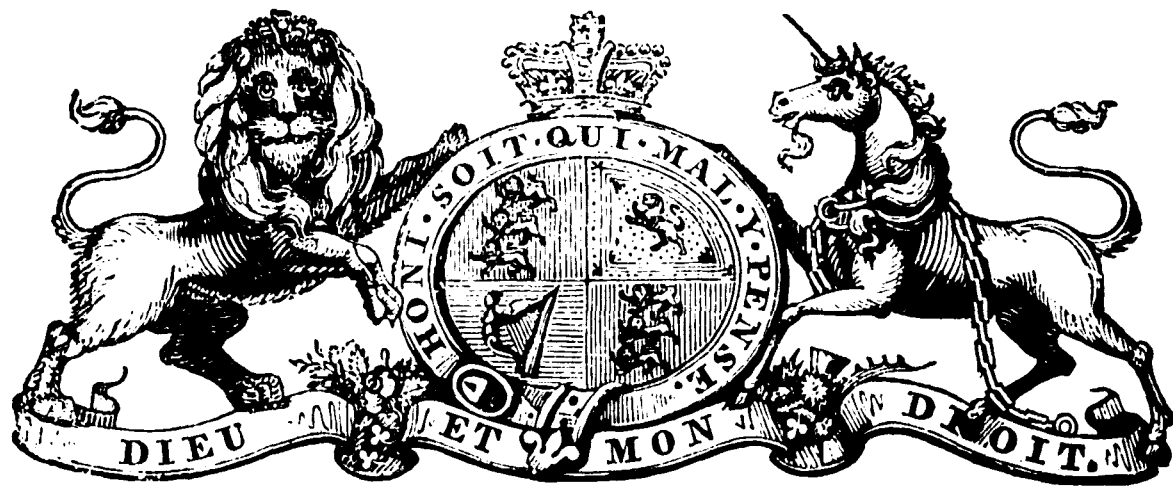


VICTORIA.



ANNO VICESIMO PRIMO

VICTORIÆ REGINÆ.

No. XXIV.

An Act to provide for the Collection and Payment of
the Public Monies the Audit of the Public
Accounts and the Protection and Recovery of
the Public Property. [2nd October, 1857.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say)

I. Until commissioners shall be appointed as hereinafter mentioned the Auditor General shall perform and execute the several duties and things hereinafter directed to be performed and executed by such commissioners and when and so soon as the office of Auditor General shall be abolished it shall be lawful for the Governor with the advice of the Executive Council to appoint three fit persons who shall be and be called "Commissioners of Audit" and in case of the death resignation or removal of any such commissioner or of the successor in office of any such commissioner to appoint some other fit person in his stead.

Commissioners of
Audit to be ap-
pointed.

II. No commissioner appointed under this Act shall during his continuance in such office be capable of being a member of the Executive Council or of either House of Parliament and each of the said commissioners shall receive a clear annual salary of one thousand pounds and such salaries shall be a charge upon and paid out of the consolidated revenue after and subject to the payment and satisfaction of all other sums now by law permanently charged thereon.

Their salaries and
disabilities.

III. The commissioners shall hold their offices during good behaviour and shall not be removed therefrom unless an address praying for such removal shall be presented to the Governor by the Legislative Council and the Legislative Assembly respectively in one session of parliament or by the Legislative Assembly alone in two consecutive sessions and at any time when parliament is not sitting it shall be lawful for the Governor with the advice aforesaid to suspend any commissioner from his office for inability or misbehaviour and to appoint some fit person to perform the duties of such commissioner during his suspension and when and so often as the same shall happen the Governor shall within seven days after the commencement of the next session of Parliament

How removed from
office.

Audit Act.

Parliament cause a full statement of the cause of such suspension to be laid before both Houses of Parliament and if an address shall at any time during that session be presented to the Governor by the Legislative Assembly praying for the restoration of such commissioner to his office such commissioner shall be restored accordingly but if no such address shall be so presented it shall be lawful for the Governor with the advice aforesaid to confirm such suspension and to declare the office of such commissioner to be and the same shall thereupon become and be vacant as if such commissioner were naturally dead.

Commissioners to
make a declaration.

IV. The commissioners before they shall enter upon the duties or exercise the powers vested in them by this Act shall make and subscribe before the Executive Council a declaration in the form contained in the first schedule to this Act and every such declaration shall be kept among the records of the said Council.

Appointment of
deputy.

V. In the case of the illness suspension or absence of any of the said commissioners it shall be lawful for the Governor with the advice aforesaid to appoint some other person to act as the deputy of such commissioner during such illness suspension or absence and every such person shall make and subscribe a declaration in the form last aforesaid and shall during the time for which he shall act as such deputy have all the powers and perform all the duties of such commissioner.

Appointment of Re-
ceivers.

VI. It shall be lawful for the Governor with the advice aforesaid from time to time to appoint as many fit persons as are needed to be and be called "Receivers of Revenue" and to direct at what town or place such persons respectively shall act in that capacity and it shall be the duty of such persons to receive all moneys which shall be paid to them as hereinafter directed.

Appointment of Col-
lectors.

