

New South Wales.



ANNO SEXAGESIMO PRIMO

VICTORIÆ REGINÆ.

No. XXX. (A.D. 1897.)

An Act for consolidating enactments relating to Claims against the Government and Crown Suits. [Assented to, 6th December, 1897.]

BE it 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. This Act may be cited as the "Claims against the Government and Crown Suits Act, 1897." Short title.

2. (I) The Acts mentioned in the Schedule to this Act are, to the extent therein expressed, hereby repealed. Repeal. Schedule.

(II) All rules of Court made under the authority of any Act hereby repealed, and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act. Rules of Court under Acts hereby repealed.

3. (I) Any person having or deeming himself to have any just claim or demand whatever against the Government of New South Wales may set forth the same in a petition to the Governor praying him to appoint a nominal defendant in the matter of such petition, and the Governor may by notification in the Gazette appoint any person resident in New South Wales to be a nominal defendant accordingly. Claimant may petition Governor 39 Vic. No. 38, s. 2.

(II) If within one month after presentation of such petition no such notification is made the Colonial Treasurer shall be the nominal defendant. Governor may appoint nominal defendant.

4. The petitioner may sue such nominal defendant at law or in equity in any competent Court, and every such case shall be commenced in the same way, and the proceedings and rights of parties therein shall as nearly as possible be the same, and judgment and costs shall follow or may be awarded on either side as in an ordinary case between subject and subject. Petitioner may sue as in ordinary cases. Ibid. s. 3.

Claims against the Government and Crown Suits.

Limited liability of
nominal defendant.
Ibid. s. 4.

5. The nominal defendant in any case under this Act shall not be individually liable in person or property by reason of his being such defendant.

Nature of relief.
Ibid. s. 5.

6. In any action or suit under this Act all necessary judgments, decrees, and orders may be given and made, including every species of relief whether by way of—

- (a) specific performance; or
- (b) restitution of rights; or
- (c) recovery of lands or chattels; or
- (d) payment of money or damages.

Costs in proceedings
by Crown.
20 Vic. No. 3, ss. 1, 2.
39 Vic. No. 38, s. 6.

7. In any information, action, suit, or other proceeding by or on behalf of the Crown in respect of any property of the Crown, the proceeds, or rents, or profits whereof by any Act now in force or hereafter to be passed are to be carried to the consolidated revenue fund of New South Wales, or in respect of any money due to the Crown by virtue of any Act relating to the public revenue, costs shall follow or may be awarded as in an ordinary case between subject and subject.

Treasurer to pay
damages, &c.
Ibid. s. 2.
Ibid. s. 7.

8. (I) The Colonial Treasurer shall pay—

- (a) all damages and costs adjudged against such nominal defendant; or
 - (b) costs awarded against the Crown or Attorney-General.
- out of any moneys in his hands then legally applicable thereto and forming part of or belonging to the consolidated revenue or voted by Parliament for that purpose.

Execution.

(II) In the event of such payment not being made within sixty days after demand, execution may be had for the amount and levied upon any property vested in the Government but not upon any property—

- (a) vested in the Government on behalf of the Imperial Government; or
- (b) to which the Imperial Government has any claim or is in any-wise entitled.

Payment into
Treasury.
20 Vic. No. 3, s. 1.
Rules.
Ibid. s. 3.
39 Vic. No. 38, s. 8.

9. Costs recovered by or on behalf of the Crown shall be paid into the Treasury and become part of the consolidated revenue.

10. (I) The Judges of the Supreme Court or any three of them may make general rules for carrying this Act into effect.

(II) Such rules shall not be inconsistent with this Act, and on being published in the Gazette shall have the force of law.

(III) Copies of all such rules shall be laid before both Houses of Parliament within seven days after publication thereof, or if Parliament be not sitting, then within seven days after the commencement of the next ensuing session.

(IV) If either House shall at any time by resolution disapprove of such rules, the rules so disapproved of shall on notification of such resolution to the Chief Justice cease and determine.

SCHEDULE.

