

Hon. Mr. Ballance.

LOCAL AUTHORITIES' ACCOUNTS AND AUDIT.

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A BILL INTITULED

AN ACT to provide for the Keeping and Audit of the Accounts of Title.  
Local Authorities.

5 WHEREAS it is expedient to make further provision for the keeping Preamble.  
of the accounts of local bodies, and for the audit of the same :

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

10 and 1. The Short Title of this Act is " The Local Bodies' Accounts Short Title.  
Audit Act, 1891."

2. In this Act the words— Interpretation.

" Accountant " means the Treasurer, Clerk, or other officer  
of a local body whose duty it is to keep the accounts of  
the same :

15 " Audit Inspector " means an Inspector appointed under this  
Act :

" Audit Office " means the Controller and Auditor-General,  
and includes the Assistant Controller and Auditor :

20 " The bank " means the bank in which the funds of the  
local body are kept :

“Local authority” means every City or Borough Council, County Council, Town Board, Road Board, Harbour Board, Dock Trust, River Board, Drainage Board, Domain Board, and the governing body, however designated, of every corporation or institution maintained or supported in whole or in part by grants of public money, or by the proceeds of endowments of Crown lands, or out of rates, tolls, fees, or fines which any such body is empowered by law to levy, claim, receive, or enforce, and includes the corporation of which the local authority is the governing body :

“Treasury” means the Colonial Treasurer, and includes any member of the Executive Council acting as or for the Colonial Treasurer.

Form of accounts.

3. The accountant of every local authority shall keep full and true accounts, in which he shall enter every sum received into and every sum paid out of the funds of such local authority, in the order of date of each such receipt and payment.

The accounts of every local authority shall be kept under the several heads as follow :—

- (1.) The General Account, which shall be credited with all moneys received which are not hereby required to be credited to any other account, and shall be charged with all the ordinary expenditure of the local authority, and with any transfers it thinks fit to make to the other accounts hereinafter mentioned.
- (2.) The Special Accounts, consisting of the accounts of each loan raised for any special purpose; accounts of waterworks, gasworks, tramways, or other works for which separate rates or other moneys are appropriated, and of moneys received in trust for any purpose; each of which accounts severally shall be credited with the moneys received, and charged with all payments on account of the work, service, or purpose for which such loans, separate rates, or other funds are provided, and with the cost and charges of raising any such loan, or the cost of collecting any such separate rate, and with the repayment of any moneys theretofore advanced from the General Account and expended on such work; service, or purpose, and with such sums as are required to be transferred to the Interest and Sinking Fund Accounts.
- (3.) The Interest Accounts, in which the account of the interest payable on each loan shall be credited with the moneys so payable, whether received on account of special rates (if any), rents, or otherwise, or transferred from the General or any Special Account to provide for such interest; and shall be charged with the interest paid on such loan.
- (4.) The Sinking Fund Accounts, in which the account of the Sinking Fund payable on each loan shall be credited with the moneys so payable, whether received on account of special rates, or transferred from the General or any

Special Account to provide for such Sinking Fund; and shall be charged with the sums paid over to the Sinking Fund Commissioners of the local authority.

5 (5.) Any Interest and Sinking Fund Account may be charged with a proportionate share of the cost of collecting a special rate.

4. If the balance in any Special Account is at any time insufficient to meet the lawful charges thereon, the local authority shall transfer such sums as may be necessary from the General Account to meet  
10 such charges, and may at any time repay any such advance out of any excess in the receipts over the liabilities of such account.

If the balance to the credit of any Interest or Sinking Fund Account is insufficient, the local authority shall transfer from the  
15 General Account such sums as may be necessary on or before the day upon which such interest or sinking fund is payable.

It shall not be lawful to make any transfer from any one to any other of the accounts above mentioned except as in this Act provided.

It shall not be lawful to overdraw any account above mentioned except the General Account, and that only to the extent and as here-  
20 inafter provided.

5. The moneys belonging to each account required to be kept by this Act shall be kept in a separate account at the bank, and no money shall be withdrawn from any such account except for the purpose for which the same is appropriated. Bank accounts.

In case there shall be any surplus moneys in the account of  
25 any loan after the completion of the work for which such loan was raised, such surplus may be expended for such other special work as shall be determined by a special order in that behalf.