VII. It shall be lawful for the Governor with the advice aforesaid from time to time to appoint as many fit persons as are needed to be and be called "Collectors of Imposts" and to direct at what town or place and within what limits or district such persons respectively shall act in that capacity and it shall be the duty of such persons to collect at the town or place and within the limits or district aforesaid all such moneys whether part of the consolidated revenue or not as the Governor with the advice aforesaid shall from time to time require.

Collectors to pay to
Receivers.

VIII. Every such collector as aforesaid and every other person in the public service to whose possession or control any moneys shall come by virtue of such office or employment shall pay the same to the receiver of revenue at such town or place and in such manner as the Governor with the advice aforesaid shall from time to time appoint and at such intervals as the treasurer shall from time to time direct and if any such collector or other person as aforesaid shall fail to pay the same as hereinbefore directed he shall forfeit a sum not exceeding one hundred pounds.

Collectors to deliver
statement to Re-
ceiver.

IX. Every such collector and other person as aforesaid at the time of paying any moneys in pursuance of this Act to a receiver of revenue shall deliver to such receiver a statement signed by such collector or other person as aforesaid of the particular accounts on which such moneys came to his possession or control and of the days of the month on which the same respectively were collected and every such statement shall be in the form contained in the second schedule to this Act or to the like effect and if any such collector or other person as aforesaid shall fail to deliver to such receiver such statement at the time and in the manner hereinbefore required or shall wilfully
make

Audit Act.

make a false statement of any of the matters aforesaid he shall forfeit a sum not exceeding one hundred pounds.

X. Every such collector and other person as aforesaid at the time of paying any money in pursuance of this Act to a receiver of revenue shall obtain from such receiver who is hereby required to give to such collector or other person as aforesaid under his hand a discharge for such money in the form contained in the third schedule to this Act and if any receiver shall refuse to give any such discharge he shall forfeit a sum not exceeding fifty pounds.

Receiver to discharge
Collector.

XI. In case any one person shall be a receiver of revenue and also a collector of imposts the statement and discharge respectively hereinbefore directed to be delivered and given at the time of paying any money in pursuance of this Act to a receiver of revenue shall not be necessary or given but in that case such person shall at the time hereinafter appointed for delivering or sending the accountable receipt required by this Act deliver or send by the post to the treasurer a statement signed by such person of the particular account on which the moneys by him collected and paid as hereinafter directed came to his possession or control and of the days of the month on which the same respectively were collected and every such statement shall be in the form contained in the fourth schedule to this Act or to the like effect and if any such person shall fail to deliver or send by the post as aforesaid such statement at the time and in the manner hereinbefore required or shall wilfully make a false statement of any of the matters aforesaid he shall forfeit a sum not exceeding one hundred pounds.

Proviso where the
same person is Re-
ceiver and Collec-
tor.

XII. Every receiver of revenue shall on every day on which the bank hereinafter mentioned is open pay all moneys which shall have come to his possession or control on or before that day as a collector of imposts or as such receiver as aforesaid into such bank at such place and in such manner as the Governor with the advice aforesaid shall from time to time appoint and such moneys shall be paid by such receiver to an account in such bank to be called "the public account" and shall be disposed of as hereinafter mentioned and not otherwise and if any receiver shall fail to pay the said moneys as hereinbefore directed he shall forfeit any sum not exceeding five hundred pounds.

Receivers to pay
money into the
Bank.

XIII. Every receiver of revenue at the time of paying any money into the said account in such bank as aforesaid shall obtain from the banker who is hereby required to give to such receiver in duplicate an accountable receipt for the same in the form contained in the fifth schedule to this Act and shall forthwith after such payment deliver or send by the post to the treasurer one of the said duplicate accountable receipts and the statement delivered to him by every such collector or other person as aforesaid with respect to the money so paid into such bank and also a summary of the said statements in the form contained in the same schedule and if any such receiver shall fail to deliver or send by the post as aforesaid such accountable receipts and statements at the time and in the manner hereinbefore required he shall forfeit a sum not exceeding one hundred pounds.

Receivers to send
statements to Treas-
urer.

XIV. Every such collector and other person as aforesaid respectively shall on or before the tenth day of every month deliver or send by the post to the said commissioners a return of all moneys which by virtue of his office service or employment shall have come to his possession or control during the month next preceding and every such return shall be in the form contained in the sixth schedule to this Act or to the like effect and shall have thereon a declaration in the form contained in the same schedule and such collector or other person

Collectors to send
declared returns to
Commissioners.

Audit Act.

person as aforesaid shall make and subscribe such declaration and if any such collector or other person as aforesaid shall fail to deliver or send as aforesaid such return and declaration or either of them within the time and in the manner hereinbefore required he shall forfeit any sum not exceeding two hundred pounds.

Commissioners to report defaulters.

XV. The said commissioners or one of them shall transmit to the treasurer the name of any person failing to deliver or send as aforesaid a return of all moneys collected by such person and shall from time to time generally communicate with the treasurer upon all matters relating to the collection receipt issue and expenditure of the public moneys.

Appointment of Paymaster.