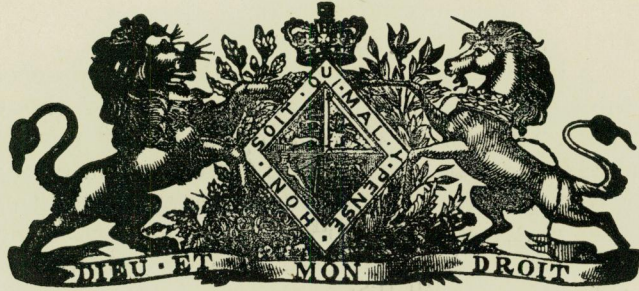
Reference to Act.	Title of Act.	Extent of Repeal.
20 Vic. No. 3 ...	An Act for the payment of costs in proceedings instituted on behalf of the Crown in matters relating to the revenue, and for the amendment of the procedure and practice in Crown Suits.	The whole.
39 Vic. No. 38 ...	Claims against the Colonial Government Act	The whole.

I Certify that this PUBLIC BILL, which originated in the LEGISLATIVE COUNCIL, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

Legislative Council Chamber,
Sydney, 30th November, 1897. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



ANNO SEXAGESIMO PRIMO

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1. This Act may be cited as the "Claims against the Govern- Short title.
ment and Crown Suits Act, 1897."

2. (I) The Acts mentioned in the Schedule to this Act are, to Repeal.
to the extent therein expressed, hereby repealed. Schedule.

(II) All rules of Court made under the authority of any Act Rules of Court under
hereby repealed, and being in force at the time of the passing of this Acts hereby repealed.
Act shall be deemed to have been made under the authority of this Act.

3. (I) Any person having or deeming himself to have any just Claimant may
claim or demand whatever against the Government of New South petition Governor
Wales may set forth the same in a petition to the Governor praying 39 Vic. No. 38, s. 2.
him to appoint a nominal defendant in the matter of such petition, and the Governor may by notification in the Gazette appoint any person resident in New South Wales to be a nominal defendant accordingly.

(II) If within one month after presentation of such petition Governor may
no such notification is made the Colonial Treasurer shall be the appoint nominal
nominal defendant. defendant.

4. The petitioner may sue such nominal defendant at law or in Petitioner may sue as
equity in any competent Court, and every such case shall be commenced in ordinary cases.
in the same way, and the proceedings and rights of parties therein shall *Ibid.* s. 3.
as nearly as possible be the same, and judgment and costs shall follow or may be awarded on either side as in an ordinary case between subject and subject.

Claims against the Government and Crown Suits.

Limited liability of nominal defendant.
Ibid. s. 4.

5. The nominal defendant in any case under this Act shall not be individually liable in person or property by reason of his being such defendant.

Nature of relief.
Ibid. s. 5.

6. In any action or suit under this Act all necessary judgments, decrees, and orders may be given and made, including every species of relief whether by way of—

- (a) specific performance; or
- (b) restitution of rights; or
- (c) recovery of lands or chattels; or
- (d) payment of money or damages.

Costs in proceedings by Crown.
20 Vic. No. 3, ss. 1, 2.
39 Vic. No. 38, s. 6.

7. In any information, action, suit, or other proceeding by or on behalf of the Crown in respect of any property of the Crown, the proceeds, or rents, or profits whereof by any Act now in force or hereafter to be passed are to be carried to the consolidated revenue fund of New South Wales, or in respect of any money due to the Crown by virtue of any Act relating to the public revenue, costs shall follow or may be awarded as in an ordinary case between subject and subject.

Treasurer to pay damages, &c.
Ibid. s. 2.
Ibid. s. 7.

8. (I) The Colonial Treasurer shall pay—
(a) all damages and costs adjudged against such nominal defendant; or
(b) costs awarded against the Crown or Attorney-General. out of any moneys in his hands then legally applicable thereto and forming part of or belonging to the consolidated revenue or voted by Parliament for that purpose.

Execution.

(II) In the event of such payment not being made within sixty days after demand, execution may be had for the amount and levied upon any property vested in the Government but not upon any property—

- (a) vested in the Government on behalf of the Imperial Government; or
- (b) to which the Imperial Government has any claim or is in any-wise entitled.

Payment into Treasury.
20 Vic. No. 3, s. 1.
Rules.
Ibid. s. 3.
39 Vic. No. 38, s. 8.