6. Any Borough Council, County Council, Road Board, or River Board may, in anticipation of the income of its General Account, from  
30 time to time borrow moneys from the bank by way of overdraft; but the amount of such overdraft, together with the total liabilities of such local authority (exclusive of all loans lawfully raised and debentures lawfully issued and of all contracts chargeable thereon) shall never at any time exceed the amount of the ordinary income  
35 of the General Account received during the previous financial year.

Any money borrowed by way of overdraft in excess of the amount authorised by this Act, shall be deemed to be a debt due by the members of the local authority assenting to such borrowing; and it shall be the duty of the Audit Office to recover the same from such  
40 members, and pay the moneys so recovered to the local authority to be applied in diminution of the said overdraft.

7. If a local authority at any time—

Illegal borrowing.

(1.) Borrows any money or issues any debentures in excess of or otherwise than in accordance with the provisions of this  
45 or any other Act in that behalf; or

(2.) Borrows, under this or any other Act, any moneys which the local authority is not legally bound to repay; or

(3.) Purports or attempts to bind the local authority to pay any money which it is not legally bound to pay;

50 every member of the local authority who consents thereto shall for

every such offence be liable to a penalty of *one hundred pounds*, to be recovered with full costs of suit in any Court of competent jurisdiction; and

It shall be the duty of the Audit Office to institute the necessary proceedings against every member of the local authority liable to pay any such penalty. 5

Financial year.

8. Except when otherwise provided by Order of the Governor in Council the financial year of all local authorities shall end on the thirty-first day of March.

Yearly balance-sheet.

9. Within fifteen days after the end of each financial year the accountant of every local authority shall prepare a balance-sheet, being an abstract of receipts and expenditure of each of the accounts above mentioned for such year, and shall lay the same before the local authority at a special meeting thereof, to be held within twenty days after the end of each financial year; and, the local authority having passed the said accounts with such alterations as it thinks fit, the accountant shall forthwith give notice to the Audit Office that such Account is ready for Audit and shall, if so required, send it to the Audit Office or to such Audit Inspector as the Audit Office directs. 10 15

Half-yearly balance-sheet.

10. The accountant of every borough and county shall also, within fifteen days after the thirtieth day of September and the thirty-first day of March in each year, prepare and send to the Audit Office in like manner a similar balance-sheet, being passed as aforesaid, for each of the six months ending on such days respectively. 20

Annual statements.

11. Together with the annual balance-sheet above mentioned the accountant shall send to the Audit Office, or to such Audit Inspector as the Audit Office directs — 25

(1.) A statement of the estimated assets and liabilities of the local authority on the last day of the financial year, exclusive of the public debt and sinking funds;

[Assets shall consist of *cash assets*, being moneys in hand or due to the local authority, and *contingent assets*, being the estimated value of such property as the local authority is empowered to dispose of; and liabilities shall consist of *cash liabilities*, being sums due for services or contracts completed, and *contingent liabilities*, being sums payable under engagements or contracts still incomplete.] 30 35

(2.) A statement of the public debt of the local authority, showing the total debt outstanding under the head of each loan raised, the date on which the same is payable, and the sinking fund in the hands of the Commissioners of Sinking Funds to provide for the repayment of each loan; 40

(3.) A statement of the reserves, endowments, and other real estate belonging to the local authority, and the terms, conditions, and rent for which any parts thereof are let on lease or otherwise, and the accounts of the rents in arrear in each case. 45

Audit of accounts.

12. The Audit Office shall forthwith audit every such account and statement, and shall certify the same if correct and return it to the local authority with such report and with such exceptions as it thinks fit. 55

13. The accounts of every local authority shall be kept in such form, subject to the provisions of this Act, as the Audit Office directs. Incorrect accounts.

If it appears to the Audit Office that any such account or statement is incorrect, or insufficient, or is not in the form required by law, the Audit Office may return it to the local authority, and require such alterations and entries to be made therein as it thinks necessary in order to correct the same; and the local authority shall cause such alterations or entries to be made accordingly. If the local authority or accountant refuses or neglects to obey the direction of the Audit Office in that behalf the Supreme Court may, on the application of the Audit Office, direct a mandamus to issue to compel the local authority or accountant to make the said alterations or entries, or such other alterations or entries in the account as the Court shall think fit.

15 The Court may in its discretion order that any or all of the costs of and incidental to such application shall be paid out of the funds of the local authority, or by the members or any officer of the same guilty of such neglect or refusal, or may make such other order therein as it shall think fit.

20 14. As soon as the balance-sheet and statements above mentioned shall have been received from the Audit Office, duly certified, the Mayor or Chairman shall sign the same and the local authority shall cause the same to be published in some newspaper in general circulation in the district, or, where there is no such newspaper, by printed placards affixed to public places in the district. Publication of accounts.

