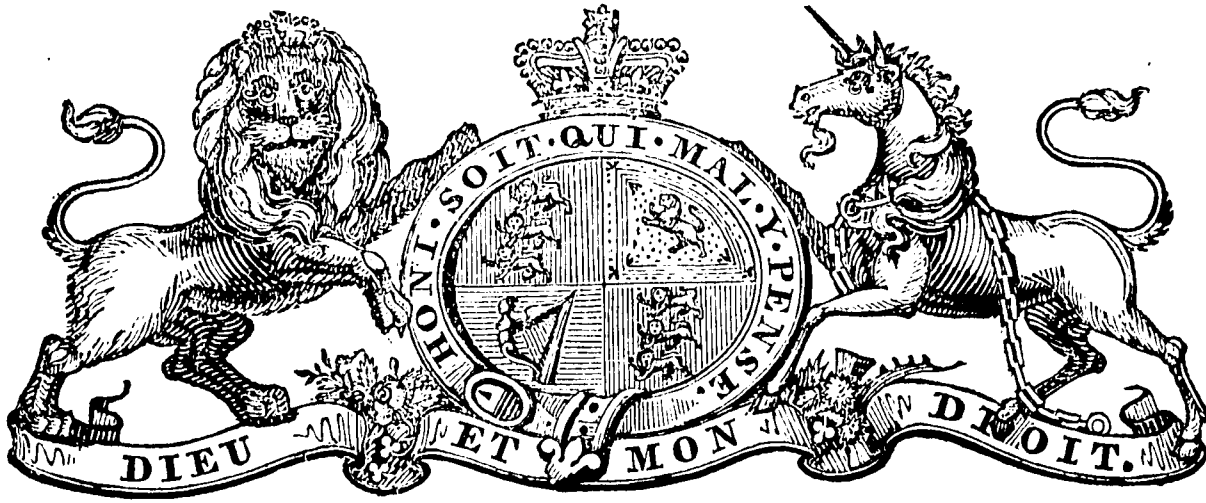


VICTORIA.



ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

No. XLIX.



An Act for the enforcement of Claims against the Crown.

[Reserved 27th August, 1857. Royal Assent announced by Message, 4th June, 1858.]

WHEREAS disputes and differences have arisen and accrued and may hereafter arise and accrue between divers persons and Her Majesty's Local Government in Victoria and the ordinary remedies by Petition of Right and *Monstrans de Droit* are respectively insufficient to meet such cases and are attended with great expense and delay And whereas it is expedient to provide a more simple and efficacious mode of proceeding against the Crown in respect of claims which shall hereafter arise within the said Colony 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 Victoria in this present Parliament assembled and by the authority of the same as follows that is to say—

Preamble.

I. When any person has any claim or demand against Her Majesty which may hereafter arise or accrue within Victoria it shall be lawful for such person to set forth in a petition the particulars of his claim or demand as nearly as may be in the same manner as in a declaration or bill of complaint (as the case may be) and such petition shall be filed in the Supreme Court in order that such court may proceed to hear and determine the same as hereinafter mentioned and the filing of such petition in the manner aforesaid shall be the commencement of the suit.

Subjects enabled to sue the Crown, 2 and 3 Edw. 6, c. 8.

II. If the matter disclosed and stated in the said petition would be the ground of an action at law if the same had arisen between subject and subject the proceedings on such petition shall be conducted in the same manner and subject as nearly as may be to the same rules of practice as an action at law and the Attorney or Solicitor General shall for and on behalf of Her Majesty plead or demur to such petition within the same time after delivery to him of a copy thereof as any subject would be bound to plead or demur to a declaration and if the complaint disclosed and stated in the said petition would be the ground of a suit in

Petition to be analogous to an action at law or suit in equity.

Claims against the Crown.

in equity if the same had arisen between subject and subject the proceedings on such petition shall be conducted in the same manner and subject as nearly as may be to the same rules of practice as a suit in equity and the Attorney or Solicitor General shall for and on behalf of Her Majesty answer plead or demur to such petition within the same time after delivery to him of a copy thereof as any subject would be bound to plead answer or demur to a bill of complaint.

Form and date of petition and proceedings.

III. All pleadings after such petition shall be respectively delivered between the petitioner and the Attorney or Solicitor General and every such petition and pleadings respectively shall and may be in the form contained in the first schedule to this Act or to the like effect and shall be entitled of the said court and of the day of the month and the year when the same is filed or delivered and shall bear no other time or date.

Judgment or decree and costs.

IV. The said court shall and may give and pronounce such and the like judgment order or decree in any such petition as such court would give and pronounce in any action or suit between subject and subject and a writ of error or appeal from any such judgment order or decree shall lie and be had in the same manner as from any judgment order or decree of the said court in any action or suit between subject and subject and the costs of suit shall follow on either side as in ordinary cases between other suitors any law or practice to the contrary notwithstanding.

Execution against the Crown.

V. Except as hereinafter mentioned no execution or attachment or process in the nature thereof shall be issued out of the said court in any such suit but after any such judgment order or decree as aforesaid against the Crown shall have been given or pronounced the proper officer of the said court shall give to the petitioner a certificate in the form contained in the last schedule to this Act or to the like effect.

Governor may pay damages and costs and perform decrees.

VI. On receipt of such certificate it shall be lawful for the Governor to cause to be paid out of the consolidated revenue such damages as may under the authority of this Act be assessed to or in favor of any such petitioner and also any costs which may be adjudged or awarded to him by the said court and also to perform any decree or order which may be pronounced or made by the said court.

Execution against the petitioner.

VII. Notwithstanding anything hereinbefore contained it shall be lawful for Her Majesty to enforce any such judgment order or decree as aforesaid against the petitioner by execution attachment or other process in the same manner as a defendant in any action or suit between subject and subject could or might enforce the same.

What claims within the Act.

VIII. Nothing shall be deemed a claim or demand within the meaning of this Act unless the same shall be founded on and arise out of some contract entered into on behalf of Her Majesty by or by the authority of Her said Local Government.

Claims against the Crown.

THE FIRST SCHEDULE.

In the Supreme Court.
 The day of
 To THE QUEEN'S MOST EXCELLENT MAJESTY.

Your faithful subject A.B. of Collins-street in the City of
 Melbourne builder humbly showeth

That &c.

Your suppliant therefore most humbly prays that Your Majesty will be most graciously pleased to order that right be done in this matter and that Your Majesty's Attorney or Solicitor General may be required to answer the same and that your suppliant may henceforth prosecute his complaint in the said court and take such other proceedings as may be necessary. And your suppliant as in duty bound shall ever pray.

 ANSWER OR PLEA.

In the Supreme Court.

The day of
 SMITH } W.F.S. Esquire Attorney [*or* Solicitor] General of our Lady the Queen
 } for the said Colony for and on behalf of our said Lady the Queen saith
 v }
 THE QUEEN. } that &c.

 THE LAST SCHEDULE.

I do hereby certify that A.B. of &c. did on the day of obtain a
 judgment [order *or* decree] of the Supreme Court in his favor and that by such [judgment]
 the sum of was awarded to him.

Dated, &c.

(L.S.)

 MELBOURNE:

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