

CAP. LXXVIII.

An Act to secure the more efficient Auditing of the Public Accounts.

[Assented to 19th May, 1855.]

Preamble.

WHEREAS it is expedient that provision should be made for the more speedy and effectual Audit of the Public Accounts of this Province: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Board of Audit may be constituted, and for what purpose.

I. It shall and may be lawful for the Governor, by Letters Patent under the Great Seal of this Province, to constitute and appoint, during pleasure, a Board of Audit, whose duty it shall be, under the direction and supervision of the Inspector General of this Province, from time to time, to report to the said Inspector General on any Accounts laid before them, as hereinafter provided.

Of whom to consist.

II. The said Board shall consist of the Deputy Inspector General, who shall be Chairman thereof, and the Commissioner of Customs for the time being, and an Auditor to be appointed by the Governor of this Province.

Salary of Auditor, &c.

III. The said Auditor shall receive a salary of not more than five hundred pounds per annum, and shall be ineligible for a seat in either Branch of the Legislature.

Duties of Deputy Inspector General with regard to Public Accounts.

IV. It shall be the duty of the Deputy Inspector General, or in his temporary absence through illness or otherwise of such person as the Governor in Council may appoint as one of the Board of Audit, to examine and report upon every application for or issue of Money Warrants,—to countersign all Provincial Debentures, Receiver General's Cheques and Receipts,—to keep a Debenture Book, which shall contain a record and description of all Debentures now outstanding or to be issued, shewing the date of issue, period of redemption, when cancelled, and payment of interest,—and an Interest Account,—to classify and keep posted up a Book, to be called The Appropriation Book, containing an account, under separate and distinct heads, of every appropriation of Public Money, whether permanent or temporary, entering under each head the amounts drawn on account of such appropriation with the date and name of the parties to whom Warrants are issued; and when

To keep an appropriation Book; and what it shall shew.

when any such appropriation shall be exhausted, to notify the same to the Governor and to the Department having supervision over the service on account whereof such appropriation has been made,—to examine and Audit the various Accounts connected with the Administration of Justice in Upper and Lower Canada, the Accounts current of the Officers of Customs and Excise,—and to keep the Accounts of all Special Funds, as well as the Public Accounts of the Province.

V. It shall be the duty of the Commissioner of Customs, as one of the Board of Audit, to examine and check the Returns of the Officers of Customs and Excise.

Duties of
Commissioner
of Customs.

VI. It shall be the duty of the Auditor to examine, check, and Audit the Accounts and Expenditure of the Department of Public Works, and all Contracts made by or with that Department,—and also those of the Crown Land Department, the Post Office Department, and of the Bureau of Agriculture and Statistics,—those of all Provincial Asylums, Hospitals, Penitentiaries and Prisons,—of the University of Toronto, Upper Canada College, and of the Superintendents of Education for Upper and Lower Canada; also, all Accounts connected with the Adjutant General's Department and the organization and maintenance of the Provincial Militia and Police, Quarantine and Emigration,—to keep a Register of Bank Notes issued and Securities held under the provisions of the Free Banking Acts, and to examine the Returns and Statements of all Savings Banks, chartered and other Banks of the Province,—to examine, check and Audit the Accounts of all Institutions or Establishments, whether educational, charitable, scientific, or otherwise, which derive their entire support from Public Moneys,—and generally to examine and Audit Accounts of all Institutions, Bodies, Establishments or Parties supported from Public Funds, and not hereinbefore specially mentioned.

Duties of the
Auditor.

What accounts
he shall ex-
amine.

To keep Re-
gister of Bank
Notes, ex-
amine Return
of Savings
Banks, &c.

VII. All Accounts, after having been so Audited, in their several departments, shall be revised by the Board, or any two of them, and by them reported to the Inspector General for his final revision and approval.

Further revi-
sion of ac-
counts by
Board of Au-
dit.

VIII. It shall also be the duty of the said Board to examine and cancel Land Scrip and Debentures redeemed, the Board being assisted in examining and cancelling such Scrip by the Commissioner of Crown Lands, and in examining and cancelling such Debentures, by the Receiver General; and the Board shall meet at least once in each month for the purposes mentioned in this Section.

Examining
and cancel-
ling Land
Scrip and
Debentures.