XVI. It shall be lawful for the Governor with the advice aforesaid to appoint from time to time as many fit persons as are needed to be and be called "Paymasters" and such persons shall perform such duties as are hereinafter mentioned or as the Governor with the advice aforesaid shall from time to time require.

How moneys are to be issued.

XVII. All moneys paid into any bank to "the public account" as hereinbefore directed shall be deemed and taken to be money lent by Her Majesty to the person to whom such bank may belong and such moneys shall be drawn from the said account in the following manner only that is to say the treasurer shall as often as occasion may require calculate the amount of moneys likely to become due and payable out of "The Public Account" during a period not exceeding one month next after such calculation and shall thereupon prepare an instrument in the form contained in the seventh schedule to this Act and shall set forth therein the said amount classifying and arranging it (if for the public service) under the same divisions and sub-divisions that shall have been employed in framing the estimates or stating (if not for the public service) the purpose for which it is payable and after having signed such instrument shall transmit the same to the said commissioners and such instrument when countersigned by them or any two of them in the form contained in the same schedule and approved by the Governor as hereinafter mentioned but not otherwise shall be the warrant for the making of the order next hereinafter mentioned.

Commissioners to be guided by appropriation.

XVIII. Before countersigning any such instrument as aforesaid such commissioners shall ascertain that the sums therein mentioned are then legally available for and applicable to the service or purpose mentioned in such instrument and after countersigning such instrument shall return the same to the treasurer who shall thereupon submit it to the Governor for his approval and signature and after having obtained the same shall file the said instrument in the treasury.

Treasurer on receipt of warrant to issue orders for payment.

XIX. When the said warrant shall have been signed as last aforesaid the treasurer or his deputy may from time to time by an order in writing direct that the drafts or cheques of such paymasters as shall be named in such order shall be honored at any bank in which "the public account" is kept and every such order shall be in the form contained in the eighth schedule to this Act or to the like effect and shall be signed by the treasurer or his deputy and by him transmitted to the said commissioners and when countersigned by them or any one or more of them in the form contained in the same schedule shall be delivered at the bank to which the same is directed and shall be sufficient authority to such bank to honor and pay the drafts or cheques mentioned therein and no moneys shall be drawn or paid out of the said account in any other manner Provided always that the amount mentioned in such order shall in no case exceed the amount set forth in the said warrant or be made in anticipation thereof.

Treasurer to transmit accounts for payment by paymaster.

XX. Every such paymaster shall pay such accounts only as shall be from time to time transmitted to him for that purpose by the treasurer

Audit Act.

treasurer and no such account shall be so transmitted unless and until the expenditure to which such account shall relate shall have been duly authorized by the Governor and at the time of paying such accounts such paymaster shall obtain from the persons to whom the same are payable under their hands receipts for the amount so paid which shall always be in words at full length in such form as the Governor with the advice aforesaid shall from time to time prescribe and require but no such account shall be so paid by any paymaster until he shall have ascertained that the regulations to be framed as hereinafter mentioned shall have been complied with so far as the same relate to the duty of paymasters and every such paymaster shall forthwith after such payment deliver or send by the post to the treasurer the said accounts and receipts and also a summary of the said accounts so paid every such summary shall be in the form contained in the ninth schedule to this Act or to the like effect and shall have thereon a declaration in the form contained in the same schedule and such paymaster shall make and subscribe such declaration and every paymaster who shall pay such account contrary to the provisions of this Act or who fails so to deliver or send such account receipt summary and declaration or either of them shall forfeit any sum not exceeding one hundred pounds.

XXI. All sums of money which by any Act now or hereafter Lapsed votes. to be in force shall be appropriated to the public service in any year and which shall not be expended during such year shall lapse and shall not be issued or applied in any future year to the particular service for which the appropriation shall have been so made unless a contract or engagement shall be made and entered into during such year by which a liability to issue or apply the same according to the said Act shall have been incurred in which case the sums aforesaid or such portions thereof as shall be necessary for the purpose of satisfying the said contract or engagement shall be set apart and retained in the Treasury for that purpose and issued and applied accordingly in the following year only.

XXII. All moneys which by virtue of his office or employment shall come to the possession or control of any person in the public service for or on account or for the use or benefit of any other person and all moneys which shall be paid into any court shall be carried to accounts which shall be kept in the treasury for such purposes and be there placed to the credit of funds to be called respectively "The Trust Fund" and "The Suitors' Fund" and all such sums as shall be unclaimed for the period of six years after the same shall have become payable shall be carried to and form part of the consolidated revenue and no person shall be entitled to receive any sum which shall have remained unclaimed for six years but no time during which the person entitled to receive such sum shall have been an infant or feme covert or of unsound mind or beyond the seas shall be taken into account in estimating the said period of six years. Application of private money and sums paid into court.

XXIII. Every person into whose bank any moneys shall be paid to "the public account" as hereinbefore directed shall on every day on which such bank is open deliver or send by the post to the treasurer a copy to be called "the bank sheet" of so much of the debit and credit sides of "the public account" respectively as shall not then have been sent by such person to the treasurer. Bank to forward Pass Book.

XXIV. The treasurer shall keep at the treasury in the form contained in the tenth schedule to this Act or to the like effect a book to be called "the cash book" and shall enter therein when and as such statements accounts and receipts as aforesaid respectively are received by him the amount mentioned in the same respectively and shall Treasurer to keep a Cash Book.

