

New Zealand.

ANNO TRICESIMO

VICTORIÆ REGINÆ.

No. 44.

ANALYSIS.

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AN ACT to control the Issue of Provincial Revenues and to provide for the Audit of the Accounts of the Provincial Governments. Title.

[8th October 1866.]

WHEREAS by the twentieth section of "The Provincial Audit Act 1861" it was enacted that the said Act should continue in operation until the end of the session of the General Assembly which should be held next after the thirty-first day of December one thousand eight hundred and sixty-five And whereas it is now expedient to make provision for the Audit of the Accounts of Provincial Governments Preamble.

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

I. The Short Title of this Act shall be "The Provincial Audit Act 1866." Short Title.

II. In the interpretation of this Act the term Provincial Auditor shall include the Deputy Provincial Auditor when he is acting in the stead of the Provincial Auditor. Interpretation.

III. The Governor shall appoint for every Province in New Zealand some fit and proper person to be Auditor of the Public Accounts of such Province and also some other fit and proper person to be the Governor to appoint Provincial Auditor and Deputy Provincial Auditor.

Provincial Audit.

Auditors and Deputy Auditors appointed under "The Provincial Audit Act 1861" to continue in office.

Deputy Auditor Provided that every Auditor and Deputy Auditor appointed under "The Provincial Audit Act 1861" and holding office at the time of the coming into operation of this Act shall continue to hold office notwithstanding the passing of this Act and shall in all respects be deemed to have been appointed and shall hold office and remain as if appointed under this Act.

Tenure of office of Auditor and provision for resignation.

IV. Such Provincial Auditor and Deputy Provincial Auditor shall hold office respectively until such time as they shall resign by writing addressed to the Governor or be removed by the Governor And in case of such resignation or removal or the death of such Provincial Auditor or Deputy Provincial Auditor the vacancy occurring thereby shall be filled up so often as it shall happen by such appointment as hereinbefore directed.

Provision for salary of Auditor and Deputy Auditor,

V. There shall be paid to such Provincial Auditors and Deputy Auditors such salaries to be fixed by the Governor as may be a reasonable remuneration for their services such salaries not in any one case to exceed the sum of Five hundred pounds per annum Such salaries shall be paid by the Colonial Treasurer and shall be a special charge against the ordinary revenues of the respective Provinces for which such Auditors or Deputy Auditors shall have been appointed in accordance with the provisions of "The Surplus Revenues Act 1858."

Disqualification for seat in General Assembly &c.

VI. No Provincial Auditor shall be capable of holding any office under or entering into any contract with any Provincial Government or of being elected or if previously elected of continuing to be a Member of the House of Representatives or of a Provincial Council or Superintendent of a Province and every such election or contract shall be null and void.

When Deputy Provincial Auditor to act.

VII. Whenever any Provincial Auditor shall die the Deputy-Provincial Auditor shall act as Provincial Auditor from the day of such death and in the case of illness or absence shall act as such from such day as the Provincial Auditor or in case of illness incapacitating him to do so his medical attendant shall certify under his hand to the Deputy appointed to act for him that he is ill and unable to perform his duty or that he is about to be absent and such Deputy shall cease to act as such from the day on which he shall receive from the officer whose Deputy he is a certificate under his hand to the effect that such officer has resumed his duties No Provincial Auditor shall have power to act during such time as his Deputy is lawfully acting.

Provincial Revenues to be paid into Bank.

VIII. All moneys which shall be legally payable for or on account of the revenues of any Province shall be paid into such bank or banks as the Superintendent of the Province shall from time to time appoint to an account to be called "The Provincial Account" and every officer in the public service to whom any money shall be legally payable for or on account of the Provincial revenues shall pay all such moneys which shall come to his possession or control into the Provincial Account aforesaid and such moneys shall be disposed of as hereinafter mentioned and not otherwise and if any officer as aforesaid shall fail to pay the said moneys as hereinbefore directed he shall be liable to a penalty not exceeding Five hundred pounds.

Proceeds of loans to be paid into the Provincial Account.

IX. All moneys raised for special Provincial purposes by Acts or Ordinances now in force or hereafter to be in force shall be paid into such bank to the credit of "The Provincial Account" and shall be disposed of and accounted for in the same manner as if they had formed part of the current annual revenue of the Province unless otherwise provided by law.

