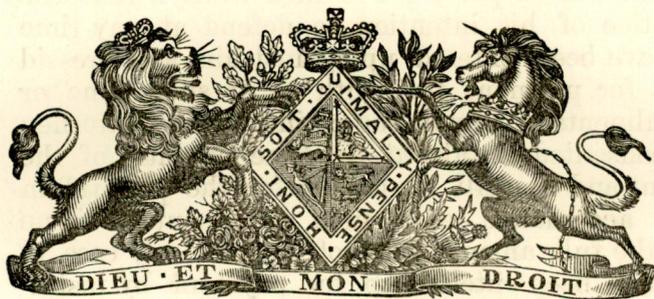


This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

Legislative Assembly Chamber,
Sydney, 5 June, 1884. }

STEPHEN W. JONES,
Clerk of Legislative Assembly.

New South Wales.



ANNO QUADRAGESIMO SEPTIMO

VICTORIÆ REGINÆ.

No. .

An Act to further amend the "District Courts Act of 1858."

WHEREAS it is expedient to further amend in certain particulars Preamble.
the "District Courts Act of 1858" Be it therefore enacted
by the Queen's Most Excellent Majesty by and with the advice and
consent of the Legislative Council and Legislative Assembly of New
5 South Wales in Parliament assembled and by the authority of the
same as follows :—

1. In all actions commenced in any District Court for a debt or
liquidated demand in money with or without interest arising upon a
contract express or implied as for instance on a bill of exchange
10 promissory-note or cheque or other simple contract debt or on a bond
or contract under seal for payment of a liquidated amount of money or
on a statute where the sum to be recovered is a fixed sum of money or
in the nature of a debt or on a guarantee whether under seal or not
where the claim against the principal is in respect of such debt or
15 liquidated demand bill cheque or note the plaintiff shall if he so desire
be at liberty upon filing his plaint to cause to be issued a summons in
the form or to the effect given in Schedule A to this Act and if such
summons together with a statement of the particulars of plaintiff's claim
shall

In respect of certain
demands plaintiff
may require
defendant to give
notice of intention
to defend on pain
of judgment by
default.

District Courts Act further Amendment (No. 2).

shall be personally served on the defendant and the defendant shall not within eight days if resident within the district from which such summons may issue or if not so resident then within ten days after such service inclusive of the day of such service give notice in writing signed
 5 by himself or his attorney to the Registrar of the Court from which the summons may have issued of his intention to defend the action the plaintiff may at any time within three months after the expiration of such time for giving notice of defence as aforesaid upon filing an affidavit of due service of such summons or of an order for leave to proceed as if
 10 personal service had been effected together with an account of what is justly due to him verified by the oath of such plaintiff his attorney or agent have judgment entered up against the defendant for the amount of his claim together with interest to the date of judgment and a sum for costs to be fixed by the Judges of the said District Court unless
 15 the plaintiff claim more than such fixed sum in which case the costs shall be taxed by the Registrar *ex-parte* Provided always that the defendant may give notice of his intention to defend at any time before judgment shall have been entered up against him as aforesaid Such judgment shall be for payment forthwith or at such time or
 20 times and by such instalments if any as the plaintiff or his attorney shall in writing have consented to take at the time of entry of the plaint or of the judgment and it shall be lawful for the plaintiff in default of payment in accordance with such judgment to issue execution forthwith for the full amount thereof and in any case in
 25 which judgment may have been entered up for payment by instalments execution shall be had for the whole amount due upon the judgment if default shall be made in payment of one such instalment Where the defendant shall have given notice of defence the Registrar shall upon the receipt thereof cause a summons in the usual form to
 30 be issued and served upon the defendant at such time and in such manner as is provided by the principal Act And the proceedings subsequent to the issue thereof shall in all respects be the same as if such summons had been issued in the first instance And the Registrar shall forthwith communicate notice of such defence and of the
 35 time and place at which the said action is intended to be tried to the plaintiff or his attorney by post or by leaving the same at the residence or usual place of business of such plaintiff or his attorney Where the defendant shall neglect to give such notice of defence the Judge or Registrar shall upon an affidavit disclosing a defence upon
 40 the merits and satisfactorily explaining his neglect let in the defendant to defend upon such terms as he may think fit Where personal service cannot be effected and the Judge or Registrar is satisfied by affidavit that reasonable efforts have been made to effect such service and either that the summons has come to the knowledge of the defendant or
 45 that he wilfully evades service of the same or that the same has been served in the manner directed by the District Court Rules in respect of an ordinary summons it shall be lawful for the Judge or Registrar to order that the plaintiff be at liberty to proceed as if personal service had been effected subject to such conditions as to the Judge or
 50 Registrar may seem fit.

