

Mr. G. Hutchison.

## DISTRICT COURT ACTS AMENDMENT.

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### A BILL INTITULED

AN ACT to extend the Jurisdiction of the District Court in certain Title.  
Cases, and to amend the District Court Acts (hereinafter referred  
to as "the said Acts").

5 BE IT ENACTED by the General Assembly of New Zealand in  
Parliament assembled, and by the authority of the same, as fol-  
lows:—

1. The Short Title of this Act is "The District Court Acts Short Title.  
Amendment Act, 1897."

10 2. This Act shall come into force on the first day of March, one When Act to come  
thousand eight hundred and ninety-eight. into force.

No. 57—1.

## INJUNCTIONS.

Injunctions.

3. The District Court shall, in addition to any other relief, remedy, or redress which it has power to grant, in all cases of a civil nature within its jurisdiction, as mentioned in section three of "The District Court Jurisdiction Extension Act, 1893," have power to grant, 5  
issue, enforce, vary, and dissolve, upon such terms and conditions as the Court shall think fit, injunctions to restrain or prevent any threatened or apprehended waste, trespass, injury, nuisance, breach of contract, or any other unlawful or wrongful act.

Application for injunction to be made.

4. Any person seeking an injunction may apply to the Court, or 10  
a Judge thereof, at any time before the hearing of the cause for a summons to the defendant to show cause why an injunction should not issue to restrain or prevent the opposite party from committing or continuing the injury apprehended or complained of; but, if the case be urgent, and such as to require the immediate interference of the 15  
Court, the order may be made *ex parte*, and the injunction issued in the first instance upon such terms and conditions as the Court or Judge shall consider just and reasonable.

Injunction may be dissolved or varied.

5. Whenever the order has been made *ex parte*, and the in- 20  
junction issued in the first instance, the defendant may move the Court to have the injunction dissolved or varied.

## ATTACHMENT OF DEBTS.

Court may summons judgment debtor for examination, &amp;c.

6. The Clerk of the Court in which any person (hereinafter called "the judgment creditor") has obtained a judgment or order may, on his application in writing in the form numbered *one* in the 25  
Schedule hereto, issue a summons, in the form numbered *two* in the said Schedule, under the seal of the Court, requiring the judgment debtor (hereinafter called "the judgment debtor"), or any other person or persons, to appear before the Court, or a Judge thereof, in Chambers, or, in the absence of the Judge, before the Clerk of 30  
Court, at such time and place as the Clerk of Court shall appoint, to be examined upon oath as to what debts are owing or accruing to the judgment debtor, and by such summons may require the judgment debtor or any such other person to produce on such examination all such books of account, papers, writings, or other documents as may be 35  
mentioned or specified generally or specifically in such summons.

Attachment orders may issue.

7. Upon the *ex parte* application in writing, in the form num- 40  
bered *three* in the said Schedule hereto, of the judgment creditor, his solicitor or any authorised agent, either before or after such examination, and upon affidavit, in the form numbered *four* in the said Schedule hereto, by himself or his solicitor or agent, or by some other person who is able to depose to the truth of the statements therein contained, stating,—

- (1.) That judgment (stating the amount) has been recovered;
- (2.) That such judgment is still unsatisfied, wholly or in part; 45  
and
- (3.) That any other person or persons is or are indebted to the judgment debtor;

The Court, or a Judge thereof, or, in the absence of the Judge, the Clerk of Court, may by order, in the form numbered *five* in the Schedule 50  
hereto, under the seal of the Court, direct that all debts owing or

accruing from such third person (hereinafter called "the sub-debtor") to the judgment debtor shall be attached to answer the judgment debt.

8. Such order, and all other orders and summonses issued under this Act, shall be served upon the sub-debtor and upon such other person or persons as the Court may direct, either personally or in such other manner as the Court, or a Judge thereof, or the Clerk of Court in the absence of the Judge, shall by writing, indorsed on the said order, direct.

Service.

9. Service of such order upon the sub-debtor shall bind such debt in his hands, and such debt shall thenceforth, but to the extent only of the amount due by the judgment debtor to the judgment creditor, be deemed to be a debt due by the sub-debtor to the judgment creditor, and all rights of the judgment debtor in the debt due or accruing due to him from the sub-debtor, to the extent aforesaid, shall pass to and vest in the judgment creditor as if such debt had been assigned to the judgment creditor by deed: Provided that under any such attachment the debt due or accruing from such sub-debtor shall not be paid to the judgment creditor but into the Court issuing the order of attachment in manner hereinafter mentioned.

Debt of sub-debtor bound on service.

10. Upon service of such attachment order on the sub-debtor he shall forthwith pay into the Court issuing the order the whole amount due from him to the judgment debtor.

Sub-debtor may pay into Court.

11. If the sub-debtor fails to pay into Court, within three days after the service upon him of the attachment order, the debt alleged to be due from him to the judgment debtor, a summons in the form numbered *six* in the said Schedule hereto, under the seal of the Court, may be issued by the Clerk of Court, requiring the sub-debtor to appear before the Court, or a Judge thereof, at some convenient time and place to be therein named, to show cause why execution should not issue to levy the debt alleged to be due from him to the judgment debtor.

Sub-debtor may be summoned if he fails to pay.

12. If the sub-debtor fails to appear upon such summons, or if he does appear, and the Court, or a Judge thereof, after hearing the parties and the evidence, is satisfied that the sub-debtor is indebted to the judgment debtor, the Court or Judge may, by order in the form numbered *seven* in the Schedule hereto, and issued under the seal of the Court, direct that execution as on an ordinary judgment or order of the Court (in the form numbered *eight* in the Schedule hereto), and all such other proceedings as may be had or taken against a judgment debtor on an ordinary judgment or order of the Court, shall issue and may be had and taken, either forthwith or after the lapse of such time as the Court or Judge shall appoint, to levy, recover, and enforce payment of the amount due from the sub-debtor to the judgment debtor, and all costs and expenses of the said attachment order, summons, and execution, and of the proceedings incidental to and consequent thereon.

Execution may issue.

13. On the hearing of such summons the sub-debtor shall be entitled to plead as if sued by the judgment debtor, but not otherwise.

Defences by sub-debtor.

14. If the whole or any portion of the amount of the debt due by the sub-debtor to the judgment debtor be paid by the sub-debtor into Court, or be recovered under such execution as aforesaid, the

Money paid into Court, how disposed of.