Audit Act.

shall on every day on which the public offices are open send to the said commissioners the said statements accountable receipts bank sheets discharges accounts and receipts and a copy to be called "the cash sheet" of so much of the said book as shall not then have been sent by him to them.

Commissioners to
examine vouchers
and cash books.

XXV. The said commissioners or any two of them on receipt by them of the said cash sheet statements accountable receipts accounts and receipts shall examine the same and shall in the first place ascertain whether the computation is 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 the said commissioners or any two of them 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 accountable receipts accounts and receipts with the said cash sheets respectively.

Commissioners to dis-
charge Treasurer.

XXVI. Immediately after every such examination and comparison as last aforesaid the said commissioners or any two of them shall sign an acquittance for so much money as shall have been ascertained by them to have been duly and properly expended and every such acquittance shall be in such one of the forms contained in the eleventh schedule to this Act as shall 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.

Commissioners to
audit and report.

XXVII. The said commissioners or any two of them on receipt by them of the said returns shall examine and compare the same with the said cash sheet and with the said statements and accountable receipts and shall make and sign a report of the result of such examination and comparison and every such report shall be in such form as the Governor with the advice aforesaid shall from time to time direct and shall be delivered or left for the treasurer at his office before the last day of the month in which such returns are received.

Commissioners to sur-
charge treasurer.

XXVIII. If upon any such examination and comparison as aforesaid it shall appear to the said commissioners or any two of them that any money shall have been applied to any service or purpose for which the same was not legally available or that any expenditure shall not have been duly authorized by the Governor or that the said statements accounts and receipts or any of them are in any essential particular defective or imperfect or that any other material error has been committed the said commissioners or any two of them shall within two months next after the said statements accounts and receipts shall have been sent to them 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 shall be satisfied.

And treasurer to sur-
charge the defaulter

XXIX. Whenever the treasurer shall have been surcharged as hereinbefore directed he shall ascertain by what person the fraud mistake or error occasioning such deficiency shall have 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 transmitted by the treasurer to any paymaster for payment until such deficiency shall have been satisfied and an acquittance for the same shall have 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.

XXX. The

Audit Act.

XXX. The said commissioners or one of them shall once at least in every year inspect the books and accounts of every such receiver collector and paymaster as aforesaid and of all other persons intrusted with the receipt or expenditure of the consolidated revenue or other moneys as aforesaid and all stores belonging to Her Majesty of whatsoever nature or description the same may be and cause stock thereof to be taken and shall also investigate and examine all contracts accounts invoices requisitions books bills of parcels and vouchers in anywise relating to or concerning the same and all circumstances affecting or attending the making of any such contract and shall ascertain the quantity description and price of all stores purchased on account of Her Majesty and the quantity description and price of stores supplied for the use of every department of the public service and shall forthwith make and sign a report of the result of such inspection investigation examination and comparison and as to the manner in which the books accounts and other papers aforesaid are kept and every such report shall be in such form as the Governor with the advice aforesaid shall from time to time direct and shall within one month after the making and signing thereof be transmitted to the treasurer.

Commissioners to inspect public stores books accounts &c.

XXXI. The said commissioners may and they are hereby authorized and empowered by precept under their or one of their hands to require all such persons as they may think fit to appear personally before them at a time and place to be named in such precept and to exhibit to the said commissioners all such accounts books and papers in the possession or control of such persons as shall appear to be necessary for the purposes of their examination and it shall be lawful for the said commissioners and they are hereby authorized when they shall see 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.

Commissioners may call for persons and papers.

XXXII. The said commissioners or any one or more of them are and is hereby authorized and required to examine upon oath (which oath they and any one or more of them are and is hereby empowered to administer) all persons whom they or any one or more of them shall think fit to examine touching the receipt and expenditure of money or stores respectively affected by the provisions hereof and touching all other matters and things necessary for the due execution of the powers vested in them by this Act.

Commissioners may administer oath.

XXXIII. If any person shall make and subscribe any such declaration as hereinbefore mentioned knowing the same to be false or if any person in the course of his examination before the said commissioners or any of them shall wilfully and corruptly give 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.

Persons taking false oath or making a false declaration guilty of perjury.

XXXIV. No sum shall be allowed in the account of any paymaster 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 paymaster 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 said commissioners as the law officers and any other person he may think fit and after hearing the evidence which shall be brought before him such judge shall order that the said sum shall be allowed or disallowed as the case may be and shall make such other order in the premises as he shall think fit which order shall be binding on Her Majesty and all other parties and be acted on accordingly.

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

XXXV. When

Audit Act.

Proviso for imperfect vouchers.

XXXV. When a voucher produced by any paymaster for a sum disbursed by him shall be 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 said commissioners or any two of them upon proof being made to their satisfaction that the paymaster did not wilfully 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 of the said paymaster and to allow the amount of the same to his credit.

Allowances without vouchers or with imperfect vouchers to be reported.

XXXVI. In all cases where any sum shall be allowed to the credit of any paymaster either without any written voucher or upon an imperfect voucher or shall be 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 the report of the said commissioners 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 paymaster at his request.