2. All matters which at present are only the subject of cross
 action or may be made the subject of a cross action between the
 parties shall hereafter be pleadable by way of set-off as at present in
 the Supreme Court provided the like notice thereof be given as is
 55 required in respect of the special defences enumerated in section fifty-
 nine of the Principal Act.

3. It shall be lawful for the defendant or the plaintiff in
 replevin in any cause in which if judgment were obtained he would be
 entitled to relief against such judgment on equitable grounds to rely
 upon

Matter of cross
 action may be
 pleaded.

Equitable defence
 may be pleaded.

District Courts Act further Amendment (No. 2).

upon the facts which entitled him to such relief by way of defence provided notice of such facts with the words "for defence on equitable grounds" shall be given in like manner and time as is required in respect of the special defences enumerated in section fifty-nine of the

5 Principal Act.

4. No defendant served with a summons in the form or to the effect given in Schedule A to this Act shall be allowed to set up either of the defences in the two previous sections hereof or any of the defences enumerated in section fifty-nine of the Principal Act without

10 the consent of the plaintiff unless the defendant shall have given notice thereof at the time of filing notice of his intention to defend the action notice of which shall be communicated by the Registrar to the plaintiff at the time and in the manner notice of defence as aforesaid is communicated.

Notices of special defence on filing notice of intention to defend.

15 5. In all actions where the amount claimed shall exceed twenty pounds the Judge may at any time if he think fit order that a jury be summoned to try the action and in any such case the plaintiff shall be bound to proceed in the same manner as if he had required the action to be so tried and in all actions where the amount claimed shall not

20 exceed twenty pounds it shall be lawful for the Judge of such District Court on the application of either of the parties *ex-parte* or otherwise if made at least five clear days before the day named in the summons for the hearing of such action to order that a jury be summoned to try the action and the party making such application shall be bound to

25 proceed in the same manner as if the amount claimed had exceeded twenty pounds and he had required the action to be tried by a jury and it shall also be lawful in such actions for the plaintiff and defendant to require a jury to be summoned to try the said action upon giving the Registrar of the Court or leaving at his office at least five clear

30 days before the day named in the summons for the hearing of such action a notice thereof signed by both plaintiff and defendant or by their respective attorneys and the plaintiff shall be bound to proceed in the same manner as if the amount claimed had exceeded twenty pounds and had required the action to be tried by a jury.

When jury may be summoned to try action.

35 6. It shall be lawful for the Judge at any time during the sitting of the Court at which any cause may have been struck out pursuant to section sixty-three of the Principal Act if he think fit to order the said cause to be restored to the cause list upon such terms

40 (if any) as to payment of costs giving security for costs or such other terms as he may think fit on sufficient cause shown to him for that purpose whereupon the same shall be proceeded with as if the plaintiff had duly appeared at the time and place named for such appearance or at the continuation or adjournment of the Court or cause for which the summons had been issued.

Causes to be restored to cause list.

45 7. The term "Principal Act" shall mean the "District Courts Interpretation Act of 1858."

8. This Act shall be incorporated with and read as part of the

said Principal Act and may be cited as the "District Courts Act further Amendment Act of 1884."

Short title.

District Courts Act further Amendment (No. 2).

SCHEDULE A.

*Summons to obtain judgment by default on personal service.*In the [*title of Court issuing summons*].No. [*of plaint*].5 Between A.B. [*address and description of plaintiff*] plaintiff and C.D. [*address and description of defendant*] defendant.

TAKE notice that unless within _____ days after service of this summons on you inclusive of the day of such service you return to the Registrar of this Court at [*place of office*] the notice given below dated and signed by yourself or your attorney you will not afterwards be allowed to make any defence to the claim which the plaintiff makes on you as per margin the particulars of which are hereunto annexed but the plaintiff may proceed to judgment and execution without giving any further notice If you return such notice to the Registrar within the time specified a summons will be issued notifying the time and place upon which the action will be tried.

	£ s. d.
Claim	
Fee for plaint..	
Attorney's costs	
Total amount of debt and costs	

15 Dated this _____ day of _____ A.D. 188 .

Registrar of the Court.