Provincial Revenue how to be issued,

X. No part of any Provincial Revenue shall be drawn from any such account or shall be issued or paid by any Provincial Treasurer or any other person who may by law have the custody or control of the

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same except in pursuance of warrants under the hand of the Superintendent directed to such Provincial Treasurer or such other person as aforesaid and certified by the Provincial Auditor as hereinafter provided. And except as hereinafter provided every Provincial Treasurer or other person aforesaid who shall draw any part of any Provincial Revenue from any such account or shall issue or pay any part of any Provincial Revenue except in accordance with the provisions of this Act shall be liable to a penalty of Five hundred pounds to be recovered in the Supreme Court at the suit of the Provincial Auditor.

XI. Every such warrant for the issue of money by any Provincial Treasurer or such other person as aforesaid shall before the same is signed by the Superintendent be laid before the Provincial Auditor who shall not certify the same unless the sums therein mentioned are then legally available for the services therein specified by virtue of an Act or Ordinance of the Superintendent and Provincial Council of the Province.

Provincial Auditor when to certify.

XII. Provided that if any such warrant in excess of or without the appropriation of such Act or Ordinance be submitted to the Provincial Auditor for his signature then if the same shall be accompanied by a special order signed by the Superintendent expressly directing the Provincial Auditor to certify such warrant then and in that case it shall be the duty of the Provincial Auditor to certify the same accordingly. Provided that the whole amount in any financial year of such special orders for the issue of money without such legal authorization as aforesaid shall not exceed in amount one twentieth part of the amount of the ordinary Provincial Revenues of the preceding year.

Proviso if warrants in excess.

XIII. Whenever any public money has under the provisions of the last preceding section been issued without the authority of an appropriation contained in an Act or Ordinance of the Superintendent and Provincial Council of the Province or in excess of such appropriation it shall be the duty of the Provincial Auditor within one week after the commencement of the then next ensuing Session of the Provincial Council to transmit to the Speaker of such Council a full statement of all money so issued together with the special orders of the Superintendent under which the warrants authorizing such issue have been certified by the Provincial Auditor and the Speaker shall forthwith lay such statement and special orders before the Council.

Orders &c. for unauthorized expenditure to be laid before the Provincial Council.

XIV. Every Superintendent signing and issuing any such special order as aforesaid shall be liable to a penalty of one hundred pounds to be recovered in the Supreme Court at the suit of the Provincial Auditor. Provided that no such suit shall be commenced until one calendar month after the commencement of the Session of the Provincial Council next ensuing the issue of such special order. Provided also that it shall be a sufficient bar in any stage of the proceedings in such suit that the Superintendent produces to the Court an address from the Provincial Council to the effect hereinafter mentioned and signed by the Speaker of the Council and transmitted to the Superintendent by the Speaker pursuant to a resolution passed by an absolute majority of the entire number of members thereof such address shall be to the effect that the Council requests the Superintendent to send to the Council a recommendation to grant a sum of money sufficient to meet the unauthorized expenditure and any address to the effect aforesaid so produced shall if signed by the Speaker be taken and admitted in the absence of evidence to the contrary to be sufficient.

If money issued without appropriation how Auditor to proceed.

Provincial Audit.

Votes not expended to be carried to credit of revenue of next financial period.

XV. All sums of money which by any Act or Ordinance of any Provincial Council are or shall be appropriated to the public service of any Province in any financial period and which shall not be expended during such period shall be carried to the credit of the revenue of the following period and shall not be applied in any future period to the particular service for which the appropriation shall have been made (unless a contract or engagement shall have been made or entered into before the expiration of such financial period by which a liability so to issue or apply the same shall have been incurred) but such sums shall be subject to the appropriation of the Provincial Council as revenue of the period ensuing.

Superintendent to cause Provincial accounts to be forwarded to Provincial Auditor for examination.

XVI. Every Superintendent shall cause to be made up quarterly accounts of the receipts and disbursements of his Province including the costs charges and expenses incidental to the collection and management of the same and also at the end of each financial period a balance sheet of the accounts which shall show the liabilities and permanent debts of the Province and shall cause such accounts and balance sheet to be forwarded in duplicate for examination to the Provincial Auditor of such Province as soon after the termination of each quarter or period as conveniently may be and the said balance sheet shall also be published in the *Government Gazette* of the said Province.

Provincial Auditors empowered to examine witnesses and call for vouchers &c.

