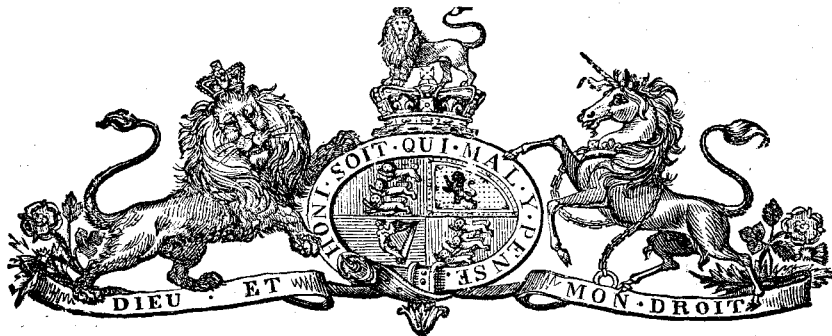


Colonial  
Council

TASMANIA.



1859.

ANNO VICESIMO-TERTIO

VICTORIÆ REGINÆ,

No. 1.

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AN ACT to give Redress to Persons having Claims against the Crown arising in the Colony of *Tasmania*. [14 September, 1859.]

BE it enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

**1** Any Claim against Her Majesty founded on and arising out of any Contract entered into on behalf of Her Majesty by or by the authority of Her Majesty's Local Government of the Colony, which would, if such Claim had arisen between subject and subject, be the ground of an Action at Law or Suit in Equity, shall be a Claim cognizable under this Act.

**2** The provisions of this Act shall extend to Claims cognizable under this Act relating to Land or to the use of Water which have arisen at any time before the commencement of this Act, and to any other Claim cognizable under this Act which has arisen since the 1st day of *November*, 1856, if such last-mentioned Claim has been actually made to the Colonial Government before the passing of this Act: Provided, that the Suit in respect of any Claim mentioned in this Section be commenced within the period of One Year after the commencement of this Act.

Claims cognizable under this Act.

Act to extend to Claims to Land and Water arising before commencement thereof, and to other Claims since 1st *November*, 1856.

Subjects having Claims against the Crown may commence a Suit by filing Supplication

**3** Any person having a Claim cognizable under this Act may commence a Suit against Her Majesty in the Supreme Court of *Tasmania*, by filing a Supplication in the said Court setting forth the particulars of such Claim; and the Supreme Court is hereby empowered to hear and determine such Suit in manner hereinafter provided.

Limitation of Suits.

**4** No Suit shall be commenced under this Act, in respect of Claims arising after the commencement of this Act, but within Six Years after the time at which the right to commence such Suit accrued.

Supplication to be in form of a Declaration or Bill of Complaint according as Claim is legal or equitable.

**5** If the Claim is such as between subject and subject would have been the ground of an Action at Law, the particulars thereof shall be set forth in the Supplication as nearly as may be in the same manner as in a Declaration; and if the Claim is such as between subject and subject would have been the ground of a Suit in Equity, the particulars thereof shall be set forth in the Supplication as nearly as may be in the same manner as in a Bill of Complaint.

Suit by Supplication to be analogous to an Action at Law or Suit in Equity according as Claim is legal or equitable.

**6** If the matter stated in the Supplication would be the ground of an Action at Law if it had arisen between subject and subject, the proceedings in the Suit 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-General shall on behalf of Her Majesty plead or demur to the Supplication 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 stated in the Supplication would be the ground of a Suit in Equity if it had arisen between subject and subject, the proceedings in the Suit 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-General shall, on behalf of Her Majesty, answer, plead, or demur to the Supplication 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: Provided that nothing herein contained shall limit or abridge any Prerogative of Her Majesty in relation to pleading or otherwise in any such Suit.

Form and date of Supplication and proceedings.

**7** All pleadings after the Supplication shall be respectively delivered between the Suppliant and the Attorney-General, and such Supplication and pleadings respectively shall be in the forms contained in the Schedule 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 are filed or delivered, and shall bear no other time or date.

