

No. XV.

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

Preamble.

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:—

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

Claim to be referred
for trial.

Claim affecting
Prerogative to be
reserved.

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 indorsed 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

Claims against Government.

Her 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 indorsation 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.

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.

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.