

T A S M A N I A.



1858.

ANNO VICESIMO-SECUNDO

VICTORIÆ REGINÆ,

*W. Lovett. Col. Auditor
Gaz 73-562 No. 6.*

*As to Municipal & Road
Trust A/c see 3910. 8/11
As to Auditor's salary see
3710. 4/09*

Hon. Secy 4110. 9/16

AN ACT to alter the Tenure of the Office of the Colonial Auditor, and to provide for the more effectual Audit of the Public Accounts.

*Rep'd by 52. Vic
no 43.*

[22 October, 1858.]

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 The Colonial Auditor for the time being shall hold his Office during good behaviour, and shall not be removed therefrom unless upon the Address of both Houses of the Parliament of *Tasmania*.

Colonial Auditor to be removable only on Address of both Houses of Parliament.

2 At any time when Parliament is not sitting it shall be lawful for the Governor, with the advice of the Executive Council, to suspend the Auditor from his office for inability or misbehaviour, and to appoint some fit person to perform the duties of such Auditor during his suspension; and in any such case the Governor shall, within Seven days after the commencement of the next Session of Parliament, cause a full statement of the cause of such suspension to be laid before both Houses of Parliament; and if an Address at any time during that Session is presented to the Governor by both Houses of Parliament praying for the restoration of such Auditor to his office, such Auditor shall be restored accordingly; but if no such Address is so presented, it shall be

Governor in Council may suspend Auditor when Parliament not sitting, and state cause of suspension to Parliament at its meeting. Auditor to be restored on Address of both Houses.

lawful for the Governor, with the advice aforesaid, to confirm such suspension, and to declare the office of such Auditor to be, and the same shall thereupon become and be, vacant.

Auditor not to be a Member of Executive Council or of Parliament.

3 The Auditor, during the continuance of his Office, shall not be capable of being a Member of the Executive Council, or of either House of Parliament.

Appointment of Deputy Auditor.

4 In the case of the illness, suspension, or absence of the Auditor, it shall be lawful for the Governor, with the advice aforesaid, to appoint some other person to act as the Deputy of such Auditor during such illness, suspension, or absence, who shall, during the time for which he acts as such Deputy, have all the powers and perform all the duties of such Auditor.

Governor in Council may frame Regulations.

Rep. by H.C. 1/16
5 The Governor in Council is hereby empowered from time to time to frame and promulgate such Regulations, not inconsistent with this Act, as may appear to be necessary or expedient for the due care and management of the Public Moneys, and for the more effectual check and audit of all Receipts and Disbursements on account of the Public Service; and to direct what Books, Warrants, Receipts, Requisitions, Abstracts, Accounts, and Vouchers, or other Instruments or Documents, shall be kept or used in the respective offices of the Treasurer and Auditor, and in any other Public Office or Department; and all such Regulations and Directions shall be laid before both Houses of Parliament within Fourteen days after the promulgation thereof if Parliament is then sitting, and if not, then within Fourteen days after the next meeting of Parliament.

To be laid before Parliament.

Manner in which Public Moneys to be issued under the Governor's Warrant.

6 The following shall be the manner in which moneys shall be issued out of any branch of the Public Revenue by the Treasurer under the Governor's Warrant:—The Treasurer shall, as often as occasion may require, calculate the amount of moneys likely to become due and payable on account of the Public Service out of the several branches of the Public Revenue during a period not exceeding One month next after such calculation, and shall thereupon prepare a Statement, addressed to the Auditor, setting forth therein the said amount, and the branch of the Revenue out of which the same is payable, and classifying and arranging it under the same divisions which have been employed in framing the Estimates, and after having signed such Statement shall transmit the same to the Auditor, who, after having ascertained that the sums therein mentioned are then legally available for and applicable to the service or purpose mentioned in such Statement, shall prepare a Form of Warrant according to the Form (A) in the Schedule purporting to authorise the issue of the sums mentioned in the said Statement out of the appropriate branch of Revenue for the service or purpose therein set forth, and shall set his signature to the same, and attach such Form of Warrant to the said Statement; and the said Two documents so attached shall be submitted to the Governor for his approval; and the said Form of Warrant, when approved and signed by the Governor, shall be the Warrant to the Treasurer for the issue of the sums of money out of the branch of Revenue therein mentioned; and such Warrant and the said Statement thereto attached shall be filed in the Treasury.

