

Legislative Council.

45^o VICTORIÆ, 1881.

A BILL

For the appointment of Conciliators.

[MR. DE SALIS;—13 July, 1881.]

WHEREAS the procedure of Civil Justice has become antiquated Preamble.
and is now too tedious and expensive to be any longer of
practical service in alone solving the legal complications of a busy and
advancing age And whereas in consequence of such deficiency all
5 business would long ago have come to a stand did not the community
(as a rule well-meaning and averse to strife) habitually defer or desire
to defer in the settlement of disputed claims to good sense and
honourable feeling And whereas it is expedient in the Legislature
to render general this peaceful substitution of equitable custom for
10 the heartburnings of imperfect justice and to suppress all obstruction
to the same through professional jealousy And whereas the enforcing
of extreme rights by law has become synonymous with persecution
and matter of reproach from even tribunals themselves unable to
dispense full practical justice And whereas great relief under similar
15 hardship has been afforded to the lay community of several other
countries by the institution of Courts of Conciliation and by legislation
in connection therewith Be it therefore enacted by the Queen's Most
c 1— Excellent

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:—

Governor to appoint
conciliators.

1. That the Governor shall appoint one or more conciliators in each district who shall be ready to hear and give advice to parties 5 having disputed civil claims.

Procedure before
conciliators.

2. That every one desirous of enforcing such claims shall before applying for redress to the ordinary tribunals bring his opponent in person and alone with himself before the conciliator for the district wherein the complaint arises and shall thereupon state his case to such 10 conciliator and his opponent shall similarly state his case and from these two statements such conciliator shall by questioning ascertain what are the points of fact or law wherein the contending parties are at variance and embody the same in a document to be signed by himself and the two parties whereupon all further discussion of the quarrel 15 before the conciliator or in any other Court shall be confined to the decision of such points alone. Such points if of fact shall when insisted upon by either party be tried in the usual manner by arbiters or in any suitable Court of Record to be selected by a majority of the two litigants and the conciliator and the decision of such arbiters or Court 20 shall be final unless some witness in the case be prosecuted to conviction for perjury.

Conciliator may refer
case to Supreme
Court.

3. In questions of disputed law or equity the conciliator shall when this be insisted upon by either party send the said document for instruction to the Supreme Court one or more Judges whereof after 25 examining the statements contained therein shall publish without delay and in its proper turn of business in the *Gazette* an opinion of said Court as to the law or equity of the disputed point together with the statements on which such opinion has been asked and such published opinion shall be accepted as authoritative in this and all future cases 30 of the same nature unless and until the parties to this or similar cases appeal therefrom.

Procedure where
parties disagree.

4. If one of the parties profess to the conciliator that he will abide by such opinion of said Court and the other party similarly refuse the accepting suitor shall be held harmless by the Crown as to all 35 further molestation or costs in the case and an appeal or action may be proceeded with by the objecting suitor as against the Crown only.

The like where such
parties agree.

5. If both suitors when before the conciliator or after decision as above of the matters of law and fact shall accept the conciliator's suggestions as to equity or as to a compromise or to abide by the 40 decision of the Court the conciliator shall draw out a deed to that effect to be signed by both parties and to be witnessed by himself.

Regulations.

6. The Governor shall make regulations to carry into effect the intentions of this Act and a copy of such regulations shall be laid before Parliament which on publication in the *Gazette* shall be binding 45 as law until objected to by resolution of either House.