IX. All Public Moneys, from whatever source of revenue derived, except the Post Office Department, and all Moneys forming part of Special Funds administered by the Provincial Government, shall be paid to the credit of the Receiver General

How money
received for
public pur-
poses shall be

of

paid in and deposited.

of the Province, through such Banks or Parties as the Governor in Council shall from time to time direct and appoint; and Certificates of such deposit, in duplicate, shall be taken by the party making the same, and transmitted, one to the Receiver General, the other to the Department to which the payment relates.

Deposit of money received by Officers of Customs or Excise.

X. Every Officer of the Customs or Excise in this Province, receiving money for the Crown, shall deposit the same in his name of office, from time to time, in such Bank as the Governor in Council shall appoint, and no money so deposited shall be paid out again, except for the purpose of being placed to the credit of the Receiver General, on the written order or check of such Officer so depositing, or his Successor, to whom the Bank shall grant a Certificate in duplicate of its being so credited; and every such Officer shall keep his Cash-book written up daily; and all the Books, Accounts and Papers of such Officer shall at all times during office hours be open to the inspection and examination of the Superintendent, or other Officer or Person whom the Inspector General may authorize to inspect or examine the same.

For what purpose only to be drawn out.

Books to be always ready for inspection.

Public Moneys to be paid out only on Warrant, and by Check.

XI. The expenditure of Moneys out of the Public Chest shall always be made by check on some Bank, upon the Warrant of the Governor in Council, such check being signed by the Receiver General and countersigned by the Inspector General, or their respective Deputies thereunto duly authorized.

Institutions wholly supported by Public Grants to render accounts quarterly.

XII. All Institutions and Establishments wholly supported by Public grants, shall render quarterly (and oftener if required by the Inspector General) their Accounts in detail for the purpose of being Audited, accompanied by proper vouchers for the expenditure of the moneys received by them out of the Public Chest; and in all cases when such Accounts are irregular, insufficient, or not rendered to his satisfaction, the Inspector General shall call upon the parties to supply the omission or correct the irregularity, and shall suspend any further advances to such Institution or Establishment until such Accounts shall have been properly furnished.

Reports of Superintendents of Common Schools.

XIII. The Superintendents of Common Schools in Upper and Lower Canada, shall make their Reports yearly on or before the Thirtieth day of January in each year, and all other Institutions, Associations, Establishments and Bodies deriving wholly or in part their support from Public moneys, shall transmit to the Board of Audit on or before the Fifteenth of January in every year, full and complete reports of their condition, management and progress, with such statistical returns as shall from time to time be required by the Governor in Council, such reports and returns shall consist of the following particulars:

Other Institutions.

What such reports shall contain.

EDUCATIONAL INSTITUTIONS.

- 1st. The composition of the governing Body ;
- 2ndly. The number and names of the Professors, Teacher or Lecturers ;
- 3rdly. The number of persons taught, distinguishing those under sixteen years and those above sixteen ;
- 4thly. The general course of instruction and the books used ;
- 5thly. The annual cost of maintaining such institution and the sources from which the means are derived.

LITERARY OR SCIENTIFIC INSTITUTIONS.

- 1st. The prominent objects of the Institution ;
- 2ndly. The number of volumes in their Library, their subjects generally, and their value ;
- 3rdly. The nature and value of their apparatus ;
- 4thly. The number and subjects of Lectures delivered within the year then last past ;
- 5thly. The number of members on the books ;
- 6thly. The revenues of the Institution exclusive of Provincial aid.

CHARITABLE INSTITUTIONS AND ASYLUMS.

- 1st. The governing Body ;
- 2ndly. The special objects of the Institution, its revenues exclusive of Provincial aid ;
- 3rdly. The number of persons admitted, relieved or discharged within the then last twelve months, and the number remaining under treatment or care.

XIV. The Treasurer or Chamberlain of every Municipality for which any sum of money shall have been raised on the credit of the Consolidated Municipal Loan Fund, shall, so long as any part of such sum, or of the interest thereon, shall remain unpaid by such Municipality, transmit to the Board of Audit, on or before the Fifteenth day of January in every year, a Return, certified on the oath of such Treasurer or Chamberlain before some Justice of the Peace, containing the amount of taxable property

Returns to be made yearly by Treasurers of Municipalities owing money secured on Consolidated Municipal Loan Fund.

property in such Municipality according to the then last Assessment Roll or Rolls,—a true Account of all the Debts and Liabilities of such Municipality for every purpose, for the then last year,—and such further information and particulars with regard to the liabilities and resources of such Municipality, as the Governor in Council may from time to time require.