Treasurer to transmit a Weekly

7 The Treasurer shall every Week furnish to the Auditor a Cash Sheet containing a literal copy of the entries in his Cash Book during

the preceding Week, showing the transactions of each day of such preceding Week as entered in such Cash Book ; and such Cash Sheet shall be accompanied by all Statements, Accounts, Receipts, and Vouchers necessary to support the same : Provided, that it shall be lawful for the Governor in Council, by any such Regulation as aforesaid, to direct that such Cash Sheet and accompanying documents shall be furnished to the Auditor daily instead of weekly as herein provided ; and upon the promulgation of such Regulation the provisions of this Act shall be applicable to such daily Cash Sheet and other documents, and all matters incident thereto, in the same manner as if the Cash Sheet and other documents were by this Act directed to be furnished daily instead of weekly.

Cash Sheet to Auditor accompanied by Vouchers.

8 The said Auditor, on receipt of the said Cash Sheet, Statements, Accounts, Receipts, and Vouchers, shall examine the same ; and shall in the first place ascertain whether the computations are correct, and in the next place whether the moneys mentioned in the same respectively have been carried and credited to the proper Head of Revenue, and were legally available for and applicable to the service or purpose to which the same are charged ; and shall also ascertain whether the Regulations to be framed as aforesaid have been in all respects complied with ; and shall likewise examine and compare the said Statements, Accounts, Receipts, and Vouchers with the said Cash Sheets respectively ; and shall also make such queries and observations, addressed to the Treasurer or to any other Public Officer, and call for such Accounts, Vouchers, Statements, and explanations, as he may think necessary ; and shall further make such Reports to the Governor touching the matters aforesaid as he may from time to time think proper.

Auditor to examine Vouchers and Cash Books.

9 Immediately after every such examination and comparison as last aforesaid, the Auditor shall sign an Acquittance for so much money as he has ascertained to have been duly and properly expended ; and every such Acquittance shall be in such one of the Forms (B or C) in the Schedule as may be applicable to the case, and shall be transmitted to the Treasurer, and shall be a full and complete discharge to him as to the several moneys mentioned therein.

Auditor to discharge Treasurer.

10 If upon any such examination and comparison as aforesaid it appears to the Auditor that any money has been applied to any service or purpose for which the same was not legally available, or that any expenditure has not been duly authorised by the Governor, or that there has been any loss of Revenue through the default of any person, or that the said Statements, Accounts, Receipts, and Vouchers, or any of them, are in any essential particular defective or imperfect, or that any other material error has been committed, the Auditor shall, within Two months next after the said Statements, Accounts, Receipts, and Vouchers have been sent to him as hereinbefore directed, surcharge the Treasurer with the deficiency by deducting the amount thereof from the sum for which the said Acquittance would otherwise be given ; and no Acquittance shall be signed for such deficiency until such deficiency is satisfied.

Auditor to surcharge Treasurer.

11 Whenever the Treasurer has been surcharged as hereinbefore directed, he shall ascertain by what person the fraud, mistake, or error occasioning such deficiency or loss has been committed, and shall thereupon take such measures or proceedings as the case may require ; and no Account payable to or claimed by such person shall be paid by the Treasurer until such deficiency or loss has been satisfied, and an Acquit-

And Treasurer to surcharge the Defaulter.

tance for the same has been signed as aforesaid and transmitted to the Treasurer; and the amount of every such deficiency shall be deemed and taken to be money paid by Her Majesty to the use of such person at his request.

Auditor to inspect
Public Stores,
Books, Accounts,
&c.

12 The Auditor shall, once at least in every year, cause stock to be taken of all stores in possession of the Accountant of Stores, or any other public officer having charge of stores belonging to Her Majesty's Colonial Government, of whatsoever nature or description the same may be; and shall, if necessary, investigate and examine all contracts, accounts, invoices, requisitions, books, bills of parcels, and vouchers in anywise relating to or concerning the same; and shall ascertain the quantity of all stores received into the charge of such Accountant or other Officer, and the quantity of all stores supplied by him for the public service, and shall examine whether the proper quantities of all such stores are remaining in stock in the proper store or building appropriated to the same; and shall forthwith make and sign a report of the result of such investigation and examination, and shall, within One month after the making and signing thereof, transmit the same to the Treasurer.

Auditor may call
for persons and
papers.

13 The Auditor is hereby authorised and empowered, by precept under his hand, to require all such persons as he may think fit, whose claims or contracts or dealings may be under his examination, or who may be in the employ of the Government, personally to appear before him, at a time and place to be named in such precept, and to exhibit to him all such accounts, books, and papers in the possession or control of such persons as may appear to be necessary for the purpose of his examination; and the Auditor is hereby authorised, when he sees occasion, to cause search to be made in, and extracts to be taken from, any book or record in the custody of the Treasurer, or in any public office, without paying any fee for the same.

Auditor may ad-
minister oath.

14 The Auditor is hereby authorised and required to examine upon oath, which he is hereby empowered to administer, all such persons as aforesaid whom he thinks fit to examine touching the receipt and expenditure of money or stores respectively affected by the provisions of this Act, and touching all other matters and things necessary for the due execution of the powers vested in him by this Act.

