

CAP. VIII.

An Act to provide for the more easy Recovery of certain Claims against the Government of this Colony.

[Passed 13th April, 1864.]

WHEREAS it is expedient to provide for the more easy recovery of Claims, arising *ex contractu*, preferred by Private Individuals against the Government of this Colony : Preamble.]

Be it therefore enacted, by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows :

I.—It shall be lawful for any Person who may have any Claim arising *ex contractu* against the Government of this Colony, or against any Department thereof, to prefer a Petition to the Supreme Court, setting forth, as briefly as possible, the circumstances of his Claim, and praying such relief, whether Legal or Equitable, as he may consider himself entitled to ; and such Petition shall be verified by Affidavit, and a copy thereof shall be served upon the Attorney General, or, in his absence, the Solicitor General, for the time being. Parties having claims against Government Departments to proceed by petition ;

II.—It shall be lawful for the Attorney General, or, in his absence, the Solicitor General, and he is hereby required, within Ten Days after such service, to file an Appearance and answer to the said Petition in the said Court, and to serve a copy of his answer on the Petitioner or his Attorney ; and it shall be lawful for the Petitioner, should he dispute the allegations therein contained, to file a general Replication to the same within Four Days after such answer shall have been served upon him ; and should either party fail within the times aforesaid to take such steps as may be incumbent upon him to bring the case to a hearing, Judgment that the matter of the Petition be taken as Confessed, or that the same be dismissed for want of Prosecution, as the case may require, may be entered by Rule Absolute, in the first instance, by the opposite Party. To be verified by affidavit and copy served on Attorney General.

III.—Upon any Petition being taken as confessed for the cause aforesaid, it shall be lawful for the Court to pronounce Judgment therein, or to refer to the consideration and report of the Master any matter upon Appearance and answer within ten days.

General replication in four days.

Judgment in the event of either party failing to proceed.

Proceedings on petition being taken as confessed.

consideration and report of the Master any matter upon

which they may deem inquiry to be necessary. The Defendants in such suit shall be at liberty to attend before the Master, and within Four Days after the Master's Report shall have been filed, to file and serve exceptions to the same; and after all exceptions (if any) shall have been heard and determined, or upon such Report, if no exceptions have been taken, the Court shall give Judgment in the cause according to the principles hereinafter declared with reference to contested suits.

When answer admitted,

IV.—When the Petitioner shall admit the matter set forth in the answer of the Attorney General, or of the Solicitor General, he shall, within Four Days after such answer shall have been served and filed as aforesaid, set the cause down for hearing upon Petition and Answer.

Evidence may be taken

V.—When a Replication shall have been filed, any evidence that may be required shall be taken in manner now practised on the Equity side of the said Court; and when all the Evidence shall have been taken, the cause may be set down for hearing by either party upon Petition, Answer and Evidence.

Judgment to be certified to the Colonial Secretary and carried into effect by Government.

VI.—At or after the hearing of the cause, Judgment, either Legal or Equitable, according to the character of the relief sought, shall be given therein; and upon such Judgment being certified to the Colonial Secretary by the Clerk of the Court, the same shall be carried into effect by the Government, either by payment of the amount thereof out of the general Revenue of the Colony, or by the performance of any other act that may be therein directed, should such Judgment be to any effect other than the payment of Money; or Judgment for the payment of Money may be enforced by process of Execution against the Moneys, Lands, and Effects of the Local Government, as in ordinary cases between Party and Party.

Court may order re-hearing, &c.

VII.—It shall be lawful for the said Court, if it shall think fit, upon the Petition of either Party, to be filed within Four Days after Judgment shall have been given, to order that the said cause be re-heard; and at or after such re-hearing, it shall be lawful for the

said Court to confirm, alter, amend or reverse, its former Judgment, as the merits of the case may require.

VIII.—When any such Petition shall be dismissed or Judgment in the matter thereof be given against the Petitioner, the Attorney of the Defendants shall tax, and be entitled to from the Petitioner, the same Costs as are allowed in an Equity Suit between Private Parties, and shall have the like remedy for the recovery thereof; and where Judgment shall be given for the Petitioner, he shall be entitled to tax and recover Costs after the same scale from the Government, in manner provided with respect to Judgments for the payment of Money; Provided, that nothing herein contained shall control the discretion of the Court in giving or withholding Costs according to the ordinary rules of Equity, where the relief sought is of an equitable character.

Provisions as to costs.

Proviso.

IX.—It shall be lawful for either Party in any such Suit to Appeal to the Queen in Council, in the same manner as in ordinary cases, between Party and Party, under the Royal Charter.

Appeal to Queen in Council.

CAP. IX.

An Act to improve and simplify the Practice on the Common Law side of the Supreme and Central Circuit Courts, and to Consolidate the Laws relating to the same.

[Passed April 13, 1864.]

WHEREAS it is expedient to improve and simplify the Practice on the Common Law side of the Supreme and Central Circuit Courts, and to Consolidate the Laws relating to the same:

Preamble.

Be it therefore enacted by the Governor, Legislative Council, and Assembly, in Legislative Session convened, as follows:—

I.—All Personal Actions in the said Courts shall be commenced by Writs either of Summons, Attachment, or Capias, in one or other of the forms contained in the Schedule to this Act, and such Writs shall be issued under the Seal of the Court and be signed by the

PERSONAL ACTIONS commenced by Summons, Attachment or Capias.