(Seal of Court.)

*Notice of intention to defend or to object to the jurisdiction of the Court.*In the (*title of Court*).20 No. (*of plaint*).

Between A.B. Plaintiff and C.D. Defendant.

TAKE notice that I intend to defend this action (*or to object to the jurisdiction of the Court*) and to rely upon the following grounds of special defence, namely:—*(Here enumerate grounds of special defence.)*

25 Dated this _____ day of _____ 188 .

C.D. Defendant.

(To be endorsed on Summons.)

If you pay the debt and costs as per margin on the other side into the Registrar's office within the time specified for filing notice of intention to defend and without returning such notice you will avoid further costs.

30 If you confess the plaintiff's claim you should sign and deliver your confession to the Registrar of the Court within the like time You and the plaintiff may agree as to the amount due and mode of payment and may within the time specified for filing notice of intention to defend sign a memorandum of such agreement at the Registrar's office or before an attorney.

35 If you admit a part only of the claim you must return the notice of intention to defend within the time specified on the summons and you may by paying into the Registrar's office at the same time the amount so admitted together with costs proportionate to the amount you pay in avoid further costs unless the plaintiff at the trial shall prove a claim against you exceeding the sum so paid.

40 If you intend to rely on a set-off infancy the Statute of Frauds coverture any statute of limitations or discharge under any statute relating to bankrupts or under any Act for the relief of insolvent debtors or a plea of justification or of cross action or of an equitable defence you must in addition to the notice of intention to defend at the same time give notice of such special defence to the Registrar and you must deliver to the Registrar as many copies of such notice as there are plaintiffs and an additional copy for the use of the Court If your defence be a set-off you must with each notice thereof deliver to the Registrar a statement of the particulars thereof If your defence be a tender you must pay into Court before or at the hearing the amount tendered.

DISTRICT COURTS ACT FURTHER AMENDMENT BILL (No. 2.)

SCHEDULE of the Amendments referred to in Message of 2nd July, 1884.

- Pages 1 and 2, clause 1. *Omit* clause 1, *insert* new clauses 1, 2, 3, 4, and 5.
- Page 4, clause 3. 7. At end of clause *add* "and the plaintiff or defendant as the
" case may be may reply in answer to any such plea facts which avoid
" the same on equitable grounds"
- „ clause 5. 9, line 14. *Omit* "if he think fit"
- „ clause 5. 9, line 15. *Omit* "in any such case"
- „ clause 5. 9, line 17. *Omit* "shall" *insert* "does"
- „ clause 5. 9, lines 18 and 19. *Omit* "of such District Court"
- „ clause 5. 9, line 26. *Omit* "said"
- „ clause 5. 9, line 27. *Omit* "of the Court"
- „ clause 6. 10, line 34. *Omit* "any" *insert* "a"
- „ clause 6. 10, line 34. *Omit* "may have" *insert* "has"
- „ clause 6. 10, line 35. *Omit* "if he think fit"
- „ clause 6. 10, lines 38 and 39. *Omit* "on sufficient cause shown to him for that
" purpose"
- „ clause 7. 11. At end of clause *add* "and this Act may be cited as the
" District Courts Act Amendment Act of 1884"
- „ clause 8. *Omit* clause 8.
-

This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.

*Legislative Assembly Chamber,
Sydney, 5 June, 1884.* }

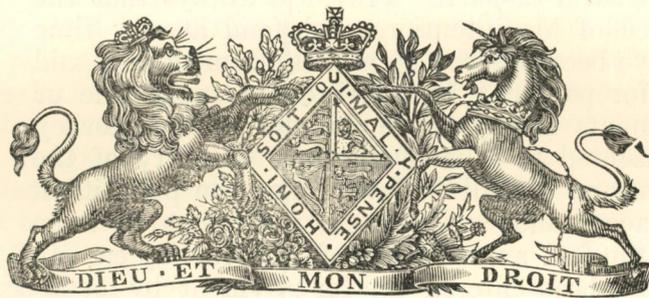
STEPHEN W. JONES,
Clerk of Legislative Assembly.

The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.

*Legislative Council Chamber,
Sydney, 2nd July, 1884.* }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ.

No. .

An Act to further amend the "District Courts Act of 1858."