Persons taking
false oath guilty of
perjury.

15 If any person in the course of his examination before the Auditor wilfully and corruptly gives false evidence, such person so offending shall incur the same penalties as are or may be provided against persons convicted of wilful and corrupt perjury.

No sum to be
allowed without
voucher or proof
of payment.

16 No sum shall be allowed in the account of the Treasurer or of any public officer without a written voucher of the actual payment of every sum so claimed to be allowed, notwithstanding any allegation of papers having been lost or destroyed, except on application by such Treasurer or officer to one of the Judges of the Supreme Court, who shall on such application summon before him or some other Judge of the said Court, at Chambers, as well the Auditor as the Attorney or Solicitor-General, and any other person he may think fit; and after hearing the evidence which may be brought before him such Judge shall order that the sum shall be allowed or disallowed, as the case may be, and shall make such other order in the premises as he thinks fit, which order shall be binding on Her Majesty and all other parties, and be acted on accordingly.

17 When a voucher produced by the Treasurer or any public officer for a sum disbursed by him is defective from the want of any certificate or other document which ought to have accompanied it, or in any other particular, it shall be lawful for the Auditor, upon proof being made to his satisfaction that there was no wilful neglect to produce such certificate or document, and that the sum specified in the voucher has been actually and properly disbursed for the public service, to admit such voucher as a sufficient discharge, and to allow the amount of the same to the credit of the officer on whose account it may have been charged.

Proviso for imperfect vouchers.

18 In all cases where any sum is allowed to the credit of the Treasurer or other public officer either without any written voucher or upon an imperfect voucher, or is disallowed in consequence of the absence or imperfection of such voucher, the particulars and amount of such allowance or disallowance shall be specified to the Treasurer in a report from the Auditor; and in case of the disallowance of any sum, the amount thereof shall be deemed and taken to be money paid by Her Majesty to the use of such Treasurer or other officer at his request.

Allowances without Vouchers, or with imperfect Vouchers, to be reported.

19 Any such person as aforesaid who fails to attend the Auditor or any Judge of the Supreme Court for the purpose of being examined, or to produce any accounts, books, vouchers, or other documents, when required so to do by the Auditor or by such Judge, shall be liable, on the complaint of the Auditor, to be dealt with by the Supreme Court as in case of a contempt of that Court; and the Judge before whom any such default is made shall have like powers as in ordinary cases of contempt: Provided, that where any person is compelled by the provisions of this Act to attend before the Auditor or Judge of the Supreme Court, the costs of his attendance shall be assessed, determined, and allowed by one of the Judges of the said Court.

Persons failing to attend Auditor or Judge guilty of contempt.

Expenses to persons attending.

20 If any person liable to account for the receipt or expenditure of any public moneys or stores fraudulently misapplies or disposes of the same he shall be guilty of felony, and shall on conviction thereof be kept in penal servitude for any term not exceeding Five years, or be imprisoned, with or without hard labour, for any term not exceeding Three years; and if any such person wilfully damages or destroys any such public stores he shall be guilty of a misdemeanor, and liable on conviction to imprisonment, with or without hard labour, for any term not exceeding Two years.

Penalty for misappropriation.

21 The Treasurer, within One month after the expiration of every quarter of the year, shall publish in the *Gazette* a statement in detail of the Expenditure during such quarter; and shall also, at the same time, publish in like manner a statement in detail of the Revenue received during such quarter, together with a similar statement of the Revenue received during the corresponding quarter of the previous year.

Treasurer to make Quarterly Statement of Revenue and Expenditure.

22 The Treasurer shall, within Three months after the 31st day of *December* in every year, prepare a full and particular statement in detail of the Receipt and Expenditure of the several branches of the Public Revenue for such year, classified and arranged under the same divisions, sub-divisions, and items of sub-divisions as have been employed in framing the Estimates, showing whether such Expenditure is under or in excess of the amounts authorised by Parliament; and if in excess, the authority under which such excess has been disbursed; and

Treasurer to prepare yearly Statement thereof, and Auditor to countersign it.

Rep. by H. & Co. 1816

shall transmit such statement to the Auditor, who shall make and sign a report explaining such statement in full, and showing in what particulars such statement agrees with or differs from the accounts of the Auditor, and, in case of disagreement, reconciling and explaining such difference, and containing full particulars of every case in which default has been made in delivering or sending accounts, or accounting for public moneys, and of all sums allowed by the Auditor without any vouchers or with imperfect vouchers, and of any proceedings which may have been taken against any person in pursuance of this Act; and the Auditor shall, within Three months after receiving the same, return such statement, accompanied by such report, to the Treasurer, who shall forthwith publish the same respectively in the *Gazette*, and lay the same before the House of Assembly if Parliament is then sitting, and if not then sitting, within Seven days after the commencement of the next Session of Parliament.