Penalty on parties not transmitting accounts as hereby required.

XV. If any Corporation, Officer or Person shall refuse or neglect to transmit any Account, Statement or Return, with the proper vouchers, to the Officer or Department to whom he is hereby required to transmit the same, on or before the day hereby appointed for the transmission thereof, such Corporation, Officer or Person shall for such refusal or neglect forfeit and pay to the Crown, for the public uses of this Province, the sum of twenty-five pounds, to be recovered, with costs, as a debt due to the Crown, and in any Court and in any way in which debts to the Crown can be recovered; and in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or other evidence, that such Account, Statement or Return ought to have been transmitted by the Defendant, as alleged on the part of the Crown, and the onus of proving that the same was so transmitted shall rest upon the Defendant.

Notification to persons neglecting to pay over money received for public purposes.

XVI. Whenever the Inspector General shall have reason to believe that any Officer or Person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands any public money applicable to any purpose, and has not paid over or duly applied and accounted for the same, he may direct a notice to such Officer, Person, or to his representative in case of his death, requiring him within a time to be therein named, and not less than thirty nor more than sixty days from the service of such notification, to pay over, apply and account for such money to the Inspector General or to the Officer to be mentioned in the notification, and to transmit to him the proper vouchers that he has so done: such notification shall be served by the Sheriff of the District or County where the service shall be made, or his Deputy, by delivering a copy to the Officer or Person to whom it is addressed, or leaving it for him at his usual place of abode; and the return of the Sheriff with an affidavit of such service, shall be conclusive evidence thereof.

Proceedings against any person refusing to comply with such notification.

XVII. If such Officer or Person shall fail to pay over, apply or account for such money, and to transmit such vouchers as aforesaid within the time limited by the notification served on him, the Inspector General shall state an account as between such Officer or Person and the Crown in the matter to which the notification relates, charging interest from the service thereof, and shall deliver a copy thereof to the Attorney or Solicitor General, and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount

amount therein shewn to be in the hands of the Defendant, as a debt due to the Crown, saving to the Defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; but such Defendant shall be liable to the costs of such information or proceeding, whatever be the judgment therein, unless he shall prove that before the time limited in such notification he had paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper vouchers with such account, or unless he be sued in a representative character, and be not personally liable for such money, or to render such account.

Liability of Defendants to costs.

XVIII. Whenever any such Officer or Person as aforesaid shall have transmitted an Account, either before or after notification as aforesaid, but without vouchers or with insufficient vouchers for any sum for which he shall therein take credit, the Inspector General may notify such Officer or Person, in the manner mentioned in the next preceding Section, to transmit vouchers, or sufficient vouchers, within thirty days after the service of the notice; and if such vouchers be not transmitted within that time, the Inspector General may state an account against such Officer or Person, disregarding the sums for which he may have taken credit but for which he has transmitted no vouchers or insufficient vouchers, and deliver a copy of such Account to the Attorney or Solicitor General, and such copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shewn to be in the hands of the Defendant, saving to the Defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; but such Defendant shall be liable to the costs of such information or proceeding, whatever be the judgment therein, unless the vouchers he shall have transmitted within the time limited by the notice served on him, or before such service, shall be found of themselves sufficient for his defence, and for his discharge from all sums demanded of him: the said notice shall be served and the Sheriff's return of service shall be of the like effect as provided in the next preceding Section with regard to the notice therein mentioned.

Proceedings against persons transmitting accounts without sufficient vouchers.

Liability of Defendants to costs.

XIX. If by reason of any malfeasance, or of any gross carelessness or neglect of duty, by any Officer or Person employed in the collection or management of the Revenue, or in collecting or receiving any moneys belonging to the Crown, for the public uses of the Province, any sum of money shall be lost to the Crown, such Officer or Person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it.

Persons employed to collect Public Money to be responsible for losses from their malfeasance or gross neglect, &c.