Judgment.

**8** The said Court shall give and pronounce such and the like Judgment, Order, or Decree in the Suit as such Court would give and pronounce in the like Action or Suit between subject and subject; and an Appeal from any such Judgment, Order, or Decree shall lie 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.

Appeal.

Costs.

No execution to issue against the Crown, but a Certificate of Judgment to be given to Suppliant.

**9** No execution or attachment, or process in the nature thereof, shall be issued out of the said Court against the Crown in any such Suit, but after any Judgment, Order, or Decree has been given or pronounced against the Crown in such Suit, the proper Officer of the Court shall give to the Suppliant a Certificate in the form contained in the Schedule, or to the like effect.

**10** On receipt of such Certificate it shall be lawful for the Governor with the advice of the Executive Council to cause to be paid out of the General Revenue such Damages as may under the authority of this Act be assessed to or in favour of the Suppliant, and also any Costs which may be adjudged or awarded to him by the Court, and also to perform any Decree or Order which may be pronounced or made in the Suit by the Court.

Governor may on receipt of Certificate pay Damages and Costs, and perform Decrees.

**11** It shall be lawful for Her Majesty to enforce any Judgment, Order, or Decree given or pronounced against the Suppliant by process of extent, or by such execution, attachment, or other process as a Defendant in any Action or Suit between subject and subject could enforce the same.

Execution against the Petitioner.

**12** Nothing in this Act contained shall extend to Claims which have before the commencement of this Act been satisfied, compounded, or otherwise settled between the Local Government and the person having had such Claim.

Act not to apply to settled Claims.

**13** Nothing in this Act contained shall extend to any Claim the compensation for which would, if granted before the commencement of this Act, have been paid from Imperial Funds, as distinguished from the Land Fund or the General Revenue of this Colony.

Act to extend only to Claims against Colonial Government.

**14** The Judges of the Supreme Court are hereby empowered to make all such General Rules and Orders for the regulation of the Pleadings, Practice, or Proceedings in Suits under this Act as such Judges from time to time think necessary.

Judges empowered to make General Rules for regulating Proceedings.

**15** This Act shall commence and take effect on the First day of *October*, 1859.

Commencement of Act.

**16** In referring to this Act it shall be sufficient to use the expression *The Crown Redress Act*.

Short Title.

## SCHEDULE.

*FORM of Supplication.*

In the Supreme Court of *Tasmania*.

The                      day of                      185

To the Queen's Most Excellent Majesty.

Your Majesty's faithful Subject *J.N.*, of *Macquarie-street*, in the  
City of *Hobart Town*, in *Tasmania*, Builder, humbly sheweth :

THAT, &c.

Your Suppliant, therefore, humbly prays that Your Majesty will be graciously pleased to order that right be done in this matter; and that Your Majesty's Attorney-General may be required to answer the same; and that your Suppliant may henceforth prosecute his Supplication in the said Court, and take such other proceedings as may be necessary. And your Suppliant, as in duty bound, shall ever pray.

*FORM of Plea, Answer, or Demurrer.*

In the Supreme Court of *Tasmania*.

The                      day of                      185

THE QUEEN } *F.S.*, Esquire, Attorney-General of our Lady the Queen, for our said  
*ats.* } Lady the Queen as to the said Supplication says, That &c.  
NOKES. }

*FORM of Replication or Joinder of Issue.*

In the Supreme Court of *Tasmania*.

The                      day of                      185

NOKES } THE Suppliant as to the first [second, &c.] Plea of the Attorney-  
*v.* } General says that, &c. ;  
THE QUEEN. } *or*, The Suppliant joins Issue on the first [second, &c.] Plea of the  
Attorney-General.

*And so in like manner for any subsequent Pleadings.*

*FORM of Certificate of Judgment, &c.*

I do hereby certify that *J.N.* of, &c. did on the                      day of  
obtain a Judgment [Order or Decree] of the Supreme Court in his favour, and that by  
such Judgment the sum of                      was awarded to him.

Dated, &c.