

No. III.

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. [29th December, 1856.]

COSTS IN CROWN SUITS.

WHEREAS in divers proceedings instituted by or on behalf of the Crown against the Queen's subjects in respect of matters relating to the Revenue no costs are recovered by the Crown except in certain cases and no costs are paid by the Crown to the subject And whereas it is expedient to assimilate the law as to the recovery of costs in such proceedings by or on behalf of the Crown to that in force as to proceedings between subject and subject Be it therefore 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 this present Parliament assembled and by the authority of the same as follows:—

1. In all informations actions suits and other legal proceedings to be hereafter instituted before any Court or Tribunal by or on behalf of the Crown against any corporation or person or persons in respect of any lands tenements or hereditaments or of any goods or chattels belonging or accruing to the Crown the proceeds whereof or the rents or profits of which said lands tenements or hereditaments 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 sum or sums of money due and owing to Her Majesty by virtue of any Act relating to the Public Revenue Her Majesty's Attorney General for the Colony shall be entitled to recover costs for and on behalf of Her Majesty where judgment shall be given for the Crown in the same manner and under the same rules regulations and provisions as are or may be in force touching the payment or receipt of costs in proceedings between subject and subject and such costs shall be paid into the Treasury and shall become part of the Consolidated Revenue Fund.

2. If in any such information action suit or other proceeding judgment shall be given against the Crown the defendant or defendants shall be entitled to recover costs in like manner and subject to the same rules and provisions as though such proceeding had been had between subject and subject and it shall be lawful for the Colonial Treasurer upon the warrant of the Governor which he is hereby required to issue to pay such costs out of any moneys which may be hereafter voted by the Parliament of the Colony for that purpose.

3. And whereas the procedure and practice in informations suits and other proceedings instituted by or on behalf of the Crown require amendment and it is desirable that the same should be assimilated as nearly as may be to the course of practice and procedure now in force in actions and suits between subject and subject Be it enacted That 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 pleading and practice in such informations suits and other proceedings and to frame such writs and forms of proceedings as to them may seem expedient 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

Preamble.

In certain Crown suits &c. where the Crown is successful costs to be recovered as between subject and subject.

Defendant entitled to costs if successful against the Crown.

Power to Judges to make rules and orders for regulation of pleading and practice in Crown suits.

Judges' Salaries.

sitting then within five days after the next meeting thereof and no such rule order or regulation shall have effect until three months after the same shall have been so laid before both Houses of Parliament and any rule order or regulation so made shall from and after such time aforesaid be binding and obligatory and 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 in Her Majesty's name by any Proclamation inserted in the *Government Gazette* 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.