Clerk of the Court shall apply the same in satisfaction of the judgment debt and costs and expenses; and the excess (if any) of such attached debt over the amount due to the judgment creditor, and costs and expenses as aforesaid, shall be held by the Clerk of the Court to the credit of, and may be paid over by him to, the judgment debtor; but until so paid over the said excess shall be liable to be attached in the hands of the said Clerk by any other judgment creditor of the judgment debtor. 5

Sub-debtor paying into Court to be discharged.

15. Payment into Court made by, or execution levied upon, the sub-debtor, and satisfied under any proceeding aforesaid, shall be a valid discharge to him as against the judgment debtor to the amount so paid or recovered, although such proceeding may be set aside or the judgment or order reversed. 10

Costs in discretion of Court.

16. The costs and expenses of, and incidental to, and consequent upon, any application under section *six* hereof, or for an attachment of debts, and of any proceedings arising from, or incidental to, or consequent upon such applications, shall be in the discretion of and shall be fixed by the Court, and may be added to and shall form part of the judgment debt due by the judgment debtor to the judgment creditor. 15

Priority of attachment.

17. All moneys attached, paid into Court, or recovered as aforesaid shall be paid out by the Clerk of Court in priority according to the order of the service of the attachment orders if more than one; but all attachment orders served on a sub-debtor on the same day shall, for the purpose of securing the equitable distribution of the moneys attached, paid into Court, or recovered as aforesaid amongst all judgment creditors serving orders of attachment during the same day, be deemed to have been served simultaneously. 20

#### APPEALS FROM MAGISTRATES' COURTS.

Appeals from Magistrate's Court.

18. Where sittings of the District Court are held at any place nearer to a Magistrate's Court from which an appeal under section one hundred and fifty-nine of "The Magistrates' Courts Act, 1893," or under Part III., Title I. of "The Justices of the Peace Act, 1882," may be made, than the place where a sitting of the Supreme Court is held, every such appeal may, at the option of the appellant, be made to the said District Court, unless the decision appealed from is the decision of a Stipendiary Magistrate who is also the Judge of the said District Court. 30

Provis Magistrate's Court Act to apply.}

19. All the provisions of said section one hundred and fifty-nine, and of sections one hundred and sixty, one hundred and sixty-one, one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-six, and one hundred and sixty-seven of the said last-mentioned Act, and the rules made under the said Act for the time being in force relating to appeals under the provisions of "The Justices of the Peace Act, 1882," and the amendments thereof relating to appeals under Part III., Title I. of the said Act of 1882 shall extend and apply to appeals to the District Court under section *eighteen* hereof. 35

Appeal from District Court to Supreme Court.

20. An appeal shall lie to the Supreme Court from the decision of the said District Court on such appeal in respect of questions of 45 50

law only: Provided always that the leave of the Supreme Court or District Court to prosecute such last-mentioned appeal be first obtained.

21. On an appeal under Part III., Title II., of "The Justices of the Peace Act, 1882," or from the Magistrate's Court to a District Court on disputed questions of fact, either party to such appeal may apply to the Court, or a Judge thereof, for an order that such disputed questions of fact shall be determined by a jury in the said District Court in the same manner as disputed questions of fact are determined by a jury in an ordinary civil action in such Court. The Court or Judge making such order may impose such terms and conditions as shall be considered just and reasonable; and the provisions of sections sixty-three, sixty-five, sixty-six, and sixty-seven of "The District Court Act, 1858," sections seven and eight of "The District Courts Acts Amendment Act, 1888," and sections one hundred and fifty-six and one hundred and fifty-seven of "The Juries Act, 1880," shall apply in all cases where either party to an appeal shall apply for and obtain an order for a jury to be summoned to try such disputed questions of fact. The granting of such order shall be in the absolute discretion of the Court or Judge.
- Appellant may apply for trial by jury.

JURISDICTION.

22. The District Court, or a Judge thereof, may exercise the jurisdiction and powers given to and conferred upon Magistrates' Courts and Stipendiary Magistrates under and by virtue of "The Married Persons Summary Separation Act, 1896," concurrently with such Magistrates' Courts and Magistrates. The word "Court," in the said Act, shall include and extend to the District Court constituted under "The District Court Act, 1858"; and the word "Magistrate," in the said Act, shall extend to and include a Judge of the said District Court.
- District Courts to have jurisdiction.

EXECUTION AGAINST LAND.

23. Sections seventy-seven, seventy-eight, seventy-nine, and eighty of "The District Court Act, 1858," are hereby amended by inserting or adding the word "lands" before the word "goods" wherever the latter word appears in the said sections; and the said word "lands" shall mean and include all the estate, right, title, or interest, whether in possession, remainder, reversion, or expectancy, of the person against whom a writ of execution has been issued, in any lands.
- Execution may issue against land.
24. Rules three hundred and sixty, three hundred and sixty-four, to three hundred and sixty-eight, both inclusive, and three hundred and seventy to three hundred and seventy-six, both inclusive, of the Code of Civil Procedure in the Supreme Court, as the same are set forth in the Second Schedule to "The Supreme Court Act, 1882," shall apply to sales of land under every writ of execution issued as aforesaid where land is thereby directed to be sold; and the said rules are hereby incorporated in and shall be read as part of this section and "The District Court Act, 1858."
- Application of rules of the Code of Civil Procedure in Supreme Court.

## REMOVAL OF ACTIONS FROM MAGISTRATE'S COURT.

Removal of actions from Magistrate's Court into District Court.

25. In any action in the Magistrate's Court where it is made to appear to the satisfaction of the Judge of the District Court presiding in the District Court holden nearest to the Magistrate's Court in which such action is pending that some question or questions of law of considerable difficulty or great importance, or that a question or questions of fact difficult to determine, is or are involved, either party shall have the right to remove the action into the District Court nearest to the said Magistrate's Court. 5

Order for removal.

26. An order for such removal shall be obtained on application to the said Judge of the District Court by summons in Chambers, supported by evidence, by affidavit, or otherwise, as the Judge shall direct or require. 10

Terms and conditions of order.

27. In making any such order the Judge may impose such terms and conditions as to costs, place time and mode of trial, security for costs, and otherwise, as he shall consider proper. 15

Method for removal of order.