WHEREAS it is expedient to further amend in certain particulars Preamble.
the "District Courts Act of 1858" Be it therefore enacted
by the Queen's Most Excellent Majesty by and with the advice and
consent of the Legislative Council and Legislative Assembly of New
5 South Wales in Parliament assembled and by the authority of the
same as follows:—

1. In all actions commenced in any District Court for a debt or In respect of certain
liquidated demand in money with or without interest arising upon a demands plaintiff
contract express or implied as for instance on a bill of exchange may require
10 promissory-note or cheque or other simple contract debt or on a bond defendant to give
or contract under seal for payment of a liquidated amount of money or notice of intention
on a statute where the sum to be recovered is a fixed sum of money or to defend on pain
in the nature of a debt or on a guarantee whether under seal or not of judgment by
where the claim against the principal is in respect of such debt or default.
15 liquidated demand bill cheque or note the plaintiff shall if he so desire
be at liberty upon filing his plaint to cause to be issued a summons in
the form or to the effect given in Schedule A to this Act and if such
summons together with a statement of the particulars of plaintiff's claim
shall

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

District Courts Act further Amendment (No. 2).

shall be personally served on the defendant and the defendant shall not
 within eight days if resident within the district from which such sum-
 mons may issue or if not so resident then within ten days after such
 service inclusive of the day of such service give notice in writing signed
 5 by himself or his attorney to the Registrar of the Court from which the
 summons may have issued of his intention to defend the action the
 plaintiff may have issued within three months after the expiration of
 such time for giving notice of defence as aforesaid upon filing an affidavit
 of due service of such summons or of an order for leave to proceed as if
 10 personal service had been effected together with an account of what is
 justly due to him verified by the oath of such plaintiff his attorney or
 agent have judgment entered up against the defendant for the amount
 of his claim together with interest to the date of judgment and a sum
 for costs to be fixed by the Judges of the said District Court unless
 15 the plaintiff claim more than such fixed sum in which case the costs
 shall be taxed by the Registrar *ex-parte*. Provided always that the
 defendant may give notice of his intention to defend at any time
 before judgment shall have been entered up against him as aforesaid
 Such judgment shall be for payment forthwith or at such time or
 20 times and by such instalments if any as the plaintiff or his attorney
 shall in writing have consented to take at the time of entry of the
 judgment and it shall be lawful for the plaintiff for the judgment in
 default of payment in accordance with such judgment to issue
 execution forthwith for the full amount thereof and in any case in
 25 which judgment may have been entered up for payment by instal-
 ments execution shall be had for the whole amount due upon the
 judgment if default shall be made in payment of one such instalment
 Where the defendant shall have given notice of defence the Registrar
 shall upon the receipt thereof cause a summons in the usual form to
 30 be issued and served upon the defendant at such time and in such
 manner as is provided by the principal Act And the proceedings
 subsequent to the issue thereof shall in all respects be the same as if
 such summons had been issued in the first instance And the Regis-
 trar shall forthwith communicate notice of such defence and of the
 35 time and place at which the said action is intended to be tried to the
 plaintiff or his attorney by post or by leaving the same at the resi-
 dence or usual place of business of such plaintiff or his attorney
 Where the defendant shall neglect to give such notice of defence the
 Judge or Registrar shall upon an affidavit disclosing a defence upon
 40 the merits and satisfactorily explaining his neglect let in the defendant
 to defend upon such terms as he may think fit Where personal service
 cannot be effected and the Judge or Registrar is satisfied by affidavit
 that reasonable efforts have been made to effect such service and either
 that the summons has come to the knowledge of the defendant or
 45 that he wilfully evades service of the same or that the same has been
 served in the manner directed by the District Court Rules in respect
 of an ordinary summons it shall be lawful for the Judge or Registrar
 to order that the plaintiff be at liberty to proceed as if personal ser-
 vice had been effected subject to such conditions as to the Judge or
 50 Registrar may seem fit.

1. In all actions commenced in any District Court for a debt or In respect of
 liquidated demand in money with or without interest arising upon a certain demands
 contract express or implied the plaintiff shall be at liberty upon filing a plaintiff may
 his complaint to cause to be issued a summons in the form or to the effect to give notice
 55 given in Schedule A to this Act and if such summons together with a of intention to
 statement of the particulars of plaintiff's claim shall be personally defend.
 served on the defendant and the defendant shall not within eight days
 if resident within the district from which such summons issued or if
 not so resident then within ten days after such service inclusive of the
 day

District Courts Act further Amendment (No. 2).