9. Costs recovered by or on behalf of the Crown shall be paid into the Treasury and become part of the consolidated revenue.

10. (I) The Judges of the Supreme Court or any three of them may make general rules for carrying this Act into effect.

(II) Such rules shall not be inconsistent with this Act, and on being published in the Gazette shall have the force of law.

(III) Copies of all such rules shall be laid before both Houses of Parliament within seven days after publication thereof, or if Parliament be not sitting, then within seven days after the commencement of the next ensuing session.

(IV) If either House shall at any time by resolution disapprove of such rules, the rules so disapproved of shall on notification of such resolution to the Chief Justice cease and determine.

SCHEDULE.

Reference to Act.	Title of Act.	Extent of Repeal.
20 Vic. No. 3 ...	An Act for the payment of costs in proceedings instituted on behalf of the Crown in matters relating to the revenue, and for the amendment of the procedure and practice in Crown Suits.	The whole.
39 Vic. No. 38 ...	Claims against the Colonial Government Act	The whole.

In the name and on the behalf of Her Majesty I assent to this Act.

Government House,
Sydney, 6th December, 1897.

FREDK. M. DARLEY,
Lieutenant-Governor.

Memo. and Certificate to accompany the Claims against the Government and Crown Suits Bill.

THIS Bill consolidates two Statutes,—

20 Victoria No. 3 ;

39 Victoria No. 38.

The wording of these Statutes is old-fashioned and verbose, and has been freely but carefully altered, amended, and simplified with a great improvement in clearness, but without, it is believed, any change of meaning.

In clause 8 the words “under this Act” after “Attorney-General,” and the word “thereafter” before “voted by Parliament,” have been omitted as unnecessary.

In drafting clause 10 it has been considered that section 3 of the 20 Victoria No. 3 has been practically superseded by section 8 of 39 Victoria No. 38, and section 3 has therefore been ignored. The differences between the two are immaterial, and as the power to make rules appears to be under the later Act quite as wide as under the earlier, and rules would in all probability be made under the later Act, the earlier section would be useless.

None of the changes made are changes of meaning, and I certify that this Bill solely consolidates and in no way alters, amends, or adds to the law in the Statutes hereby consolidated.

CHAS. G. HEYDON,
Commissioner for the Consolidation of the Statute Law.

Statement and Certificate to accompany the Claims
of the Government and Civilian Sales Bill

—

30 January 1914
Washington, D.C.

That the undersigned is a duly qualified and sworn and has been duly
examined and approved by a proper authority in accordance
with the provisions of the Act.

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examined and approved by a proper authority in accordance
with the provisions of the Act.

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examined and approved by a proper authority in accordance
with the provisions of the Act.

STATE OF NEW YORK

Notary Public for the County of New York

The Public Bill originated in the Legislative Council, and having been passed, is now ready for presentation to the Legislative Assembly for its concurrence.

Legislative Council Chamber,
Sydney, 25th October, 1897.

JOHN J. CALVERT,
Clerk of the Council.

New South Wales.

Claims against the Government and Crown Suits Bill.

TABLE showing how the sections of the Acts intended to be consolidated have been dealt with.

Section of Act.	Section of Bill.	Remarks.
20 VICTORIA No. 3.		
1	7, 9	
2	7, 8	
3	10	
39 VICTORIA No. 38.		
1	3
2	4	
3	5	
4	6	
5	7	
6	8	
7	10	
8		
9	

Claims against the Government and Crown Suits Act, 1897.

2. (1) The Acts mentioned in the Schedule to this Act are, to and to the extent therein expressed, hereby repealed.

10 hereby repealed, and being in force at the time of the passing of this Act shall be deemed to have been made under the authority of this Act.

15 (2) Any person having or drawing himself to have any real claim or demand whatsoever against the Government of New South Wales may set forth the same in a petition to the Governor praying him to appoint a nominal defendant in the matter of such petition, and the Governor may by notification in the Gazette appoint any person resident in New South Wales to be a nominal defendant aforesaid.

20 (3) If within one month after presentation of such petition no such notification is made the Colonial Treasurer shall be the nominal defendant.

(4) The petitioner may sue such nominal defendant at law or in equity in any competent Court, and every such case shall be commenced in the same way, and the proceedings and rights of parties therein shall

The House has appointed the Finance Committee and has also
 passed a resolution for the purpose of the Finance Committee.