28. Upon an office-copy of the order for removal, with a certificate thereon by the Clerk of the District Court that the terms of the order have been complied with, being filed in the Magistrate's Court, the Clerk of such Court shall forthwith forward all proceedings in the action to the Clerk of the District Court, who shall file and enter the same as an action pending in the said District Court. 20

Adjournment of action on application for order.

29. If an application be made for an order removing an action into the District Court, the Magistrate's Court may from time to time adjourn the hearing of such action to such day and upon such terms and conditions as it shall think fit, until such application be disposed of. 25

Costs of application for removal.

30. In the event of the Judge of the District Court refusing to make an order for removal under section *twenty-five* hereof, or in the event of the person obtaining such order failing to comply with the terms thereof, the Judge may order the person applying for such order, or failing to comply with the terms thereof as aforesaid, to pay to the opposite party such reasonable costs and expenses of, and incidental to, and consequent upon, and occasioned by such application as to the Judge shall seem proper. 30 35

## COSTS.

General provisions as to costs.

31. (1.) All the costs of any action, or of any motion, summons, application, or other civil proceeding, in Court or in Chambers, shall be paid or apportioned between the parties, or otherwise, and in such manner, as the Court shall think fit, but in default of any special direction such costs shall abide the event of the action. 40

(2.) When costs are allowed to a plaintiff they shall be computed on the amount for which judgment is given; when allowed to a defendant they shall be computed on the amount sued for: unless in either case the Court shall specially order otherwise. 45

(3.) The amount of costs awarded shall be ascertained and stated in the judgment.

(4.) The disallowance of all or any part of any costs shall be in the discretion of the Court.

(5.) The Court may in any case allow and certify for the whole costs of the action to be taxed as between solicitor and client.

32. The Court may if it think fit award to either party reasonable costs for their attendance to prosecute or defend any action or proceeding, and costs of service of any summons, notice, or other process in connection with the action or proceeding where such service has been effected by the parties to the action or proceeding.

Court may award costs for attendance, service of summons, &c.

33. If an action or proceeding be brought or taken which the Court has no jurisdiction to try or entertain, the Court shall (unless the parties consent, in manner as provided by the said Act, to the Court assuming jurisdiction) order the action or proceeding to be struck out, but may award costs to the same extent, and recoverable in the same manner, as if the Court had jurisdiction and the claim had not been established.

If Court has no jurisdiction it may order action to be struck out, but may award costs.

34. A party having a judgment, decree, or order carrying costs shall for his solicitor's charges in the action or proceeding be entitled as against the other party to charge on such judgment, decree, or order, in addition to any moneys paid out of pocket by him or his solicitor for fees of Court or other necessary payments or disbursements, such fees as may be prescribed by Order in Council as next hereinafter mentioned.

Solicitor's charges.

35. It shall be lawful for the Governor from time to time, by Order in Council published in the *New Zealand Gazette*, to prescribe, fix, regulate, and assess the amount of solicitors' costs and charges as between party and party, payable to solicitors, and which may be awarded, allowed, and recovered in respect of all actions, summonses, motions, applications, judgments, decrees, and orders, and all other civil proceedings under "The District Court Act, 1858," and the various Acts amending or extending the same.

Governor may prescribe amount of solicitor's costs and charges as between party and party by Order in Council.

36. The Court or Judge may, on giving judgment or on making any decree or order, fix a sum or sums as the costs of the action, summons, motion, application, or other proceeding, as the case may be, in full of all costs, notwithstanding that such sum be smaller or greater than the sums named in the Order in Council made and published under section *thirty-five* hereof.

Court may vary charges prescribed under section 35.

37. The costs payable to any solicitor by his client for all services rendered by such solicitor in any action, matter, or proceeding under the said Acts or this Act shall not, unless the Court or Judge shall otherwise order, exceed the maximum amounts fixed as costs between party and party by Order in Council as aforesaid; and in the event of any dispute arising between any solicitor and his client as to the amount of such costs, the same may, subject to the provisions of this and the said Acts, be settled and determined by the Judge in Chambers on summons to be taken out by either party.

Costs payable to solicitor not to exceed maximum costs as between party and party; solicitor's charges may be determined by Judge in Chambers.

38. Sections fifty-four, fifty-five, and fifty-six of "The District Court Act, 1858," and section six of "The District Courts Jurisdiction Extension Act, 1866," are hereby repealed.

Repeal.

Schedule.

## SCHEDULE.

## No. 1.

APPLICATION TO EXAMINE DEFENDANT AND OTHERS UNDER SECTION 6 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_, }  
holden at \_\_\_\_\_, } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff, and \_\_\_\_\_, Defendant.

I, THE above-named plaintiff, hereby apply under section 6 of "The District Court Acts Amendment Act, 1897," to have the defendant, and also \_\_\_\_\_, examined forthwith as to what debts are owing or accruing to the defendant; and I request that a summons may be accordingly issued to the defendant and the said

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_. A.B.,  
Plaintiff.

To the Clerk of the Magistrate's Court at \_\_\_\_\_

## No. 2.

SUMMONS TO JUDGMENT DEBTOR AND OTHERS UNDER SECTION 6 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_, }  
holden at \_\_\_\_\_, } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff, and \_\_\_\_\_, Defendant.

UPON the application of the above-named plaintiff it is ordered that the above-named defendant and \_\_\_\_\_ do appear before \_\_\_\_\_, at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, for the purpose of being examined orally upon oath, under section 6 of "The District Court Acts Amendment Act, 1897," as to what debts are owing or accruing to the defendant; and that the said \_\_\_\_\_ do then and there produce [*State documents required to be produced*].

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

(L.S.) \_\_\_\_\_ L.M.,  
Clerk of Court.

## No. 3.

APPLICATION (*ex parte*) FOR ATTACHMENT ORDER UNDER SECTION 7 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_, }  
holden at \_\_\_\_\_, } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [*or Judgment Creditor*], \_\_\_\_\_, Defendant [*or Judgment Debtor*], and \_\_\_\_\_, Sub-debtor.

I, THE above-named plaintiff [*or judgment creditor*], hereby apply, under section 7 of "The District Court Acts Amendment Act, 1897," for an order attaching the debt owing or accruing from \_\_\_\_\_ to the above-named defendant [*or judgment debtor*].

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_. A.B.,  
Plaintiff [*or Judgment Creditor*].

To the Clerk of the District Court of \_\_\_\_\_, holden at \_\_\_\_\_



No. 4.