Persons failing to attend Commissioners or Judge guilty of contempt.

XXXVII. Any person who shall fail to attend the said commissioners or any of them or any judge of the said court for the purpose of being examined or to produce any accounts books vouchers or other documents when required so to do by the said commissioners or any of them or by the said judge shall be liable on any such default to be dealt with as in case of a contempt of the said court.

Penalty for misappropriation.

XXXVIII. If any person liable to account for the receipt or expenditure of any public moneys or stores shall misapply or improperly dispose of or shall wilfully damage or destroy the same he shall be guilty of felony and shall on conviction thereof be kept to hard labor on the roads or other public works of the colony for any term not exceeding five years or be imprisoned with or without hard labor for any term not exceeding three years.

Treasurer to make quarterly statement of revenue and expenditure.

XXXIX. The treasurer as soon as conveniently may be after the expiration of every quarter of the financial year shall publish in the *Government 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 and also during the twelve months ending with such quarter together with a similar statement of the revenue received during the corresponding quarter of the previous financial year and during the twelve months next preceding the said first mentioned twelve months and such statements respectively shall be in the forms contained in the twelfth and thirteenth schedules to this Act or the like effect.

Treasurer to prepare yearly statement thereof and commissioners to countersign it.

XL. The treasurer shall not later than six months after the end of every financial year prepare a full and particular statement in detail of the receipt and expenditure as well of the consolidated revenue for such year (classified and arranged under the same divisions sub-divisions and items of sub-divisions that shall have been employed in framing the estimates) as of the said trust and suitors funds for the same period and shall transmit such statement to the said commissioners 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 treasurer and in case of disagreement reconciling and explaining such difference and containing full particulars of every case in which default shall have been made in delivering or sending accounts or accounting for public moneys and of all sums allowed by the said commissioners or any two of them without any

Audit Act.

any vouchers or with imperfect vouchers and of any proceedings that may have been taken against any person in pursuance of this Act and the said commissioners shall return the said statement accompanied by such report to the treasurer who shall forthwith lay the same respectively before the Legislative Assembly.

XLI. If any person shall knowingly and wilfully forge or counterfeit or cause or procure to be forged or counterfeited or knowingly and wilfully act or assist 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 consolidated revenue or any stores belonging to Her Majesty or shall forge or counterfeit or cause or procure to be forged or counterfeited or knowingly or wilfully act or assist in the forging or counterfeiting any writing made by any such person as aforesaid or shall utter or publish any such writing knowing the same to be forged or counterfeited with an intention to defraud Her Majesty or any person whomsoever every person so offending shall be guilty of felony and being convicted thereof shall be kept to hard labour on the roads or other public works of the colony for a period of not less than seven nor more than fifteen years.

Punishment for
forgery of treasury
documents.

XLII. It shall be lawful for the commissioners in such yearly statement or in any special report which they or any of them may at any time think fit to make to report upon any plans and suggestions that they or any of them may think worthy of adoption for the better collection and payment of the consolidated revenue and other moneys as aforesaid and the more effectually and economically auditing and examining the public accounts and any improvement in the mode of keeping such accounts that may at any time be brought to their or any of their notice and generally upon all matters relating to the public accounts.

Commissioners to
make suggestions
for collection and
payment of ac-
counts.

XLIII. If the exigencies of the public service render it necessary to alter the proportions assigned to the particular items comprised under any one subdivision in the estimates it shall be lawful for the Governor with the advice aforesaid to direct that there shall be applied in aid of any item that may be deficient a further limited sum out of any surplus arising on other items under the same subdivision provided that the aggregate sum voted for each subdivision shall not be exceeded and that the order by which such altered application may be made shall be delivered to the said commissioners.

Power to vary the
Estimates.

XLIV. Every person who shall be appointed to any office in pursuance of this Act and every such other person as aforesaid shall respectively provide security for such sum and in such manner and form as the Governor with the advice aforesaid shall from time to time direct for the due performance of their several offices and for the due accounting for and payment of all moneys which shall come to their respective possession or control by reason or virtue of their respective offices service or employments.

Security to be given.

XLV. It shall be lawful for the Governor with the advice aforesaid from time to time to frame such regulations (not inconsistent with the provisions of this Act) as may appear to be necessary and expedient for the purposes of this Act and all such regulations shall be laid before both houses of parliament within fourteen days after the framing thereof if parliament be sitting and if parliament be not sitting then within fourteen days after the next meeting of parliament.

Governor to frame
regulations.

XLVI. The present forms and modes of procedure for the recovery of debts damages duties sums of money land or goods due payable

Mode of recovering
Crown debts.

Audit Act.

payable and belonging to Her Majesty shall be and the same are hereby abolished and from and after the passing of this Act all such debts damages duties sums of money land or goods shall be sued for and recovered by the means and in the manner hereinafter mentioned.

Recovery of fines.