- day of such service give notice in writing signed by himself or his attorney to the Registrar of his intention to defend the action the plaintiff at any time within three months after the expiration of such time for giving notice of defence as aforesaid upon filing an affidavit of
- 5 due service of such summons or of an order for leave to proceed as if personal service had been effected together with an account of what is justly due to him verified by the oath of such plaintiff his attorney or agent may have judgment entered up against the defendant for the amount of his claim together with interest to the date of judgment and
- 10 a sum for costs to be fixed by the Judge unless the plaintiff claim more than such fixed sum in which case the costs shall be taxed by the Registrar ex-parte Provided always that the defendant may give notice of his intention to defend at any time before judgment entered up against him as aforesaid.
- 15 2. Such judgment shall be for payment forthwith or at such Judgment thereon.
time or times and by such instalments if any as the plaintiff or his attorney shall in writing have consented to take at the time of entry of the plaint or of the judgment and it shall be lawful for the plaintiff in default of payment in accordance with such judgment to issue
- 20 execution forthwith for the full amount thereof and in any case in which judgment has been entered up for payment by instalments execution shall be had for the whole amount due upon the judgment if default be made in payment of one such instalment.
3. Where the defendant shall have given notice of defence the Proceedings on notice of defence.
25 Registrar shall upon the receipt thereof cause a summons in the usual form to be issued and served upon the defendant at such time and in such manner as is provided by the principal Act And the proceedings subsequent to the issue thereof shall in all respects be the same as if such summons had been issued in the first instance And the
- 30 Registrar shall forthwith communicate notice of such defence and of the time and place at which the action is intended to be tried to the plaintiff or his attorney by post or by leaving the same at his residence or usual place of business.
4. Where the defendant has neglected to give notice of defence Neglect to give notice.
35 the Judge upon an affidavit disclosing a defence upon the merits and satisfactorily explaining the neglect shall let in the defendant to defend upon such terms as the Judge may think fit.
5. Where personal service cannot be effected and the Judge or Where personal service dispensed with.
Registrar is satisfied by affidavit that reasonable efforts have been
- 40 made to effect such service and either that the summons has come to the knowledge of the defendant or that he wilfully evades service of the same or that the same has been served in the manner directed by the District Court Rules in respect of an ordinary summons it shall be lawful for the Judge or Registrar to order that the plaintiff be at
- 45 liberty to proceed as if personal service had been effected subject to such conditions as to the Judge or Registrar may seem fit.
2. 6. All matters which at present are only the subject of cross Matter of cross action may be pleaded.
action or may be made the subject of a cross action between the parties shall hereafter be pleadable by way of set-off as at present in
- 50 the Supreme Court provided the like notice thereof be given as is required in respect of the special defences enumerated in section fifty-nine of the Principal Act.
3. 7. It shall be lawful for the defendant or the plaintiff in Equitable defence may be pleaded.
replevin in any cause in which if judgment were obtained he would be
- 55 entitled to relief against such judgment on equitable grounds to rely upon the facts which entitled him to such relief by way of defence provided notice of such facts with the words "for defence on equitable grounds" shall be given in like manner and time as is required in respect of the special defences enumerated in section fifty-nine of the Principal

District Courts Act further Amendment (No. 2).

Principal Act and the plaintiff or defendant as the case may be may reply in answer to any such plea facts which avoid the same on equitable grounds.

4- 8. No defendant served with a summons in the form or to the effect given in Schedule A to this Act shall be allowed to set up either of the defences in the two previous sections hereof or any of the defences enumerated in section fifty-nine of the Principal Act without the consent of the plaintiff unless the defendant shall have given notice thereof at the time of filing notice of his intention to defend the action notice of which shall be communicated by the Registrar to the plaintiff at the time and in the manner notice of defence as aforesaid is communicated.

Notices of special defence on filing notice of intention to defend.

5- 9. In all actions where the amount claimed shall exceed twenty pounds the Judge may at any time if he think fit order that a jury be summoned to try the action and in any such case the plaintiff shall be bound to proceed in the same manner as if he had required the action to be so tried and in all actions where the amount claimed shall does not exceed twenty pounds it shall be lawful for the Judge of such District Court on the application of either of the parties *ex-parte* or otherwise if made at least five clear days before the day named in the summons for the hearing of such action to order that a jury be summoned to try the action and the party making such application shall be bound to proceed in the same manner as if the amount claimed had exceeded twenty pounds and he had required the action to be tried by a jury and it shall also be lawful in such actions for the plaintiff and defendant to require a jury to be summoned to try the said action upon giving the Registrar of the Court or leaving at his office at least five clear days before the day named in the summons for the hearing of such action a notice thereof signed by both plaintiff and defendant or by their respective attorneys and the plaintiff shall be bound to proceed in the same manner as if the amount claimed had exceeded twenty pounds and had required the action to be tried by a jury.