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ATTACHMENT ORDER UNDER SECTION 7 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [*or* Judgment Creditor], \_\_\_\_\_, Defendant [*or* Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

I, \_\_\_\_\_, of \_\_\_\_\_, in the Provincial District of \_\_\_\_\_, in the Colony of New Zealand, \_\_\_\_\_, make oath and say as follows:—

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, the above-named plaintiff obtained a judgment in this action, in the District Court of \_\_\_\_\_, holden at \_\_\_\_\_, against the above-named defendant for the sum of £ \_\_\_\_\_.

2. The sum of £ \_\_\_\_\_ is still due by the defendant to the plaintiff on the said judgment.

3. I verily believe that the above-named sub-debtor is indebted to the defendant in the sum of £ \_\_\_\_\_ or thereabouts.

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, before me—A.B. J.K.

NOTE.—Affidavits may be sworn before any Judge of the Court, or any person authorised to take affidavits in the Supreme Court or before a Justice of the Peace (see section 158 of the "District Courts Act, 1858").

No. 5.

ATTACHMENT ORDER UNDER SECTION 7 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [*or* Judgment Creditor], \_\_\_\_\_, Defendant [*or* Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

UPON reading the affidavit of \_\_\_\_\_, filed herein on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, and upon the application of the above-named plaintiff under section 7 of "The District Court Acts Amendment Act, 1897," it is ordered that all debts owing or accruing from the above-named sub-debtor to the defendant be attached to answer the judgment debt herein, amounting to £ \_\_\_\_\_ s. d., and £ \_\_\_\_\_ s. d., the costs of and incidental to the said application and this order.

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

(L.S.) \_\_\_\_\_ J.K.,

Judgment debt	... £	:	:	Judge of the said Court
Costs of and incidental to this order	...	:	:	[ <i>or</i> Clerk of Court, acting in the absence of the Judge].

£ : :

DIRECTIONS AS TO SERVICE.

I direct that this order be served [*State mode of service if other than personal*].

J.K.,  
Judge of the said Court.

NOTE.—Your attention is particularly directed to sections 9, 10, 11, 12, &c., of "The District Court Acts Amendment Act, 1897."

No. 6.

SUMMONS TO SUB-DEBTOR UNDER SECTION 11 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
 holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], \_\_\_\_\_, Defendant [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

UPON reading the attachment order herein, dated the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and served on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, it is ordered that you, the above-named sub-debtor, do appear before \_\_\_\_\_, at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to show cause why execution should not issue against your goods and chattels to levy the debt (£ \_\_\_\_\_) alleged to be due from you to the above-named defendant, together with the costs of and incidental to the application and summons, and consequent thereon.

Given under the seal of the Court, and issued at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

(L.S.) \_\_\_\_\_ L.M.  
 Clerk of Court.

To the above-named sub-debtor \_\_\_\_\_

No. 7.

ORDER UNDER SECTION 12 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
 holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], \_\_\_\_\_, Defendant [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

UPON reading the attachment order made herein on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and served on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and the summons to the above-named sub-debtor issued herein on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and served on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and upon hearing the said plaintiff [or judgment creditor] and the sub-debtor \_\_\_\_\_, it is adjudged that the above-named sub-debtor is indebted to the judgment debtor in the sum of £ \_\_\_\_\_ : \_\_\_\_\_ : \_\_\_\_\_; and it is ordered that the above-named sub-debtor \_\_\_\_\_, do forthwith pay into this Court at \_\_\_\_\_ the debt (£ \_\_\_\_\_) so due from him to the said defendant [or judgment debtor], together with the sum of £ \_\_\_\_\_, costs of and incidental to this order and the said summons, and that in default of such payment execution as on an ordinary judgment of the said Court may issue forthwith to levy the said sums, and the costs, charges, and expenses of and incidental to and consequent upon such execution; and it is also ordered that all such other proceedings as may be had or taken on an ordinary judgment of this Court may be had or taken as provided in section 12 of "The District Court Acts Amendment Act, 1897."

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

(L.S.) \_\_\_\_\_ J.K.,  
 Judge of the said Court.

Judgment debt and costs to date ... £ : :  
 Costs of and incidental to the order : :  
 £ : :

No. 8.

WARRANT OF EXECUTION UNDER SECTION 12 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
 holden at \_\_\_\_\_ }  
 Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], and \_\_\_\_\_, Defendant  
 [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.  
 To \_\_\_\_\_, Bailiff of the District Court of \_\_\_\_\_, holden at \_\_\_\_\_, or  
 to \_\_\_\_\_

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, the plaintiff [or judgment creditor] obtained a judgment [or order] against the defendant [or judgment debtor] for the sum of £ \_\_\_\_\_: And whereas it was, on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, ordered that all debts owing or accruing from the above-named sub-debtor to the defendant [or judgment debtor] be attached to answer the said judgment debt of £ \_\_\_\_\_ and costs: And whereas by order made on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, the said sub-debtor was required to pay into this Court forthwith the amount (£ \_\_\_\_\_) due by him to the judgment debtor, together with the sum of £ \_\_\_\_\_ costs of and incidental to the said last-mentioned order—making together the sum of £ \_\_\_\_\_: And whereas the said sub-debtor has failed to comply with the said order:

This is therefore to command you forthwith to levy the sum of £ \_\_\_\_\_ and the further expenses incurred herein, by distress and sale of the goods and chattels of and belonging to the said sub-debtor, except the wearing-apparel and bedding of him or his family, and the tools and implements of his trade (if any), to the value in all of twenty-five pounds, and also to seize and take away any money, cheques, bills of exchange, promissory notes, bonds, or securities for money of the said sub-debtor, or such part or so much thereof as may be sufficient to satisfy this execution and the cost of making and executing the same. And you are hereby commanded to pay what you shall so levy forthwith to the Clerk of this Court, and to make return of what you shall do by virtue of this warrant immediately on the execution thereof.

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of 189\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

Judgment debt and costs ...£	:	:	(L.S.)	L.M.,
Warrant ...	:	:		Clerk of the said Court.
Costs of previous executions	:	:		
Mileage ...	:	:		
<hr/>				
£	:	:		
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Mr. G. Hutchison.

DISTRICT COURT ACTS AMENDMENT.

ANALYSIS.

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- 2. When Act to come into force.
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A BILL INTITULED

AN ACT to extend the Jurisdiction of the District Court in certain Cases, and to amend the District Court Acts (hereinafter referred to as "the said Acts"). Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act is "The District Court Acts Amendment Act, 1897." Short Title.