HOUSE OF REPRESENTATIVES
 REPORTS

Session of 1878
 No. 10

Claims against the Government and Crown Suits Bill

Table showing how the sections of the Act intended to be consolidated have been
 dealt with.

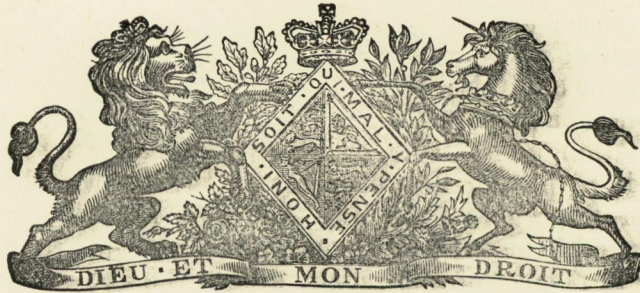
Section of Act	Section of Bill	Remarks
30 Victoria No. 3		
1	1	
2	2	
3	3	
4	4	
5	5	
6	6	
7	7	
8	8	
9	9	
10	10	
30 Victoria No. 38		
1	1	
2	2	
3	3	
4	4	
5	5	
6	6	
7	7	
8	8	
9	9	
10	10	

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

Legislative Council Chamber,
Sydney, 28th October, 1897. }

JOHN J. CALVERT,
Clerk of the Parliaments.

New South Wales.



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VICTORIÆ REGINÆ.

No. . (A.D. 1897.)

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- 5 1. This Act may be cited as the "Claims against the Govern- Short title.
ment and Crown Suits Act, 1897."
- 2. (I) The Acts mentioned in the Schedule to this Act are, to Repeal.
to the extent therein expressed, hereby repealed. Schedule.
- (II) All rules of Court made under the authority of any Act Rules of Court under
10 hereby repealed, and being in force at the time of the passing of this Acts hereby repealed.
Act shall be deemed to have been made under the authority of this Act.
- 3. (I) Any person having or deeming himself to have any just Claimant may
claim or demand whatever against the Government of New South petition Governor
15 Wales may set forth the same in a petition to the Governor praying 39 Vic. No. 38, s. 2.
him to appoint a nominal defendant in the matter of such petition, and the Governor may by notification in the Gazette appoint any person resident in New South Wales to be a nominal defendant accordingly.
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in the same way, and the proceedings and rights of parties therein shall *Ibid.* s. 3.

Claims against the Government and Crown Suits.

as nearly as possible be the same, and judgment and costs shall follow or may be awarded on either side as in an ordinary case between subject and subject.

5 The nominal defendant in any case under this Act shall not be individually liable in person or property by reason of his being such defendant. Limited liability of nominal defendant. *Ibid.* s. 4.

6. In any action or suit under this Act all necessary judgments, decrees, and orders may be given and made, including every species of relief whether by way of— Nature of relief. *Ibid.* s. 5.

- 10 (a) specific performance; or
 (b) restitution of rights; or
 (c) recovery of lands or chattels; or
 (d) payment of money or damages.

15 7. In any information, action, suit, or other proceeding by or on behalf of the Crown in respect of any property of the Crown, the proceeds, or rents, or profits whereof by any Act now in force or hereafter to be passed are to be carried to the consolidated revenue fund of New South Wales, or in respect of any money due to the Crown by virtue of any Act relating to the public revenue, costs shall follow or
 20 may be awarded as in an ordinary case between subject and subject. Costs in proceedings by Crown. 20 Vic. No. 3, ss. 1, 2. 39 Vic. No. 38, s. 6.

8. (I) The Colonial Treasurer shall pay— Treasurer to pay damages, &c. *Ibid.* s. 2. *Ibid.* s. 7.
 (a) all damages and costs adjudged against such nominal defendant; or
 (b) costs awarded against the Crown or Attorney-General.
 25 out of any moneys in his hands then legally applicable thereto and forming part of or belonging to the consolidated revenue or voted by Parliament for that purpose.