XX. If any officer or person shall have received public money for the purpose of applying it to any specific purpose, and shall

Unapplied Public Money shall

to be payable back to the Receiver General on demand of the Inspector General.

shall not have so applied it within the time or in the manner provided by law, or if any person having held any public office and having ceased to hold the same, shall have in his hands any public money received by him as such officer for the purpose of being applied to any specific purpose to which he shall not so have applied it, such officer or person shall be deemed to have received such money for the Crown for the public uses of the Province, and may be notified by the Inspector General to pay such sum back to the Receiver General, and the same may be recovered from him as a debt to the Crown, in any manner in which debts to the Crown may be recovered, and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied.

Recovery if not so paid.

Board of Audit may examine persons on oath.

XXI. The said Board of Audit shall have full power and authority to examine any person on oath or affirmation on any matter pertinent to any Account submitted to it for Audit, and such oath or affirmation may be administered to any person by any Member of the Board.

Board of Audit may obtain subpoenas from the Superior Courts in either portion of the Province.

XXII. Any Member of the Board may on behalf thereof apply, in term or in vacation, to any Judge of the Superior Court for Lower Canada, or of either of the Superior Courts of Law in Upper Canada, for an order that a subpoena be issued from the said Court, commanding any person therein named to appear before the said Board at the time and place mentioned in such subpoena, and then and there to testify to all matters within his knowledge relative to any Account submitted to the said Board, and (if the Board so desire) to bring with him and produce to the Board any document, paper or thing which he may have in his possession relative to any such Account as aforesaid; and such subpoena shall issue accordingly upon the order of such Judge; and any such witness may be summoned from any part of this Province whether within or without the ordinary jurisdiction of the Court issuing the subpoena, in like manner as witnesses may be so summoned in civil suits.

Board may appoint Commissioners to take evidence about accounts to be audited by it.

XXIII. If by reason of the distance at which any person whose evidence is required by the said Board shall reside from the place where its Sittings are held, or for any other cause, the Board shall deem it advisable, they may issue a Commission, under the hands and seals of any two Members of the Board, to any Officer or Person therein named, empowering him to take such evidence, and report the same to them; and such Officer or Person, being first sworn before some Justice of the Peace faithfully to execute the duty entrusted to him by such Commission, shall, with regard to such evidence, have the same powers as the Board or any Member thereof would have had if such evidence had been taken before them, and may, in like manner, apply to and obtain from any Judge of the Courts aforesaid a subpoena for the purpose of compelling the attendance

attendance of any person, or the production of any document, paper or thing before him; and such subpoena shall issue accordingly on the order of such Judge, or such subpoena may issue on the application of any Member of the said Board, to compel such attendance, or the production of any document, paper or thing before such Commissioner.

XXIV. If any person summoned in the manner hereinbefore provided to attend before the said Board of Audit or any Commissioner appointed as aforesaid, shall, without valid excuse, fail to attend accordingly,—or, being commanded to produce any document, paper or thing in his possession, shall fail to produce the same,—or shall refuse to be sworn or to answer any lawful and pertinent question put to him by the Board or by such Commissioner, such person shall, for each such offence, forfeit the sum of Twenty Pounds to the Crown, for the public uses of the Province, to be recovered in any manner in which debts due to the Crown can be recovered, and may likewise be dealt with by the Court out of which the subpoena issued, as having refused to obey the process of such Court, and as being guilty of a contempt thereof.

Penalty on persons refusing to obey any such subpoena.

How recoverable.

XXV. Nothing in this Act shall be construed to weaken or impair any remedy which the Crown now has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of the Province, and in the possession of any Officer or Person whomsoever, by virtue of the Act passed in the eighth year of Her Majesty's Reign, and intituled, *An Act to provide for the Management of the Customs and of matters relative to the Collection of the Provincial Revenue*, or by virtue of any other Act or Law, or to repeal or impair the effect of any provision of the Act last cited.

Act not to impair any remedy given to the Crown by 8 V. c. 4.

C A P . L X X I X .

An Act to abolish Postage on Newspapers published within the Province of Canada, and for other purposes connected with the Post Office Department of this Province.

[Assented to 19th May, 1855.]

WHEREAS papers devoted to the advancement of Education, Temperance, Science, Agriculture and other special objects, are now exempt from postage; And whereas it would further materially aid the diffusion of useful knowledge to remove all postal restrictions on the transmission of Newspapers in general, published within this Province, and of all documents printed by order of either House of Parliament: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada,

Preamble.

Canada,