When jury may be summoned to try action.

6- 10. It shall be lawful for the Judge at any time during the sitting of the Court at which any a cause may have has been struck out pursuant to section sixty-three of the Principal Act if he think fit to order the said cause to be restored to the cause list upon such terms (if any) as to payment of costs giving security for costs or such other terms as he may think fit on sufficient cause shown to him for that purpose whereupon the same shall be proceeded with as if the plaintiff had duly appeared at the time and place named for such appearance or at the continuation or adjournment of the Court or cause for which the summons had been issued.

Causes to be restored to cause list.

7- 11. The term "Principal Act" shall mean the "District Courts Act of 1858" and this Act may be cited as the "District Courts Act Amendment Act of 1884."

Interpretation and short title.

8. This Act shall be incorporated with and read as part of the said Principal Act and may be cited as the "District Courts Act further Amendment Act of 1884."

District Courts Act further Amendment (No. 2).

SCHEDULE A.

*Summons to obtain judgment by default on personal service.*In the [*title of Court issuing summons*].No. [*of plaint*].

- 5 Between A.B. [*address and description of plaintiff*] plaintiff and C.D. [*address and description of defendant*] defendant.

TAKE notice that unless within _____ days after service of this summons on you inclusive of the day of such service you return to the Registrar of this Court at [*place of office*] the notice given below dated and signed by yourself or your attorney you will not afterwards be allowed to make any defence to the claim which the plaintiff makes on you as per margin the particulars of which are hereunto annexed but the plaintiff may proceed to judgment and execution without giving any further notice. If you return such notice to the Registrar within the time specified a summons will be issued notifying the time and place upon which the action will be tried.

- 15 Dated this _____ day of _____ A.D. 188 .

Registrar of the Court.

(Seal of Court.)

Claim	£ s. d.
Fee for plaint..	_____
Attorney's costs	_____
Total amount of debt and costs	_____

*Notice of intention to defend or to object to the jurisdiction of the Court.*In the (*title of Court*).

- 20 No. (*of plaint*).

Between A.B. Plaintiff and C.D. Defendant.

TAKE notice that I intend to defend this action (*or to object to the jurisdiction of the Court*) and to rely upon the following grounds of special defence, namely:—

(Here enumerate grounds of special defence.)

- 25 Dated this _____ day of _____ 188 .

C.D. Defendant.

(To be endorsed on Summons.)

If you pay the debt and costs as per margin on the other side into the Registrar's office within the time specified for filing notice of intention to defend and without returning such notice you will avoid further costs.

If you confess the plaintiff's claim you should sign and deliver your confession to the Registrar of the Court within the like time. You and the plaintiff may agree as to the amount due and mode of payment and may within the time specified for filing notice of intention to defend sign a memorandum of such agreement at the Registrar's office or before an attorney.

If you admit a part only of the claim you must return the notice of intention to defend within the time specified on the summons and you may by paying into the Registrar's office at the same time the amount so admitted together with costs proportionate to the amount you pay in avoid further costs unless the plaintiff at the trial shall prove a claim against you exceeding the sum so paid.

If you intend to rely on a set-off infancy the Statute of Frauds coverture any statute of limitations or discharge under any statute relating to bankrupts or under any Act for the relief of insolvent debtors or a plea of justification or of cross action or of an equitable defence you must in addition to the notice of intention to defend at the same time give notice of such special defence to the Registrar and you must deliver to the Registrar as many copies of such notice as there are plaintiffs and an additional copy for the use of the Court. If your defence be a set-off you must with each notice thereof deliver to the Registrar a statement of the particulars thereof. If your defence be a tender you must pay into Court before or at the hearing the amount tendered.

New South Wales.



ANNO QUADRAGESIMO OCTAVO

VICTORIÆ REGINÆ.

No. VII.

An Act to further amend the "District Courts Act of 1858."
[Assented to, 21st July, 1884.]