(II) In the event of such payment not being made within Execution.
 sixty days after demand, execution may be had for the amount and
 30 levied upon any property vested in the Government but not upon any property—

- (a) vested in the Government on behalf of the Imperial Government; or
 (b) to which the Imperial Government has any claim or is in any-
 35 wise entitled.

9. Costs recovered by or on behalf of the Crown shall be paid into the Treasury and become part of the consolidated revenue. Payment into Treasury. 20 Vic. No. 3, s. 1.

10. (I) The Judges of the Supreme Court or any three of them may make general rules for carrying this Act into effect. Rules. *Ibid.* s. 3. 39 Vic. No. 38, s. 8.
 40 (II) Such rules shall not be inconsistent with this Act, and on being published in the Gazette shall have the force of law.

(III) Copies of all such rules shall be laid before both Houses of Parliament within seven days after publication thereof, or if Parliament be not sitting, then within seven days after the commence-
 45 ment of the next ensuing session.

(IV) If either House shall at any time by resolution disapprove of such rules, the rules so disapproved of shall on notification of such resolution to the Chief Justice cease and determine.

SCHEDULE.

50 Reference to Act.	Title of Act.	Extent of Repeal.
20 Vic. No. 3 ...	An Act for the payment of costs in proceedings instituted on behalf of the Crown in matters relating to the revenue, and for the amendment of the procedure and practice in Crown Suits.	The whole.
55 39 Vic. No. 38 ...	Claims against the Colonial Government Act	The whole.

Memo. and Certificate to accompany the Claims against the Government and Crown Suits Bill.

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In clause 8 the words “under this Act” after “Attorney-General,” and the word “thereafter” before “voted by Parliament,” have been omitted as unnecessary.

In drafting clause 10 it has been considered that section 3 of the 20 Victoria No. 3 has been practically superseded by section 8 of 39 Victoria No. 38, and section 3 has therefore been ignored. The differences between the two are immaterial, and as the power to make rules appears to be under the later Act quite as wide as under the earlier, and rules would in all probability be made under the later Act, the earlier section would be useless.

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Commissioner for the Consolidation of the Statute Law.

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Claims against the Government and Crown Suits Bill.

TABLE showing how the sections of the Acts intended to be consolidated have been dealt with.

Section of Act.	Section of Bill.	Remarks.
20 VICTORIA No. 3.		
1	7, 9	
2	7, 8	
3	10	
39 VICTORIA No. 38.		
1	
2	3	
3	4	
4	5	
5	6	
6	7	
7	8	
8	10	
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Claims against the Government and Crown Suits Bill

Table showing how the sections of the Act are numbered in the consolidated table from
Bill with

Section of Act	Section of Bill	Remarks
20 VICTORIA No. 8		
1	1	
2	2	
3	3	
22 VICTORIA No. 22		
1	1	
2	2	
3	3	
4	4	
5	5	
6	6	
7	7	
8	8	
9	9	
10	10	

Legislative Council.

No. , 1897.

A BILL

For consolidating enactments relating to Claims against the Government and Crown Suits.

[MR. WANT;—13 October, 1897.]

BE it 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:—

5 1. This Act may be cited as the "Claims against the Govern- Short title.
ment and Crown Suits Act, 189 ."

2. (I) The Acts mentioned in the Schedule to this Act are, to Repeal.
to the extent therein expressed, hereby repealed. Schedule.

10 (II) All rules of Court made under the authority of any Act Rules of Court under
hereby repealed, and being in force at the time of the passing of this Acts hereby repealed.
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Act.

15 3. (I) Any person having or deeming himself to have any just Claimant may
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Ibid. s. 4.

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- (a) vested in the Government on behalf of the Imperial Government; or
- (b) to which the Imperial Government has any claim or is in any-wise entitled. 35

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Rules.
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(ii) Such rules shall not be inconsistent with this Act, and on being published in the Gazette shall have the force of law. 40

(iii) Copies of all such rules shall be laid before both Houses of Parliament within seven days after publication thereof, or if Parliament be not sitting, then within seven days after the commencement of the next ensuing session. 45

(iv) If either House shall at any time by resolution disapprove of such rules, the rules so disapproved of shall on notification of such resolution to the Chief Justice cease and determine.

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39 Vic. No. 38 ...	Claims against the Colonial Government Act	The whole.	