10 2. This Act shall come into force on the first day of March, one thousand eight hundred and ninety-eight. When Act to come into force.

## INJUNCTIONS.

Injunctions.

3. The District Court shall, in addition to any other relief, remedy, or redress which it has power to grant, in all cases of a civil nature within its jurisdiction, as mentioned in section three of "The District Court Jurisdiction Extension Act, 1893," have power to grant, 5  
issue, enforce, vary, and dissolve, upon such terms and conditions as the Court shall think fit, injunctions to restrain or prevent any threatened or apprehended waste, trespass, injury, nuisance, breach of contract, or any other unlawful or wrongful act.

Application for injunction to be made.

4. Any person seeking an injunction may apply to the Court, or a Judge thereof, at any time before the hearing of the cause for a summons to the defendant to show cause why an injunction should not issue to restrain or prevent the opposite party from committing or continuing the injury apprehended or complained of; but, if the case be urgent, and such as to require the immediate interference of the 15  
Court, the order may be made *ex parte*, and the injunction issued in the first instance upon such terms and conditions as the Court or Judge shall consider just and reasonable.

Injunction may be dissolved or varied.

5. Whenever the order has been made *ex parte*, and the injunction issued in the first instance, the defendant may move the 20  
Court to have the injunction dissolved or varied.

## ATTACHMENT OF DEBTS.

Court may summons judgment debtor for examination, &amp;c.

6. The Clerk of the Court in which any person (hereinafter called "the judgment creditor") has obtained a judgment or order may, on his application in writing in the form numbered *one* in the 25  
Schedule hereto, issue a summons, in the form numbered *two* in the said Schedule, under the seal of the Court, requiring the judgment debtor (hereinafter called "the judgment debtor"), or any other person or persons, to appear before the Court, or a Judge thereof, in Chambers, or, in the absence of the Judge, before the Clerk of 30  
Court, at such time and place as the Clerk of Court shall appoint, to be examined upon oath as to what debts are owing or accruing to the judgment debtor, and by such summons may require the judgment debtor or any such other person to produce on such examination all such books of account, papers, writings, or other documents as may be 35  
mentioned or specified generally or specifically in such summons.

Attachment orders may issue.

7. Upon the *ex parte* application in writing, in the form numbered *three* in the said Schedule hereto, of the judgment creditor, his solicitor or any authorised agent, either before or after such examination, and upon affidavit, in the form numbered *four* in the said 40  
Schedule hereto, by himself or his solicitor or agent, or by some other person who is able to depose to the truth of the statements therein contained, stating,—

- (1.) That judgment (stating the amount) has been recovered;
- (2.) That such judgment is still unsatisfied, wholly or in part; 45  
and
- (3.) That any other person or persons is or are indebted to the judgment debtor;

The Court, or a Judge thereof, or, in the absence of the Judge, the Clerk of Court, may by order, in the form numbered *five* in the Schedule 50  
hereto, under the seal of the Court, direct that all debts owing or

accruing from such third person (hereinafter called "the sub-debtor") to the judgment debtor shall be attached to answer the judgment debt.

8. Such order, and all other orders and summonses issued under this Act, shall be served upon the sub-debtor and upon such other person or persons as the Court may direct, either personally or in such other manner as the Court, or a Judge thereof, or the Clerk of Court in the absence of the Judge, shall by writing, indorsed on the said order, direct.

Service.

9. Service of such order upon the sub-debtor shall bind such debt in his hands, and such debt shall thenceforth, but to the extent only of the amount due by the judgment debtor to the judgment creditor, be deemed to be a debt due by the sub-debtor to the judgment creditor, and all rights of the judgment debtor in the debt due or accruing due to him from the sub-debtor, to the extent aforesaid, shall pass to and vest in the judgment creditor as if such debt had been assigned to the judgment creditor by deed: Provided that under any such attachment the debt due or accruing from such sub-debtor shall not be paid to the judgment creditor but into the Court issuing the order of attachment in manner hereinafter mentioned.

Debt of sub-debtor bound on service.

10. Upon service of such attachment order on the sub-debtor he shall forthwith pay into the Court issuing the order the whole amount due from him to the judgment debtor.

Sub-debtor may pay into Court.

11. If the sub-debtor fails to pay into Court, within three days after the service upon him of the attachment order, the debt alleged to be due from him to the judgment debtor, a summons in the form numbered *six* in the said Schedule hereto, under the seal of the Court, may be issued by the Clerk of Court, requiring the sub-debtor to appear before the Court, or a Judge thereof, at some convenient time and place to be therein named, to show cause why execution should not issue to levy the debt alleged to be due from him to the judgment debtor.

Sub-debtor may be summoned if he fails to pay.

12. If the sub-debtor fails to appear upon such summons, or if he does appear, and the Court, or a Judge thereof, after hearing the parties and the evidence, is satisfied that the sub-debtor is indebted to the judgment debtor, the Court or Judge may, by order under the seal of the Court, direct that execution as on an ordinary judgment or order of the Court (in the form numbered *eight* in the Schedule hereto), and all such other proceedings as may be had or taken against a judgment debtor on an ordinary judgment or order of the Court, shall issue and may be had and taken, either forthwith or after the lapse of such time as the Court or Judge shall appoint, to levy, recover, and enforce payment of the amount due from the sub-debtor to the judgment debtor, and all costs and expenses of the said attachment order, summons, and execution, and of the proceedings incidental to and consequent thereon.

Execution may issue.

13. On the hearing of such summons the sub-debtor shall be entitled to plead as if sued by the judgment debtor, but not otherwise.

Defences by sub-debtor.

14. If the whole or any portion of the amount of the debt due by the sub-debtor to the judgment debtor be paid by the sub-debtor into Court, or be recovered under such execution as aforesaid, the

Money paid into Court, how disposed of.

Clerk of the Court shall apply the same in satisfaction of the judgment debt and costs and expenses; and the excess (if any) of such attached debt over the amount due to the judgment creditor, and costs and expenses as aforesaid, shall be held by the Clerk of the Court to the credit of, and may be paid over by him to, the judgment debtor; but until so paid over the said excess shall be liable to be attached in the hands of the said Clerk by any other judgment creditor of the judgment debtor. 5

Sub-debtor paying into Court to be discharged.