XLVII. When any fine shall by virtue of any law now or hereafter to be in force be imposed upon any person otherwise than by a judgment order or conviction of some court or justice some judge of the court by which or the justice by whom such fine shall be imposed if the same be not immediately paid shall by writing under his hand certify that fact together with the name and place of abode or business of the person on whom such fine shall have been so imposed and the cause and amount of such fine and shall deliver or send by the post to the law officer such writing and upon receipt thereof the law officer shall cause a final judgment to be signed in the Supreme Court for the amount of such fine and five pounds for costs and every such judgment may be in the form contained in the fourteenth schedule to this Act or to the like effect and no writ of error or appeal shall lie or be had therefrom.

Debts due by recognizance.

XLVIII. When any person shall have entered into any recognizance to Her Majesty and such recognizance shall be forfeited it shall be lawful for some judge of the court before which or for the justice before whom the same shall be forfeited to cause such recognizance to be estreated and every such estreat shall be effected as follows that is to say such judge or justice shall by writing under his hand certify that such forfeiture has taken place and shall deliver or send by the post to the law officer the said recognizance and writing and upon receipt thereof the law officer shall cause a final judgment to be signed in the Supreme Court for the amount of such recognizance and five pounds for costs and every such judgment may be in the form contained in the fifteenth schedule to this Act or to the like effect and no writ of error or appeal shall lie or be had therefrom.

Judgment may be vacated.

XLIX. When any final judgment shall have been signed under the provisions hereinbefore contained it shall be lawful for the Supreme Court or any judge thereof whether execution shall have been issued upon such judgment or not to order satisfaction to be entered upon such judgment. Provided always that no such order shall be so made except upon a rule *nisi* or summons calling upon the law officers or one of them to show cause nor unless it shall be proved by affidavit to the satisfaction of such court or judge either that the said judgment has been satisfied or that according to equity and good conscience and the real merits and justice of the case the defendant ought not to be required to satisfy the same.

Other debts and duties recoverable by Crown suit.

L. When any debt duty or sum of money shall be due to Her Majesty otherwise than upon or by virtue of any recognizance it shall be lawful for Her Majesty to cause to be sued out of the Supreme Court a certain writ to be called a writ of *capias ad respondendum* and every such writ may be in the form contained in the sixteenth schedule to this Act or to the like effect and shall be executed by the sheriff to whom the same shall be directed and shall be deemed and taken to be the commencement of a Crown suit.

Bail bonds assignable.

LI. If any person shall be arrested under or by virtue of any such writ as last aforesaid and the sheriff or other officer shall take bail from such person such sheriff or other officer at the request of the law officer shall assign to Her Majesty the bail bond taken from such person by endorsing and attesting the same under his hand and seal in the presence of two or more credible witnesses and if such bail bond be forfeited

Audit Act.

forfeited such process shall thereupon issue as on bonds originally made to Her Majesty.

LII. All such steps and proceedings as are mentioned in or upon any writ issued under this Act or in any notice issued according to the course and practice for the time being of the Supreme Court shall and may *mutatis mutandis* be had and taken in the same manner as if the same were expressly directed by this Act.

Proceedings indorsed on writ may be stayed.

LIII. In lieu of the declaration in a civil suit between subject and subject an information shall be filed or delivered as the case may be by the law officer for and on behalf of Her Majesty and in such information the cause of complaint shall be set forth in the same manner and form as nearly as may be as in any such declaration as aforesaid.

Form of information.

LIV. The time form and manner of process and proceeding in any Crown suit except where it is otherwise provided by this Act shall be the same as nearly as may be as by any law or rule of practice or pleading now or hereafter to be in force in the Supreme Court is or shall be directed in any civil action between subject and subject.

Proceedings to be the same as in actions.

LV. When any person against whom any proceedings under this Act shall be instituted in the Supreme Court shall be disabled by poverty from making defence thereto it shall be competent for such person to petition the court on affidavit verifying such disability and the court or any judge thereof on being satisfied of the truth of the facts alleged in such affidavit may assign counsel and attorney to such person and the counsel and attorney so assigned are hereby required to act for such person without fee.

Persons may defend in *forma pauperis*.

LVI. A motion for a new trial or to enter a verdict or in arrest of judgment or for judgment *non obstante veredicto* shall be allowed and be made and granted in the same manner and upon the same terms in all respects as by any law or rule of practice now or hereafter to be in force is or shall be directed in any civil action between subject and subject.

New trial.

LVII. The possession of land belonging to Her Majesty shall and may be recovered and obtained by proceedings in ejectment in the same form as nearly as may be as in an action of ejectment between subject and subject and the possession of goods or damages for detaining taking damaging or converting them or for trespassing or intruding upon land shall and may be recovered in the same manner as is hereinbefore directed with respect to any debt duty or sum of money due to Her Majesty otherwise than upon or by virtue of a recognizance.

Suits relating to land or goods.

LVIII. In all Crown suits in the nature of ejectment or detinue such writs of execution as by any law or rule of practice now or hereafter to be in force are or can be issued in any civil action of the same nature between subject and subject for the recovery of land goods or writings shall and may be issued on behalf of Her Majesty and where any such writ or part thereof is a *fiery facias* the writ next hereinafter mentioned may be used instead thereof.

Execution in other suits.