WHEREAS it is expedient to further amend in certain particulars Preamble.
the "District Courts Act of 1858" Be it therefore enacted
by the Queen's Most Excellent Majesty by and with the advice and
consent of the Legislative Council and Legislative Assembly of New
South Wales in Parliament assembled and by the authority of the
same as follows :—

1. In all actions commenced in any District Court for a debt or
liquidated demand in money with or without interest arising upon a
contract express or implied the plaintiff shall be at liberty upon filing
his plaint to cause to be issued a summons in the form or to the effect
given in Schedule A to this Act and if such summons together with a
statement of the particulars of plaintiff's claim shall be personally
served on the defendant and the defendant shall not within eight days
if resident within the district from which such summons issued or if
not so resident then within ten days after such service inclusive of the
day

In respect of certain
demands plaintiff
may require
defendant to give
notice of intention to
defend.

District Courts Act further Amendment (No. 2).

day of such service give notice in writing signed by himself or his attorney to the Registrar of his intention to defend the action the plaintiff at any time within three months after the expiration of such time for giving notice of defence as aforesaid upon filing an affidavit of due service of such summons or of an order for leave to proceed as if personal service had been effected together with an account of what is justly due to him verified by the oath of such plaintiff his attorney or agent may have judgment entered up against the defendant for the amount of his claim together with interest to the date of judgment and a sum for costs to be fixed by the Judge unless the plaintiff claim more than such fixed sum in which case the costs shall be taxed by the Registrar *ex-parte* Provided always that the defendant may give notice of his intention to defend at any time before judgment entered up against him as aforesaid.

Judgment thereon.

2. Such judgment shall be for payment forthwith or at such time or times and by such instalments if any as the plaintiff or his attorney shall in writing have consented to take at the time of entry of the plaint or of the judgment and it shall be lawful for the plaintiff in default of payment in accordance with such judgment to issue execution forthwith for the full amount thereof and in any case in which judgment has been entered up for payment by instalments execution shall be had for the whole amount due upon the judgment if default be made in payment of one such instalment.

Proceedings on notice of defence.

3. Where the defendant shall have given notice of defence the Registrar shall upon the receipt thereof cause a summons in the usual form to be issued and served upon the defendant at such time and in such manner as is provided by the principal Act And the proceedings subsequent to the issue thereof shall in all respects be the same as if such summons had been issued in the first instance And the Registrar shall forthwith communicate notice of such defence and of the time and place at which the action is intended to be tried to the plaintiff or his attorney by post or by leaving the same at his residence or usual place of business.

Neglect to give notice.

4. Where the defendant has neglected to give notice of defence the Judge upon an affidavit disclosing a defence upon the merits and satisfactorily explaining the neglect shall let in the defendant to defend upon such terms as the Judge may think fit.

Where personal service dispensed with.

5. Where personal service cannot be effected and the Judge or Registrar is satisfied by affidavit that reasonable efforts have been made to effect such service and either that the summons has come to the knowledge of the defendant or that he wilfully evades service of the same or that the same has been served in the manner directed by the District Court Rules in respect of an ordinary summons it shall be lawful for the Judge or Registrar to order that the plaintiff be at liberty to proceed as if personal service had been effected subject to such conditions as to the Judge or Registrar may seem fit.

Matter of cross action may be pleaded.

6. All matters which at present are only the subject of cross action or may be made the subject of a cross action between the parties shall hereafter be pleadable by way of set-off as at present in the Supreme Court provided the like notice thereof be given as is required in respect of the special defences enumerated in section fifty-nine of the Principal Act.

Equitable defence may be pleaded.

7. It shall be lawful for the defendant or the plaintiff in replevin in any cause in which if judgment were obtained he would be entitled to relief against such judgment on equitable grounds to rely upon the facts which entitled him to such relief by way of defence provided notice of such facts with the words "for defence on equitable grounds" shall be given in like manner and time as is required in respect of the special defences enumerated in section fifty-nine of the Principal

District Courts Act further Amendment (No. 2).

Principal Act and the plaintiff or defendant as the case may be may reply in answer to any such plea facts which avoid the same on equitable grounds.

8. No defendant served with a summons in the form or to the effect given in Schedule A to this Act shall be allowed to set up either of the defences in the two previous sections hereof or any of the defences enumerated in section fifty-nine of the Principal Act without the consent of the plaintiff unless the defendant shall have given notice thereof at the time of filing notice of his intention to defend the action notice of which shall be communicated by the Registrar to the plaintiff at the time and in the manner notice of defence as aforesaid is communicated.

