



ANNO DECIMO QUINTO

VICTORIÆ REGINÆ.

No. 14.

An Act to give relief to Persons having Claims against the Local Government of South Australia, by authorising them to try the validity of such Claims in a Court of Law or Equity.

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 Province of South Australia, the subject matter of which disputes and differences has arisen, or may arise, within the said Province: And whereas the ordinary remedy, by Petition of right, is of limited operation, is insufficient to meet all such cases, can only be obtained in England, and is attended with great expense, inconvenience, and delay:

Be it therefore Enacted by his Excellency the Lieutenant-Governor of South Australia, by and with the advice and consent of the Legislative Council thereof, and by the authority of the same, that in all cases of dispute or difference between any subject of Her Majesty and the Colonial Government of the Province of South Australia, which may have arisen, or may hereafter arise, or the subject matter of which may lie or be within the said Province, it shall and may be lawful for any person or persons having such disputes or differences, to present a Petition to the Lieutenant-Governor for the time being of the said Province, setting forth the particulars of the claim of such Petitioner or Petitioners,

*Disallowed - &
Re-enacted by
~~Act 1853-6~~
No. 14 - 1853.*

to which Petition there shall be attached a certificate from some practising Barrister of the Supreme Court of the said Province, to the effect, that such Petitioner or Petitioners has or have, in the opinion of such Barrister, a proper case for redress, or cause of complaint against such Local Government, which Petition shall, within fourteen days from the presentation thereof, be referred by the Lieutenant-Governor to the Supreme Court of the said Province, or some Judge thereof, for trial by a jury or otherwise as such Court or Judge shall after such reference direct: Provided always, that in case any Judge or Judges of the said Supreme Court shall certify, in writing, endorsed on any such petition or petitions so to be presented as aforesaid, that in his or their opinion the subject matter of such petition or petitions affects the Royal prerogative, it shall and may be lawful for such Court to remit such petition or petitions back to the Lieutenant-Governor, who shall thereupon 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 or petitions be returned with 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 endorsement thereon, and the reasons assigned for withholding such approval, shall be forthwith published in the *South Australian Government Gazette*, in which case the remedy hereby provided shall not be had.

2. And be it further Enacted, That at the time of such reference as aforesaid, the Lieutenant-Governor shall name some person or persons to be a Nominal Defendant or Defendants in the matter of such Petition, the Petitioner or Petitioners being the Plaintiff or Plaintiffs therein: Provided always, that as respects any claims which may have arisen against the Local Government of the said Province before the passing of this Act, no claimant or claimants shall be excluded from remedy under the provisions of this Act by reason of lapse of time, nor shall any nominal defendant be permitted to plead, or in any way avail himself of any Statute of Limitation: Provided also, 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. And be it further Enacted, that the said Supreme Court shall and may make such rules or orders for the regulation of the proceedings on any such Petition or Petitions as to such Court shall seem necessary, and that the parties thereto shall have the same rights, either by way of appeal, rehearing, motion for reversal of verdicts, or otherwise, as in ordinary cases of law or equity.

4. And be it Enacted, That costs of suit shall follow on either side as in ordinary cases between suitors, any law or practice to the contrary notwithstanding.

5. And

5. And be it further Enacted, That it shall be lawful for the Lieutenant-Governor for the time being to satisfy and pay such claims as may, under the authority of this Ordinance, be decided in favor of such Petitioner or Petitioners, out of the General Revenue of the said Province, and to perform the decree or decrees of the said Court or Judge, in terms of such decree or decrees.

6. And be it further Enacted, That this Ordinance shall take effect and be in force immediately after the passing thereof.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this Nineteenth }
day of December, One Thousand }
Eight Hundred and Fifty-one.*

WM. B. GILBERT,
Pro Clerk of Council.

Reserved for the signification of Her Majesty's pleasure.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
2nd January, 1852.