15. Payment into Court made by, or execution levied upon, the sub-debtor, and satisfied under any proceeding aforesaid, shall be a valid discharge to him as against the judgment debtor to the amount so paid or recovered, although such proceeding may be set aside or the judgment or order reversed. 10

Costs in discretion of Court.

16. The costs and expenses of, and incidental to, and consequent upon, any application under section *six* hereof, or for an attachment of debts, and of any proceedings arising from, or incidental to, or consequent upon such applications, shall be in the discretion of and shall be fixed by the Court, and may be added to and shall form part of the judgment debt due by the judgment debtor to the judgment creditor. 15

Priority of attachment.

17. All moneys attached, paid into Court, or recovered as aforesaid shall be paid out by the Clerk of Court in priority according to the order of the service of the attachment orders if more than one; but all attachment orders served on a sub-debtor on the same day shall, for the purpose of securing the equitable distribution of the moneys attached, paid into Court, or recovered as aforesaid amongst all judgment creditors serving orders of attachment during the same day, be deemed to have been served simultaneously. 20

#### APPEALS FROM MAGISTRATES' COURTS.

Appeals from Magistrate's Court.

18. Where sittings of the District Court are held at any place nearer to a Magistrate's Court from which an appeal under section one hundred and fifty-nine of "The Magistrates' Courts Act, 1893," or under Part III., Title I. of "The Justices of the Peace Act, 1882," may be made, than the place where a sitting of the Supreme Court is held, every such appeal may, at the option of the appellant, be made to the said District Court, unless the decision appealed from is the decision of a Stipendiary Magistrate who is also the Judge of the said District Court. 30

Provis Magistrate's Court Act to apply.

19. All the provisions of said section one hundred and fifty-nine, and of sections one hundred and sixty, one hundred and sixty-one, one hundred and sixty-two, one hundred and sixty-three, one hundred and sixty-four, one hundred and sixty-six, and one hundred and sixty-seven of the said last-mentioned Act, and the rules made under the said Act for the time being in force relating to appeals under the provisions of "The Justices of the Peace Act, 1882," and the amendments thereof relating to appeals under Part III., Title I. of the said Act of 1882 shall extend and apply to appeals to the District Court under section *eighteen* hereof. 35

Appeal from District Court to Supreme Court.

20. An appeal shall lie to the Supreme Court from the decision of the said District Court on such appeal in respect of questions of 45 50

law only: Provided always that the leave of the Supreme Court or District Court to prosecute such last-mentioned appeal be first obtained.

21. On an appeal under Part III., Title II., of "The Justices of the Peace Act, 1882," or from the Magistrate's Court to a District Court on disputed questions of fact, either party to such appeal may apply to the Court, or a Judge thereof, for an order that such disputed questions of fact shall be determined by a jury in the said District Court in the same manner as disputed questions of fact are determined by a jury in an ordinary civil action in such Court. The Court or Judge making such order may impose such terms and conditions as shall be considered just and reasonable; and the provisions of sections sixty-three, sixty-five, sixty-six, and sixty-seven of "The District Court Act, 1858," sections seven and eight of "The District Courts Acts Amendment Act, 1888," and sections one hundred and fifty-six and one hundred and fifty-seven of "The Juries Act, 1880," shall apply in all cases where either party to an appeal shall apply for and obtain an order for a jury to be summoned to try such disputed questions of fact. The granting of such order shall be in the absolute discretion of the Court or Judge.

Appellant may apply for trial by jury.

#### JURISDICTION.

22. The District Court, or a Judge thereof, may exercise the jurisdiction and powers given to and conferred upon Magistrates' Courts and Stipendiary Magistrates under and by virtue of "The Married Persons Summary Separation Act, 1896," concurrently with such Magistrates' Courts and Magistrates. The word "Court," in the said Act, shall include and extend to the District Court constituted under "The District Court Act, 1858"; and the word "Magistrate," in the said Act, shall extend to and include a Judge of the said District Court.

District Courts to have jurisdiction.

#### EXECUTION AGAINST LAND.

23. Sections seventy-seven, seventy-eight, seventy-nine, and eighty of "The District Court Act, 1858," are hereby amended by inserting or adding the word "lands" before the word "goods" wherever the latter word appears in the said sections; and the said word "lands" shall mean and include all the estate, right, title, or interest, whether in possession, remainder, reversion, or expectancy, of the person against whom a writ of execution has been issued, in any lands.

Execution may issue against land.

24. Rules three hundred and sixty, three hundred and sixty-four, and three hundred and sixty-eight, both inclusive, and three hundred and seventy to three hundred and seventy-six, both inclusive, of the Code of Civil Procedure in the Supreme Court, as the same are set forth in the Second Schedule to "The Supreme Court Act, 1882," shall apply to sales of land under every writ of execution issued as aforesaid where land is thereby directed to be sold; and the said rules are hereby incorporated in and shall be read as part of this section and "The District Court Act, 1858."

Application of rules of the Code of Civil Procedure in Supreme Court.



## REMOVAL OF ACTIONS FROM MAGISTRATE'S COURT.

Removal of actions from Magistrate's Court into District Court.

25. In any action in the Magistrate's Court where it is made to appear to the satisfaction of the Judge of the District Court presiding in the District Court holden nearest to the Magistrate's Court in which such action is pending that some question or questions of law of considerable difficulty or great importance, or that a question or questions of fact difficult to determine, is or are involved, either party shall have the right to remove the action into the District Court nearest to the said Magistrate's Court.

5

Order for removal.

26. An order for such removal shall be obtained on application to the said Judge of the District Court by summons in Chambers, supported by evidence, by affidavit, or otherwise, as the Judge shall direct or require.

10

Terms and conditions of order.

27. In making any such order the Judge may impose such terms and conditions as to costs, place time and mode of trial, security for costs, and otherwise, as he shall consider proper.

15

Method for removal of order.

28. Upon an office-copy of the order for removal, with a certificate thereon by the Clerk of the District Court that the terms of the order have been complied with, being filed in the Magistrate's Court, the Clerk of such Court shall forthwith forward all proceedings in the action to the Clerk of the District Court, who shall file and enter the same as an action pending in the said District Court.

20

Adjournment of action on application for order.

29. If an application be made for an order removing an action into the District Court, the Magistrate's Court may from time to time adjourn the hearing of such action to such day and upon such terms and conditions as it shall think fit, until such application be disposed of.