XVII. Every Provincial Auditor is hereby empowered to call for all books papers and vouchers relating to the account forwarded to him as aforesaid for examination and also to examine witnesses touching the said account and every person is hereby required to give such attendance and produce such books papers and vouchers as the Provincial Auditor shall order or direct by summons under his hand stating the object for which such person is required to attend and specifying the books papers and vouchers to be produced.

Penalty for refusing to attend &c.

XVIII. Every person who without reasonable cause shall fail to attend as required by any such summons or to submit himself to examination or to produce any such books papers or vouchers as aforesaid shall forfeit and pay for any such offence a fine not exceeding one hundred pounds to be recovered before any Resident Magistrate or two Justices of the Peace in a summary way.

Provincial Auditor may examine on oath.

XIX. It shall be lawful for every Provincial Auditor to examine upon oath any witnesses he may think fit touching the matter of such account which oath he is hereby authorized to administer and every person who shall upon any such examination wilfully and corruptly give false evidence shall be deemed guilty of wilful and corrupt perjury and be liable on conviction to be punished accordingly.

A copy of account &c. to be transmitted to Speaker of Provincial Council.

XX. A copy of every account report and observation transmitted by the Provincial Auditor to the Speaker of the Provincial Council shall by such Speaker be laid before the Provincial Council forthwith if it be sitting and if it be not sitting then within three days after the commencement of the next session.

Auditor may prosecute in certain cases.

XXI. Whenever it shall appear to the Provincial Auditor that any public money has been expended used or taken by any person for any other purpose than the public service such Provincial Auditor shall forthwith commence a criminal prosecution against the person wrongfully expending using or taking such money and also on conviction of such person or on his acquittal of the criminal charge if such Provincial Auditor shall think fit shall commence and prosecute an action against such person for the recovery of the money so expended used or taken as aforesaid.

Action may be in name of Auditor.

XXII. In any such prosecution or action as aforesaid no other

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evidence of the right of the Provincial Auditor to prosecute or sue shall be required except the production of the Governor's warrant whereby he shall have been appointed or of the Speaker's warrant appointing him if he shall have been appointed before the passing of this Act. And the money in respect of which such prosecution or suit may be instituted may be laid or be alleged to be the property of the said Provincial Auditor. Provided that all penalties recovered under this Act shall be paid into the Colonial Treasury and shall form part of the ordinary revenue of the Colony.

XXIII. The duties of every Provincial Auditor shall in respect of the Province for which he is appointed in addition to those hereinbefore provided be those specified in the Schedule to this Act. Duties of Provincial Auditor.

XXIV. If any Provincial Auditor shall certify any warrant cheque draft or order for payment of money except in accordance with the provisions of this Act he shall be liable to forfeit and pay to Her Majesty the sum of Five hundred pounds and an additional sum equal to the amount of the cheque draft or order so certified and all such sums together with full costs of suit shall be recoverable by action suit or information in the Supreme Court in like manner as money due to Her Majesty within the Colony. Penalties.

XXV. This Act shall come into operation on the first day of January one thousand eight hundred and sixty-seven and "The Provincial Audit Act 1861" shall continue in force until such day. Commencement of Act.

SCHEDULE.

Schedule.

PROVINCIAL AUDITORS' DUTIES.

1. To examine the accounts of all persons entrusted with the collection custody receipt and issue of public money and stores of the Provincial Government.
2. To call upon all persons in the service of the Provincial Government who may be in charge of public money belonging to such Government for all necessary or proper explanation respecting the receipts and expenditure and respecting all matters necessary to enable the Provincial Auditor to discharge his duties under this Act.
3. To bring under the consideration of the Superintendent every circumstance necessary to be known to ensure the faithful discharge by such persons of their several duties in conformity with the Law or Regulations now or hereafter to be in force.
4. To examine the accounts and balance sheets to be forwarded for examination by the Superintendent under the above Act with a view to ascertain—
 - (1.) That the same are in the form required and are correct as Accounts and Balance Sheets of transactions for the periods comprised therein.
 - (2.) That the expenditure shown thereon has been properly classified and that any part thereof which may have been incurred without authority of law is separately shown.
5. To address to the Superintendent all queries and observations that may be found proper or necessary for the elucidation of such statements.
6. To forthwith transmit to the Speaker of the Provincial Council of the Province to which such account balance sheet report and observations relate a copy of the same.
7. To transmit to the Governor one of the duplicate accounts and balance sheets forwarded for examination by the Superintendent together with a full report and observations on the same in such form as shall from time to time be prescribed by the Governor in that behalf.

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