Auditor to make suggestions for collection and payment of accounts.

23 It shall be lawful for the Auditor in such yearly Report, or in any special Report which he may at any time think fit to make, to offer any plans and suggestions which he may think worthy of adoption for the better collection and payment of the public revenues of the Colony, and the more effectually and economically auditing and examining the public accounts, and any improvement in the mode of keeping such accounts which may at any time be brought to his notice, and generally upon all matters relating to the public accounts.

Punishment for forgery of Treasury documents.

24 If any person knowingly or wilfully forges or counterfeits, or causes or procures to be forged or counterfeited, or knowingly and wilfully acts or assists in forging or counterfeiting, the name, initials, or handwriting of any other person to any writing whatsoever, for or in order to the receiving or obtaining any part of the revenues of this Colony, or any stores belonging to Her Majesty, or forges or counterfeits, or causes or procures to be forged or counterfeited, or knowingly or wilfully acts or assists in the forging or counterfeiting of any writing of any such person as aforesaid, or utters or publishes any such writing knowing the same to be forged or counterfeited, with intention to defraud, every person so offending shall be guilty of felony, and being convicted thereof shall be kept in penal servitude for any term not less than Five nor more than Fifteen years.

Interpretation.

25 In the construction of this Act the terms Treasurer and Auditor shall respectively mean the Colonial Treasurer and the Colonial Auditor of *Tasmania* for the time being.

Short title.

26 In referring to this Act it shall be sufficient to use the expression *The Audit Act*.

SCHEDULE.

Form substituted. H.B. 11016
FORM A. Sec. 6.

WARRANT.
No.

By His Excellency [SIR HENRY EDWARD FOX YOUNG,
Knight, Companion of the Most Honourable Order
of the Bath,] Captain-General and Governor-in-Chief
of the Island of Tasmania and its Dependencies.

To the Honourable F. M. I., Esquire,
Colonial Treasurer.

You are hereby authorised to issue out of the [General
Revenue, or Land Fund, or as the case may be] between the First
and days inclusive of now next
ensuing, the Amounts set forth in the accompanying Statement;
that is to say,—

[E. gr.—For the payment of Salaries and Allowances any Sums
not exceeding in all

For the payment of Contingencies, and all other Charges not
included in the preceding Entry, any Sums not exceeding in
all]

TOTAL..... £

AMOUNT.		
£	s.	d.

E. J. M., Colonial Auditor.

Provided, that no Payment shall be made under authority of this Warrant
unless the same be satisfactorily supported by proper Abstracts and Accounts,
certified to be correct in every particular by the Heads of Departments
severally responsible; and provided also, that no such Payment shall be
made unless it be in conformity with a Vote of Parliament, or, in the absence
of any such Vote, with the special authority of the Governor.

And for so doing, this, together with the said Abstracts and Accounts, duly
received, and accompanied by the necessary Authorities and Vouchers, shall,
when examined and certified to be correct by the Colonial Auditor, be your
sufficient Warrant and Discharge.

Given under my hand, at Government House, Hobart
Town, this day of
1858.

H.E.F.Y.
Governor.

By Order of
His Excellency the GOVERNOR,
W.H.
Colonial Secretary.

Sec. 9.

FORM B.

WARRANT No.

To the Honourable F. M. I., Esq.,
Colonial Treasurer.

I certify that I have examined the several Accounts furnished to me in support of the payments made by you out of the [General Revenue or Land Fund, or as the case may be] [during the week ended or on the day of], as set forth in your Cash Sheet for that [period or day], amounting to

and that I find you are entitled to a full and complete discharge on account of such payments to the amount of

[adding if such be the case], but that you are not entitled to a discharge for the payments made upon the Vouchers enumerated below, which are hereby surcharged; viz. —

No. of Voucher.	Amount.			AMOUNT.		
	£	s.	d.	£	s.	d.

I therefore grant this Acquittance as your Warrant of Discharge for the amount of pounds shillings and pence.
Given under my hand this day of 1858.

E. J. M., Colonial Auditor.

FORM C.

Sec. 9.

WARRANT No.

To the Honourable F. M. I., Esq.,
Colonial Treasurer.

I certify that I have re-examined the several Accounts below enumerated previously placed under surcharge by Warrant No. and that I find you are entitled to a full and complete discharge for the payments made under these Vouchers as set forth in your Cash Sheet [for the week ended or for the day of]

No. of Voucher.	AMOUNT.			AMOUNT.		
	£	s.	d.	£	s.	d.

I therefore grant this Acquittance as your Warrant of Discharge for the amount of pounds shillings and pence.
Given under my hand this day of 1858.

E. J. M., Colonial Auditor.