25

Costs of application for removal.

30. In the event of the Judge of the District Court refusing to make an order for removal under section *twenty-five* hereof, or in the event of the person obtaining such order failing to comply with the terms thereof, the Judge may order the person applying for such order, or failing to comply with the terms thereof as aforesaid, to pay to the opposite party such reasonable costs and expenses of, and incidental to, and consequent upon, and occasioned by such application as to the Judge shall seem proper.

30

35

## COSTS.

General provisions as to costs.

31. (1.) All the costs of any action, or of any motion, summons, application, or other civil proceeding, in Court or in Chambers, shall be paid or apportioned between the parties, or otherwise, and in such manner, as the Court shall think fit, but in default of any special direction such costs shall abide the event of the action.

40

(2.) When costs are allowed to a plaintiff they shall be computed on the amount for which judgment is given; when allowed to a defendant they shall be computed on the amount sued for: unless in either case the Court shall specially order otherwise.

45

(3.) The amount of costs awarded shall be ascertained and stated in the judgment.

(4.) The disallowance of all or any part of any costs shall be in the discretion of the Court.

(5.) The Court may in any case allow and certify for the whole costs of the action to be taxed as between solicitor and client.

32. The Court may if it think fit award to either party reasonable costs for their attendance to prosecute or defend any action or proceeding, and costs of service of any summons, notice, or other process in connection with the action or proceeding where such service has been effected by the parties to the action or proceeding.

Court may award costs for attendance, service of summons, &c.

33. If an action or proceeding be brought or taken which the Court has no jurisdiction to try or entertain, the Court shall (unless the parties consent, in manner as provided by the said Act, to the Court assuming jurisdiction) order the action or proceeding to be struck out, but may award costs to the same extent, and recoverable in the same manner, as if the Court had jurisdiction and the claim had not been established.

If Court has no jurisdiction it may order action to be struck out, but may award costs.

34. A party having a judgment, decree, or order carrying costs shall for his solicitor's charges in the action or proceeding be entitled as against the other party to charge on such judgment, decree, or order, in addition to any moneys paid out of pocket by him or his solicitor for fees of Court or other necessary payments or disbursements, such fees as may be prescribed by Order in Council as next hereinafter mentioned.

Solicitor's charges.

35. It shall be lawful for the Governor from time to time, by Order in Council published in the *New Zealand Gazette*, to prescribe, fix, regulate, and assess the amount of solicitors' costs and charges as between party and party, payable to solicitors, and which may be awarded, allowed, and recovered in respect of all actions, summonses, motions, applications, judgments, decrees, and orders, and all other civil proceedings under "The District Court Act, 1858," and the various Acts amending or extending the same.

Governor may prescribe amount of solicitor's costs and charges as between party and party by Order in Council.

36. The Court or Judge may, on giving judgment or on making any decree or order, fix a sum or sums as the costs of the action, summons, motion, application, or other proceeding, as the case may be, in full of all costs, notwithstanding that such sum be smaller or greater than the sums named in the Order in Council made and published under section *thirty-five* hereof.

Court may vary charges prescribed under section 35.

37. The costs payable to any solicitor by his client for all services rendered by such solicitor in any action, matter, or proceeding under the said Acts or this Act shall not, unless the Court or Judge shall otherwise order, exceed the maximum amounts fixed as costs between party and party by Order in Council as aforesaid; and in the event of any dispute arising between any solicitor and his client as to the amount of such costs, the same may, subject to the provisions of this and the said Acts, be settled and determined by the Judge in Chambers on summons to be taken out by either party.

Costs payable to solicitor not to exceed maximum costs as between party and party; solicitor's charges may be determined by Judge in Chambers.

38. Sections fifty-four, fifty-five, and fifty-six of "The District Court Act, 1858," and section six of "The District Courts Jurisdiction Extension Act, 1866," are hereby repealed.

Repeal.

Schedule.

## SCHEDULE.

## No. 1.

APPLICATION TO EXAMINE DEFENDANT AND OTHERS UNDER SECTION 6 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ }  
holden at \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff, and \_\_\_\_\_, Defendant.

I, THE above-named plaintiff, hereby apply under section 6 of "The District Court Acts Amendment Act, 1897," to have the defendant, and also \_\_\_\_\_, examined forthwith as to what debts are owing or accruing to the defendant; and I request that a summons may be accordingly issued to the defendant and the said

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_. A.B.,  
Plaintiff.

To the Clerk of the Magistrate's Court at \_\_\_\_\_

## No. 2.

SUMMONS TO JUDGMENT DEBTOR AND OTHERS UNDER SECTION 6 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ }  
holden at \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff, and \_\_\_\_\_, Defendant.

UPON the application of the above-named plaintiff it is ordered that the above-named defendant and \_\_\_\_\_ do appear before \_\_\_\_\_, at \_\_\_\_\_, on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, for the purpose of being examined orally upon oath, under section 6 of "The District Court Acts Amendment Act, 1897," as to what debts are owing or accruing to the defendant; and that the said \_\_\_\_\_ do then and there produce [*State documents required to be produced*].

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

(L.S.) \_\_\_\_\_ L.M.,  
Clerk of Court.

## No. 3.

APPLICATION (*ex parte*) FOR ATTACHMENT ORDER UNDER SECTION 7 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ }  
holden at \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [*or Judgment Creditor*], \_\_\_\_\_, Defendant [*or Judgment Debtor*], and \_\_\_\_\_, Sub-debtor.

I, THE above-named plaintiff [*or judgment creditor*], hereby apply, under section 7 of "The District Court Acts Amendment Act, 1897," for an order attaching the debt owing or accruing from \_\_\_\_\_ to the above-named defendant [*or judgment debtor*].

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_. A.B.,  
Plaintiff [*or Judgment Creditor*].

To the Clerk of the District Court of \_\_\_\_\_, holden at \_\_\_\_\_

No. 4.

AFFIDAVIT IN SUPPORT OF APPLICATION FOR ATTACHMENT ORDER UNDER SECTION 7 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
 holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], \_\_\_\_\_, Defendant [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

I, \_\_\_\_\_, of \_\_\_\_\_, in the Provincial District of \_\_\_\_\_, in the Colony of New Zealand, \_\_\_\_\_, make oath and say as follows:—

1. On the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, the above-named plaintiff obtained a judgment in this action, in the District Court of \_\_\_\_\_, holden at \_\_\_\_\_, against the above-named defendant for the sum of £ \_\_\_\_\_.

