

English Laws.

No. II.

ENGLISH LAWS.

AN ACT to declare the Laws of England, so far as applicable to the circumstances of the Colony, to have been in force therein on and after the Fourteenth day of January, One thousand eight hundred and forty. [28th May, 1858.]

Preamble.

WHEREAS the laws of England as existing on the fourteenth day of January, one thousand eight hundred and forty, have until recently been applied in the administration of justice in the Colony of New Zealand so far as such laws were applicable to the circumstances thereof: And whereas doubts have now been raised as to what Acts of the Imperial Parliament passed before the said fourteenth day of January, one thousand eight hundred and forty, are in force in the said Colony: And whereas it is expedient that all such doubts should be removed without delay:

BE IT THEREFORE DECLARED AND ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

The laws of England to apply to the Colony from and after the 14th day of January, 1840.

1. The laws of England as existing on the fourteenth day of January, one thousand eight hundred and forty, shall, so far as applicable to the circumstances of the said Colony of New Zealand, be deemed and taken to have been in force therein on and after that day, and shall continue to be therein applied in the administration of justice accordingly.

Short Title.

2. This Act may for all purposes be cited as "*The English Laws Act, 1858.*"

No. III.

CROWN COSTS.

AN ACT to provide for the Payment of Costs in Proceedings instituted on behalf of the Crown.

[28th May, 1858.]

Preamble.

WHEREAS in divers proceedings instituted by or on behalf of the Crown against the Queen's subjects 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 General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

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

1. In all informations actions suits and all 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, or in respect of any sum or sums of money due and owing to Her Majesty, 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

Absent Defendants.

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 for the public uses of the Colony.

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 proceedings had been 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.

Defendant entitled to costs if successful against the Crown.

3. The Short Title of this Act shall be "*The Crown Costs Act*, Short Title. 1858."

No. IV.

AN ACT to provide for the Service of the Process of the Supreme Court of New Zealand upon Defendants absent from the Colony. [28th May, 1858.]

ABSENT
DEFENDANTS.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. In case any defendant in any action in the Supreme Court is not within the Colony, it shall be lawful for the plaintiff to issue a writ of summons in the usual form according to the nature of the action, but which, in addition to any other indorsements required by law, shall before the same is issued be indorsed as follows, namely:— "This writ is issued out of the Supreme Court of the Colony of New Zealand for service out of the said Colony," and "This writ remains in force six calendar months including the day of the date thereof. It cannot be served after such time unless the defendant consent to be served therewith;" and the time for appearing and pleading by the defendant shall be regulated by the distance from New Zealand of the place where the defendant is residing.

Writs with certain indorsements may be issued against defendants absent from the Colony.

2. Such writ may be served on the defendant anywhere out of the Colony.

May be served anywhere out of the Colony.

3. Upon being satisfied upon affidavit that there is a cause of action which arose within the Colony, or a cause of action in respect of the breach of a contract made or to be wholly or in part performed within the Colony, and that the writ with the declaration annexed was personally served upon the defendant, or that reasonable efforts had been made to effect personal service thereof upon the defendant, and that it came to his knowledge and that either the defendant wilfully neglects to appear and plead to such writ and declaration or that he is living out of the jurisdiction of said Court in order to defeat or delay his creditors, it shall be lawful for the Court or any Judge of the Court to direct from time to time that the plaintiff shall be at liberty to proceed in the action in such manner and subject to such conditions as to such Court or Judge may seem fit, having regard to the time allowed for the defendant to appear and plead being reasonable, and to the other circumstances of the case.

Court or Judge may direct that the plaintiff may proceed in action on certain conditions.

4. Provided