

Act No. 30, 1897.

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

CLAIMS AGAINST
THE GOVERNMENT
AND CROWN SUITS.

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 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to the extent therein expressed, hereby repealed.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hereby repealed, and being in force at the time of the passing of this Acts hereby repealed.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)

Claims against the Government and Crown Suits.

Governor may
appoint nominal
defendant.

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

Petitioner may sue as
in ordinary cases.
39 Vic. No. 38, s. 3.

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.

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)

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Compensation to Relatives.

(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.