2. The sum of £ \_\_\_\_\_ is still due by the defendant to the plaintiff on the said judgment.

3. I verily believe that the above-named sub-debtor is indebted to the defendant in the sum of £ \_\_\_\_\_ or thereabouts.

Sworn at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, before me—A.B. J.K.

NOTE.—Affidavits may be sworn before any Judge of the Court, or any person authorised to take affidavits in the Supreme Court or before a Justice of the Peace (see section 158 of the "District Courts Act, 1858").

No. 5.

ATTACHMENT ORDER UNDER SECTION 7 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_  
 holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], \_\_\_\_\_, Defendant [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

UPON reading the affidavit of \_\_\_\_\_, filed herein on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, and upon the application of the above-named plaintiff under section 7 of "The District Court Acts Amendment Act, 1897," it is ordered that all debts owing or accruing from the above-named sub-debtor to the defendant be attached to answer the judgment debt herein, amounting to £ \_\_\_\_\_ s. d., and £ \_\_\_\_\_ s. d., the costs of and incidental to the said application and this order.

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

(L.S.) \_\_\_\_\_ J.K.,

Judgment debt	... £	:	:	Judge of the said Court
Costs of and incidental to this order	... :	:	:	[or Clerk of Court, acting in the absence of the Judge].

£ : :

DIRECTIONS AS TO SERVICE.

I direct that this order be served [State mode of service if other than personal].

J.K.,  
 Judge of the said Court.

NOTE.—Your attention is particularly directed to sections 9, 10, 11, 12, &c., of "The District Court Acts Amendment Act, 1897."

No. 6.

SUMMONS TO SUB-DEBTOR UNDER SECTION 11 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. .  
 holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], \_\_\_\_\_, Defendant [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

UPON reading the attachment order herein, dated the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and served on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, it is ordered that you, the above-named sub-debtor, do appear before \_\_\_\_\_, at \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon, to show cause why execution should not issue against your goods and chattels to levy the debt (£ \_\_\_\_\_) alleged to be due from you to the above-named defendant, together with the costs of and incidental to the application and summons, and consequent thereon.

Given under the seal of the Court, and issued at \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

(L.S.) \_\_\_\_\_ L.M.  
 Clerk of Court.

To the above-named sub-debtor

No. 7.

ORDER UNDER SECTION 12 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ } Plaintiff No. .  
 holden at \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], \_\_\_\_\_ Defendant  
 [or Judgment Debtor], and \_\_\_\_\_ Sub-debtor.

UPON reading the attachment order made herein on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and served on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and the summons to the above-named sub-debtor issued herein on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and served on the \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_, and upon hearing the said plaintiff [or judgment creditor] and the sub-debtor \_\_\_\_\_, it is adjudged that the above-named sub-debtor is indebted to the judgment debtor in the sum of £ \_\_\_\_\_ : \_\_\_\_\_ ; and it is ordered that the above-named sub-debtor \_\_\_\_\_, do forthwith pay into this Court at \_\_\_\_\_ the debt (£ \_\_\_\_\_) so due from him to the said defendant [or judgment debtor], together with the sum of £ \_\_\_\_\_, costs of and incidental to this order and the said summons, and that in default of such payment execution as on an ordinary judgment of the said Court may issue forthwith to levy the said sums, and the costs, charges, and expenses of and incidental to and consequent upon such execution; and it is also ordered that all such other proceedings as may be had or taken on an ordinary judgment of this Court may be had or taken as provided in section 12 of "The District Court Acts Amendment Act, 1897."

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 189 \_\_\_\_\_.

(L.S.) \_\_\_\_\_ J.K.,  
 Judge of the said Court.

Judgment debt and costs to date ... £ : :  
 Costs of and incidental to the order : :  
 £ : :

No. 8.

WARRANT OF EXECUTION UNDER SECTION 12 OF "THE DISTRICT COURT ACTS AMENDMENT ACT, 1897."

In the District Court of \_\_\_\_\_ }  
 holden at \_\_\_\_\_ } Plaintiff No. \_\_\_\_\_

Between \_\_\_\_\_, Plaintiff [or Judgment Creditor], and \_\_\_\_\_, Defendant  
 [or Judgment Debtor], and \_\_\_\_\_, Sub-debtor.

To \_\_\_\_\_, Bailiff of the District Court of \_\_\_\_\_, holden at \_\_\_\_\_, or  
 to \_\_\_\_\_

WHEREAS on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, the plaintiff [or judgment creditor] obtained a judgment [or order] against the defendant [or judgment debtor] for the sum of £ \_\_\_\_\_: And whereas it was, on the \_\_\_\_\_ day of \_\_\_\_\_, 18\_\_\_\_, ordered that all debts owing or accruing from the above-named sub-debtor to the defendant [or judgment debtor] be attached to answer the said judgment debt of £ \_\_\_\_\_ and costs: And whereas by order made on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, the said sub-debtor was required to pay into this Court forthwith the amount (£ \_\_\_\_\_) due by him to the judgment debtor, together with the sum of £ \_\_\_\_\_, costs of and incidental to the said last-mentioned order—making together the sum of £ \_\_\_\_\_: And whereas the said sub-debtor has failed to comply with the said order:

This is therefore to command you forthwith to levy the sum of £ \_\_\_\_\_ and the further expenses incurred herein, by distress and sale of the goods and chattels of and belonging to the said sub-debtor, except the wearing-apparel and bedding of him or his family, and the tools and implements of his trade (if any), to the value in all of twenty-five pounds, and also to seize and take away any money, cheques, bills of exchange, promissory notes, bonds, or securities for money of the said sub-debtor, or such part or so much thereof as may be sufficient to satisfy this execution and the cost of making and executing the same. And you are hereby commanded to pay what you shall so levy forthwith to the Clerk of this Court, and to make return of what you shall do by virtue of this warrant immediately on the execution thereof.

Given under the seal of the Court, and issued at \_\_\_\_\_, this \_\_\_\_\_ day of 189\_\_\_\_, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon.

Judgment debt and costs ...£	:	:	(L.S.)	L.M.,
Warrant ...	:	:		Clerk of the said Court.
Costs of previous executions	:	:		
Mileage ...	:	:		
<hr/>				
£	:	:		
<hr/>				