LIX. All sums recovered by Her Majesty by any judgment under this Act shall and may be levied and recovered by virtue of a writ to be called a *fiery capias* and every such last-mentioned writ may be in the form contained in the last schedule to this Act or to the like effect and Her Majesty may levy the poundage fees and expenses of execution over and above the sum recovered and shall have all such rights powers and remedies for obtaining and compelling satisfaction of any judgment as by any law now or hereafter to be in force are or shall be available in a civil action between subject and subject.

Execution for money.

Execution for goods and land.

LX. Except

Audit Act.

Property of Crown
debtors bound as
property of subjects
debtors.

LX. Except where it is otherwise provided by this Act Her Majesty shall not enforce any demand against a public accountant or any of his property in other manner than one subject could enforce a claim against another subject and his property and shall have such and the same lien claim and rights as any subject has and can enforce and no other.

Title of the cause and
cost of suit

LXI. In all pleadings and proceedings under this Act and in all affidavits notices consents summonses and rules to be used therein the title of the cause or proceedings shall be stated to be "The Queen against" the person sued naming him and no other title whatsoever shall be necessary and Her Majesty shall be entitled to full costs of suit in all cases in which a plaintiff in any civil action between subject and subject would be entitled thereto.

Judges to make rules
of practice.

LXII. It shall and may be lawful for the judges of the Supreme Court or for a majority of them to make such rules as they may think necessary for regulating and conducting the practice and mode of procedure under this Act in all instances in which the practice and mode of procedure in civil actions between subject and subject is or shall be inapplicable.

Commencement of this
Act.

LXIII. The first second third fourth fifth forty-fourth and forty-fifth sections of this Act shall commence and take effect immediately but the residue of this Act shall not commence or come into operation until the first day of January next after the passing hereof.

Audit Act.

THE FIRST SCHEDULE.

I John Styles do solemnly and sincerely promise and declare that according to the Sect. 4. best of my skill and ability I will faithfully impartially and truly execute the office and perform the duties of Commissioner of Audit.

JOHN STYLES.

THE SECOND SCHEDULE.

A STATEMENT of all Moneys paid to the Receiver of Revenue, at [Castlemaine], and of Sect. 9. the particular Accounts on which the same came to my possession or control, as [Clerk of Petty Sessions], at [Tarradale], from the day of , to this date, both inclusive.

Date.	Particulars.	Amount.
12 Jan., 1856	Jones against Smith (half of penalty to Crown) ...	£ s. d. 2 10 0
"	Ditto, ditto, half to the informer (John Brown) ...	2 10 0
"	Fees of Court	25 7 6
"	Paid into the County Court, at for A.B., at the suit of C.D.	99 10 6
TOTAL £		129 18 0

Dated the day of , 185 .
J. B., Collector of Imposts.
Received at my Office, on the day of , 185 .
O. P., Receiver of Revenue.

N.B.—An abstract shewing the Heads of Revenue must be attached to this statement.

THE THIRD SCHEDULE.

Office of Receiver of Revenue. Sect. 10.

Received from Mr.
the sum of pounds shillings and pence, for moneys
stated to have come to his possession or control as [Collector of Imposts] at [Tarradale],
from the day of to the day of ,
both inclusive and for which this is his sufficient discharge.

Dated at the day of
A. B ,
Receiver of Revenue.

£ : :

Audit Act.

THE SIXTH SCHEDULE.

A RETURN of all moneys which have come to my possession or control from the Sect. 14.
day of to the day of , both inclusive.

Date.		Particulars.	Amount.		
Total £					

SETTLEMENT of the above with the TREASURY.

Date.		To whom paid.	Description of payment.	Amount.		
Total £						

I, the undersigned, do solemnly and sincerely declare that the above written return is correct in every particular, and contains a true and accurate statement of all moneys which have come to my possession or control during the period above named, and that the above sums and the particular accounts on which the same came to my possession or control are duly and properly entered and recorded by me in the proper books of my office.

Dated at this day of 185 .

THE SEVENTH SCHEDULE.

To THE COMMISSIONERS OF AUDIT.
The amount of moneys likely to become due and payable out of "The Public Sect. 17.
Account" during now next, is pounds
shillings and pence, and the services
and purposes for which the same will be required are as follows, that is to say:—

For Service.		Not for Service.	Amount.		
Division.	Sub-Division.	Purpose.			
Total.....					

Dated this day of 185

A.B.,
Treasurer.

We certify that the sums above mentioned are now legally available for and applicable to the services and purposes above set forth.

Dated this day of

E. F., } Commissioners of
G. H. } Audit.

To THE TREASURER OF VICTORIA.

You are hereby authorized to issue out of the consolidated revenue, the amount above set forth, and for so doing this shall be your sufficient warrant.

Given under my Hand the day of

H. B.,
Governor.

THE TENTH SCHEDULE.

[illegible]

Sect. 24.

1857.]

21 VICTORIÆ

No. 24.

179

Audit Act.

THE ELEVENTH SCHEDULE.
No.

To THE HONORABLE A. B.
Treasurer of Victoria.

Sect. 26.

