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New Zealand.

ANNO TRICESIMO

VICTORIÆ REGINÆ.

No. —.

ANALYSIS.

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| <p>Title.
Preamble.
1. Short Title.
2. Speaker of Provincial Council shall appoint Auditor and Deputy Auditor on nomination of Superintendent and Provincial Council And shall notify appointment to Governor.
3. Tenure of office of Auditor and provision for resignation.
4. Provision for salary of Auditor and Deputy Auditor.
5. Disqualification for seat in Council &c.
6. When Deputy Provincial Auditor to act.
7. Duties of Provincial Auditor.
8. Superintendent to cause Provincial accounts to be forwarded to Provincial Auditor for examination.
9. Provincial Auditors empowered to examine witnesses and call for vouchers &c.</p> | <p>10. Penalty for refusing to attend &c.
11. Provincial Auditor may examine on oath.
12. A copy of account &c. to be transmitted to Speaker of Provincial Council.
13. Auditor or Deputy Auditor may prosecute in certain cases.
14. If money expended on public service without authority how Auditor to proceed.
15. Disposal of money recovered.
16. Action may be in name of Auditor &c.
17. Act not to interfere with Indemnification Acts.
18. Each warrant to be laid before Auditor &c. and certified by him.
19. Auditors and Deputy Auditors appointed under "The Provincial Audit Act 1861" to continue in office.
Schedule.</p> |
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A BILL INTITULED

An Act to provide for the Audit of the Accounts of Provincial Governments. Title.

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-one 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. The Superintendent and Provincial Council of every Province in New Zealand within one month after the commencement of the session of such Council which shall ensue next after the passing of this Act shall concur in the nomination of some fit and proper person to be Auditor of the Public Accounts and also one other person to be Deputy Auditor And the person so nominated for such office respectively shall thereupon be appointed to the same by warrant under the hand of the Speaker of the Council such appointments shall forthwith be notified to the Governor by some writing under the hand of the Speaker of the said Council Provided that in default of such appointment within the time aforesaid the Governor shall nominate Speaker of Provincial Council shall appoint Auditor and Deputy Auditor on nomination of Superintendent and Provincial Council.
And shall notify appointment to Governor.

Provincial Audit.

fit and proper persons for such offices respectively and the persons so nominated by the Governor for such offices respectively shall thereupon be appointed to the same by warrant under the hand of the said Speaker.

Tenure of office of Auditor and provision for resignation.

III. Such Auditor and Deputy Auditor shall hold office respectively until such time as he shall resign by writing addressed to the Speaker of the Council or be removed by the Governor but no such removal shall be made unless it be first recommended by an Address to the Governor concurred in by not less than two-thirds of the Provincial Council. And in case of such resignation or removal or the death of such Auditor or Deputy Auditor the vacancy occurring thereby shall be filled up so often as it shall happen by such appointment as hereinbefore directed such appointment if made on the nomination of the Superintendent and Provincial Council to be made within two months after the commencement of the session of the Provincial Council next after the happening of such event.

Provision for salary of Auditor and Deputy Auditor.

IV. It shall be the duty of the Superintendent and Provincial Council of every Province to make provision by Act for the payment of a salary to such Auditor and also Deputy Auditor whilst acting and for the expenses of the Department. But if it shall be made to appear to the Governor in any case that no proper provision for such purpose has been so made it shall be lawful for the Governor from time to time and as often as the necessity may arise in any Province by warrant under his hand directed to the Sub-Treasurer of the General Government in such Province to order such Sub-Treasurer out of any moneys which may be in his hands payable to the Provincial Government to retain and pay to such Auditor or Deputy Auditor such reasonable sums of money as may be expressed in such warrant for such purposes as aforesaid. And the same shall be a charge against the said Province for which credit shall be taken by the General Government in making up the balance between the General Government and such Province.

Disqualification for seat in Council &c.

V. No Auditor shall be capable of holding any office under or entering into any contract with the Provincial Government of being elected a Member of the Provincial Council or Superintendent of the Province in which he holds office and every such election or contract shall be null and void.

When Deputy Provincial Auditor to act.

VI. 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.

Duties of Provincial Auditor.

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

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

VIII. Every Superintendent shall in respect of the Province of which he is the Superintendent cause to be made up quarterly accounts of the receipts and disbursements of such 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

Provincial Audit.

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.

IX. 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.

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

X. 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.

Penalty for refusing to attend &c.

XI. 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.

Provincial Auditor may examine on oath.

XII. 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.

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

XIII. Whenever it shall appear to the Auditor or Deputy Auditor that any public money has been expended used or taken by any person for any other purpose than the public service such Auditor or Deputy 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 Auditor or Deputy 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.

Auditor or Deputy Auditor may prosecute in certain cases.

XIV. Whenever it shall appear to any Auditor or Deputy Auditor that any public money has been expended on the public service without proper authority of law such Auditor or Deputy Auditor shall within one week after the commencement of the sitting of the Provincial Council next ensuing send to the Speaker of such Council who shall forthwith lay before the Council a full statement in writing of all moneys so expended or not accounted for and any person expending public money on the public service without authority of law shall be liable for every such offence to a penalty not exceeding one hundred pounds to be recovered summarily on the prosecution of the Provincial Auditor or Deputy Auditor Provided that no such prosecution shall be commenced except upon a Resolution of the Provincial Council passed by not less than three-fifths of the entire number of Members thereof authorizing the same and certified to the Auditor or Deputy Auditor by warrant of the Speaker of the said Council.

If money expended on public service without authority how Auditor to proceed.

XV. All sums of money recovered under this Act shall be paid over to the Treasurer of the Province for the use of the public service thereof.

Disposal of money recovered.

XVI. In any such prosecution or action as aforesaid no other evidence of the right of the Auditor or Deputy Auditor to prosecute

Action may be in name of Auditor &c.

Provincial Audit.

or sue shall be required except the production of the Speaker's warrant whereby he shall have been appointed. 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 Auditor or Deputy Auditor.

Act not to interfere with Indemnification Acts.

XVII. Nothing in this Act contained shall prevent any Provincial Council from passing or the Superintendent from giving the assent of the Governor to any Act to indemnify any person so expending money without authority of law or not accounting as aforesaid or from making appropriation by Act to cover any past unauthorized expenditure. And any such Act of Indemnity or subsequent appropriation may in any stage of the proceedings in such action as aforesaid be pleaded in bar and shall operate as a full release and discharge from such action.

Each warrant to be laid before Auditor &c. and certified by him.

XVIII. Every warrant for the issue of money from the Treasury of any Province shall before the same is signed by the Superintendent be laid before the Auditor or Deputy Auditor who shall in writing on the face thereof signed by him certify that the amount directed to be paid thereby has been appropriated by Act or Ordinance of the Provincial Council of such Province for the service therein specified or has not been so appropriated or is in excess and if so how much in excess of some appropriation for the specified service.

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

XIX. Every Auditor and Deputy Auditor appointed under "The Provincial Audit Act 1861" and holding office at the time of the passing 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 hath to remain as if appointed under this Act and any provision made by any Superintendent and Provincial Council of any Province by any Act or Ordinance for the payment of a salary to any Auditor or Deputy Auditor of such Province appointed under "The Provincial Audit Act 1861" shall be deemed to have been made for the payment of a salary to the Auditor or Deputy Auditor of the Province appointed under this Act or continuing to hold office as if appointed under this Act.

SCHEDULE.
PROVINCIAL AUDITORS' DUTIES.

Schedule.

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.