

New South Wales.



ANNO VICESIMO

VICTORIÆ REGINÆ.

No. XV.

An Act to give relief to persons having Claims against the Government of New South Wales. [Reserved, 12th February, 1857.]

WHEREAS disputes and differences have arisen, and may hereafter arise, between the subjects of Her Majesty the Queen and Her Majesty's Local Government in the Colony of New South Wales, the subject matter of which disputes and differences has arisen, or may arise, within the said Colony; And whereas the ordinary remedy by Petition of right, is of limited operation, and is insufficient to meet all such cases, and is attended with great expense, inconvenience, and delay: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

1. In all cases of dispute or difference, touching any claim between any subject of Her Majesty and the Colonial Government of the Colony of New South Wales, which may have arisen, or may hereafter arise, within the said Colony, it shall and may be lawful for any person or persons having such disputes or differences, to present a Petition to the Governor of the said Colony, setting forth the particulars of the claim of such Petitioner; which Petition shall within fourteen days from the presentation thereof be referred by the Governor to his Executive Council, and if the said Governor shall with the advice of his Executive Council think fit, the said Petition shall be referred to the Supreme Court of the said Colony for trial by a jury or otherwise, as such Court shall after such reference direct: Provided always, that in case the Governor with the advice of his Executive Council, shall certify in writing, endorsed on any such Petition so to be presented as aforesaid, that, in his opinion, the subject matter of such Petition affects the Royal Prerogative, it shall and may be lawful for the Governor with such advice as aforesaid, to transmit the same to Her Majesty's Principal Secretary of State for the Colonies, for the signification of Her Majesty's approval or disapproval; and if such Petition be returned with Her Majesty's

Preamble.

Persons having claims against Local Government may petition Governor for redress.

Claim to be referred for trial.

Claim affecting prerogative to be reserved.

Majesty's

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Majesty's approval, the same proceedings as are hereinbefore directed shall be taken for the trial of the matter thereof; but in case of such Petition being returned without such approval, the same together with the endorsement thereon, and the reasons assigned for withholding such approval, shall be forthwith published in the New South Wales *Government Gazette* in which case the remedy hereby provided shall not be had.

Governor to name nominal defendant.

Nominal defendant not personally responsible.

Supreme Court to make rules.

2. At the time of such reference for trial as aforesaid, the Governor with such advice as aforesaid, shall name some person or persons to be a Nominal Defendant in the matter of such Petition, the Petitioner being the Plaintiff therein: Provided, that nothing in this Act shall be construed to extend so as to subject any such Nominal Defendant to any individual responsibility in person, goods, chattels, estate, or otherwise, by reason of his being such Nominal Defendant.

3. It shall be lawful for the Judges of the Supreme Court or any two of them, to make all such general rules and orders for the regulation of the pleadings, practice, or proceedings, on any such Petition as to such Court shall seem necessary for the purpose aforesaid; and all such rules, orders, or regulations shall be laid before both Houses of the Parliament of the Colony, if Parliament be then sitting, immediately upon the making of the same; or if Parliament be not sitting, then within five days after the next meeting thereof; and every rule and order so made shall be of the like force and effect as if the provisions contained therein had been expressly enacted by Parliament: Provided always, that it shall be lawful for the Governor with the advice of the Executive Council, in Her Majesty's name, by any Proclamation inserted in the *Government Gazette*, at any time within three months after the making of any such rule or order, or for either of the Houses of Parliament, by any resolution passed at any time within three months next after such rules, orders, and regulations shall have been laid before Parliament, to suspend the whole or any part of such rules, orders, or regulations, and in such case the whole, or such part thereof as shall be so suspended, shall not be binding and obligatory.

Reservation of right of appeal, &c.

Costs.

Claims to be paid out of Revenue.

4. The parties to any such proceeding shall have the same rights, either by way of appeal, rehearing motion for a new trial, or otherwise, as in ordinary cases at law or in equity.

5. Costs of suit shall follow on either side, as in ordinary cases between suitors, any law or practice to the contrary notwithstanding.

6. It shall be lawful for the Governor with the advice of the Executive Council, to satisfy and pay any judgment or decree recovered by any such Petitioner out of any available balance of the Consolidated Revenue of the said Colony, and to perform the judgment or decree of the said Court, in terms of such judgment or decree.