<p>We certify that we have examined the several accounts furnished to us in support of the payments authorised by you on account of the Public Service on the as set forth in your cast-sheet of that date amounting to and that we find you are entitled to a discharge from all responsibility and liability on account of such payments to the amount of being the expenditure as charged on that day [<i>adding if such be the case</i>] also the payments made under the accounts below enumerated and which are hereby surcharged viz. :—</p>			Amount.		
Treasury Vou. No.	Amount.				
			£		£

We therefore grant this acquittance as your warrant of discharge for the amount of pounds shillings and pence.

Given under our hands this day of 185 .

E. F. } Commissioners
P. O. } of Audit.

To THE HONORABLE A. B.
Treasurer of Victoria.

<p>We certify that we have re-examined the several accounts below enumerated previously placed under surcharge by warrant No. and that we find you are entitled to a discharge from all responsibility and liability to the amount charged by you under these accounts as payments on account of the Public Service as set forth in your cash sheet of the day of 18 .</p>	Amount.		
Treasury voucherNo			
Total £			

We therefore grant this acquittance as your warrant of discharge for the amount of pounds shillings and pence.

Given under my hand, this day of 185 .

P. O. } Commissioners
A. B. } of Audit.

Audit Act.

THE FOURTEENTH SCHEDULE.

No.

Sect. 47.

VICTORIA (to wit.) Be it remembered that H. S. C., Esquire, Attorney (or Solicitor) General of Our Lady the Queen for and on behalf of Our said Lady the Queen gives the court here to understand and be informed that at the General Sessions of the Peace holden at _____ on the _____ day of _____ before J. G. F. Esquire and others justices of Our said Lady the Queen assigned to keep the peace a fine of _____ pounds was imposed and inflicted upon A. B. for that he the said A. B. (behaved and conducted himself in a disorderly manner in the said court *or as the case may be*) as by the certificate of the said J. G. F. now filed of record appears. Therefore on the _____ day of _____ it is considered by the court here that our said Lady the Queen do recover against the said A. B. the said sum of _____ and also the sum of *five* pounds for costs making together the sum of _____

THE FIFTEENTH SCHEDULE.

No.

Sect. 48.

VICTORIA (to wit.) Be it remembered that H. C. S. Esquire Attorney (or Solicitor) General of Our Lady the Queen for and on behalf of Our said Lady the Queen gives the court here to understand and be informed that at the General Sessions of the Peace holden at _____ on the _____ day of _____ before J. G. F. Esquire and others justices of Our said Lady the Queen assigned to keep the peace the recognizance of one A. B. by which he acknowledged to owe to Our said Lady the Queen the sum of _____ was forfeited and estreated as by the said recognizance and the certificate of the said J. G. F. now filed of record appears. Therefore on the _____ day of _____ it is considered by the court here that Our said Lady the Queen do recover against the said A. B. the said sum of _____ and also the sum of *five* pounds for costs making together the sum of _____

THE SIXTEENTH SCHEDULE.

No. .

Sect. 50.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. To the Sheriff of the _____ Greeting We command you that you forthwith take A. B. of _____ if he be found in your bailiwick and him safely keep until he shall have given you bail or made deposit with you according to law in this suit or until he shall by other lawful means be discharged from your custody. And we do further command you that on execution of this writ you deliver a copy hereof to the said _____ who is hereby required to take notice that within eight days after his arrest inclusive of the day of such arrest he should cause an appearance to be entered for him in our said court at our suit and that in default of his so doing we shall proceed against him according to law for the recovery of our said claim. And we do further command you that immediately after the execution hereof you do return this writ to our Supreme Court at Melbourne together with the manner in which you shall have executed the same and the day of the execution hereof. Witness _____ at Melbourne the _____ day of _____ in the year of our Lord One thousand eight hundred and _____
(*To be indorsed.*)

If a defendant having given bail on the arrest shall omit to put in special bail as required by the within writ Her Majesty may proceed against the sheriff or on the bail bond.

Bail for £

by order of the Attorney [or Solicitor] General.

Audit Act.

THE LAST SCHEDULE.

No.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Sect. 59.
Ireland, Queen, Defender of the Faith. To the Sheriff of the Greeting
We command you that you take C. D. if he shall be found in your bailiwick and him safely
keep so that you may have his body before our Supreme Court at Melbourne immediately
after the execution hereof to satisfy us pounds which lately in our
said court we recovered against the said C. D. whereof the said C. D. is convicted together
with the sum of for interest upon the said sum at the rate of eight
pounds for every one hundred pounds by the year until this day And we do further
command you that of the real and personal estate of the said C. D in your bailiwick you
cause to be made the said sums and have the same before our said court immediately after
the execution hereof to be rendered to us and in what you shall have executed this writ
make appear to our said court immediately after the execution hereof and have there then
this writ. Witness at Melbourne this day of in the
year of our Lord One thousand eight hundred and fifty

(To be indorsed.)

Levy the whole besides sheriff's poundage officers' fees and other expenses of this
execution When the full amount is levied by the sheriff the defendant may be discharged
without further notice or authority but if the amount is not so levied the defendant can
only be discharged by the court or a judge or by the written authority of the Attorney or
Solicitor General.

The defendant is a and resides at

MELBOURNE:

By Authority: JOHN FERRIS, Government Printer.