going on for nearly a year and a half. I cannot give any nearer notion. I do not remember his wishing me to search; I remember a general conversation about a retainer being missing; my attention was not then called to it. I do not remember searching, or anything being done upon it, except a general observation about the retainer being missing. This retainer was produced by Mr. Smythies, as I thought at the time, to fix the date. It was produced before the Master as evidence of a date. The result of the change of attorneys was to lead to Mr. Kirk being the person to act on the part of the infants in the cause. I do not know that the papers were removed on 7th May, to be handed to Mr. Kirk by previous agreement. I know Mr. Smythies took them away, but for what purpose I do not know. He asked me for the papers in the suit of Smythies and Soden, and I handed him the bundle. I have not seen those papers