

It might be remarked that, for some time after Order XIV. was passed, a plaintiff desiring to take summary judgment proceedings to enforce payment of a bill, note, or cheque, could proceed under either that Order or the Act of 1855; but the alternative remedy provided by the earlier Act was abolished, owing to the inconvenience experienced in working it in with the English Judicature Act system. (*g*)

Order XIV. introduced with the intention of facilitating the High Court of Justice in the collection of debts in general (*h*); and not, as the Act of 1855 provided, debts due under bills of exchange and promissory notes alone, by hastening the remedy and preventing the accumulation of costs, (*i*), was regarded by Jessel, M. R. (*j*), as designed to prevent "a man clearly entitled to money from being delayed where there is no fairly arguable defence to be brought forward;" and Lord Hatherly thus later explained the Order (*k*):—

"If a man really has no defence, it is better for him, as well as his creditors, and for all the parties concerned, that the matter should be brought to an issue as speedily as possible; and, therefore, there was a power given in cases in which plaintiffs may think they were entitled to use the power, by which, if it was a matter in which the debt was clear and distinct, and in which nothing was needed to be said or done to satisfy a judge that there was no real defence to the action, recourse might be had to an immediate judgment and to an immediate execution."

Even though, as above shewn, Order XIV. relieved a defendant from such an onus as that imposed upon him by the Act of 1855, and allowed him to appear as of right, without being required to shew that he had a defence until after the plaintiff had sworn that there was none, it was, from the first, (*l*) judicially regarded as the result of a very strong piece of legislation, invading a defendant's common law right to appear in court and defend himself against the plaintiff's claim.

(*g*) Wilson's Judicature Acts, (4th Ed.) 214.

(*h*) *Ray v. Barker*, 27 W.R. 746.

(*i*) Per Dowse, B.L.R., Ir. 420.

(*j*) *Anglo-Italian Bank v. Wells*, 38 L.T.R. p. 199.

(*k*) *Wallingford v. Mutual Society*, L.R. 5 A.C. p. 690.

(*l*) *West Central W. Co. v. North Wales W. Co.*, 37 L.T.R. 628.