Notices of special defence on filing notice of intention to defend.

9. In all actions where the amount claimed shall exceed twenty pounds the Judge may at any time order that a jury be summoned to try the action and the plaintiff shall be bound to proceed in the same manner as if he had required the action to be so tried and in all actions where the amount claimed does not exceed twenty pounds it shall be lawful for the Judge on the application of either of the parties *ex-parte* or otherwise if made at least five clear days before the day named in the summons for the hearing of such action to order that a jury be summoned to try the action and the party making such application shall be bound to proceed in the same manner as if the amount claimed had exceeded twenty pounds and he had required the action to be tried by a jury and it shall also be lawful in such actions for the plaintiff and defendant to require a jury to be summoned to try the action upon giving the Registrar or leaving at his office at least five clear days before the day named in the summons for the hearing of such action a notice thereof signed by both plaintiff and defendant or by their respective attorneys and the plaintiff shall be bound to proceed in the same manner as if the amount claimed had exceeded twenty pounds and had required the action to be tried by a jury.

When jury may be summoned to try action.

10. It shall be lawful for the Judge at any time during the sitting of the Court at which a cause has been struck out pursuant to section sixty-three of the Principal Act to order the said cause to be restored to the cause list upon such terms (if any) as to payment of costs giving security for costs or such other terms as he may think fit whereupon the same shall be proceeded with as if the plaintiff had duly appeared at the time and place named for such appearance or at the continuation or adjournment of the Court or cause for which the summons had been issued.

Causes to be restored to cause list.

11. The term "Principal Act" shall mean the "District Courts Act of 1858" and this Act may be cited as the "District Courts Act Amendment Act of 1884."

Interpretation and short title.

District Courts Act further Amendment (No. 2).

SCHEDULE A.

Summons to obtain judgment by default on personal service.

In the [title of Court issuing summons].

No. [of plaint].

Between A.B. [address and description of plaintiff] plaintiff and C.D. [address and description of defendant] defendant.

TAKE notice that unless within _____ days after service of this summons on you inclusive of the day of such service you return to the Registrar of this Court at [place of office] the notice given below dated and signed by yourself or your attorney you will not afterwards be allowed to make any defence to the claim which the plaintiff makes on you as per margin the particulars of which are hereunto annexed but the plaintiff may proceed to judgment and execution without giving any further notice. If you return such notice to the Registrar within the time specified a summons will be issued notifying the time and place upon which the action will be tried.

Claim	£ s. d.
Fee for plaint..	_____
Attorney's costs	_____
Total amount of debt and costs	_____

Dated this _____ day of _____ A.D. 188 .

Registrar of the Court.

(Seal of Court.)

Notice of intention to defend or to object to the jurisdiction of the Court.

In the (title of Court).

No. (of plaint).

Between A.B. Plaintiff and C.D. Defendant.

TAKE notice that I intend to defend this action (or to object to the jurisdiction of the Court) and to rely upon the following grounds of special defence, namely:—

(Here enumerate grounds of special defence.)

Dated this _____ day of _____ 188 .

C.D. Defendant.

(To be endorsed on Summons.)

If you pay the debt and costs as per margin on the other side into the Registrar's office within the time specified for filing notice of intention to defend and without returning such notice you will avoid further costs.

If you confess the plaintiff's claim you should sign and deliver your confession to the Registrar of the Court within the like time. You and the plaintiff may agree as to the amount due and mode of payment and may within the time specified for filing notice of intention to defend sign a memorandum of such agreement at the Registrar's office or before an attorney.

If you admit a part only of the claim you must return the notice of intention to defend within the time specified on the summons and you may by paying into the Registrar's office at the same time the amount so admitted together with costs proportionate to the amount you pay in avoid further costs unless the plaintiff at the trial shall prove a claim against you exceeding the sum so paid.

If you intend to rely on a set-off infancy the Statute of Frauds coverture any statute of limitations or discharge under any statute relating to bankrupts or under any Act for the relief of insolvent debtors or a plea of justification or of cross action or of an equitable defence you must in addition to the notice of intention to defend at the same time give notice of such special defence to the Registrar and you must deliver to the Registrar as many copies of such notice as there are plaintiffs and an additional copy for the use of the Court. If your defence be a set-off you must with each notice thereof deliver to the Registrar a statement of the particulars thereof. If your defence be a tender you must pay into Court before or at the hearing the amount tendered.