Whenever it is made to appear that the publication of the annual balance-sheet of any local authority as above provided would be unnecessarily expensive the Treasury may prescribe such other means of publication as it thinks fit.

30 15. The Audit Office shall have full power at any time to make a special audit of the accounts of any local authority, extending over such period as it may think fit, whether before or after the passing of this Act. But no accountant or other person shall be made accountable in respect of any account which shall have been certified by the Audit Office, except in the case of fraud or embezzlement. Special audit.

35 16. The Commissioners or Trustees of the Sinking Funds of every local authority shall, within fifteen days after the end of each financial year, prepare a balance-sheet showing the transactions of such year in respect of each loan, together with the whole of the sinking funds in their hands, and the securities in which the same are invested, and, having signed the same, shall send it to the Audit Office or to such Audit Inspector as the Audit Office directs. And the Audit Office shall, if it finds the same to be correct, certify it, and send it to the local authority, who shall publish the same together with the balance-sheet of the local authority, as provided by this Act. The Audit Office shall have the same power in respect of the moneys and securities in the hands of the Sinking Fund Commissioners, and all persons dealing therewith, as it has under this Act in respect of the funds of the local authority. Commissioner of Sinking Funds accounts.

45 17. Every local authority shall send to the Treasury and to the Audit Office respectively such copies of the yearly balance-sheet and statements as certified by the Audit Office, together with such other Balance-sheets to be sent to Treasury and Audit.

information relating thereto, as the Treasury or the Audit Office directs.

**Travelling-expenses.** 18. Where by any Act it is provided that any member of a local authority may be paid the travelling-expenses incurred by him in attending meetings or travelling in the service of such local authority, such member shall render a statement of the sums which he has so expended, together with a declaration that such sums were actually expended by him in so travelling, and the Audit Office shall allow no such charge not supported by such statement and declaration. 5

**Refusal to give information.** 19. Every person concerned in the receipt, custody, or expenditure of the moneys of a local authority, or in keeping the accounts thereof, shall at all times furnish all such accounts and give all such information relating thereto as may be required by the Treasury or by the Audit Office or by any Audit Inspector; and any such person who refuses or neglects to furnish any such accounts or information when required so to do shall be liable to a penalty not-exceeding *twenty* pounds. 10 15

**Audit may examine on oath.** 20. The Audit Office may, if it thinks fit, examine any such person upon oath touching any matter relating to the receipt or expenditure of the moneys of or belonging to any local authority, or to the accounts of the same. 20

**Audit to recover moneys due.** 21. If at any time any moneys belonging to any local authority are lying in the hands of or are due from any person who ought to have paid the same to such local authority, the Audit Office may call on such person forthwith to pay the same, and in default of such payment shall take all such steps as it thinks fit to recover such moneys, and shall forthwith pay them over to the use of the local authority to which they belong. 25

**Audit to prosecute in case of fraud.** 22. If any person having possession of or control over the moneys of any local authority fraudulently applies, or causes or permits the same or any part thereof to be applied to other than the service of such local authority, or is a defaulter in respect of such moneys, the Audit Office shall take all such steps as it thinks fit to prosecute the person so offending according to law. 30

But nothing herein shall prevent the prosecution of such person otherwise than at the instance of the Audit Office. 35

**Audit may surcharge.** 23. If upon any audit it is found that any moneys belonging to any local authority have been, at any time before or after the passing of this Act, expended without the authority of law, or that any moneys borrowed or received for any special purpose have been expended for any other purpose than that for which they were so borrowed or received, the Audit Office shall surcharge the amount thereof jointly and severally upon the members of the local authority by whose authority such moneys were so expended. 40

If it is found that any such moneys have been expended without the authority of the local authority, the Audit Office shall surcharge the amount thereof upon the accountant or other officer by whom the expenditure was made. 45

The amount so surcharged shall be deemed to be a debt due to the local authority from the person or persons surcharged. 50

**Surcharge to have the force of judgment.** 24. Every such surcharge shall be in the form set forth in the *First* Schedule to this Act, and may, subject to appeal as herein **First Schedule.**

provided, be filed and judgment entered up thereon in any Court of competent jurisdiction without further proceedings, and the Audit Office shall, on recovery of any such moneys, forthwith pay the same over to the local authority to which they belong.

5     25. Any person subjected to such a surcharge may, within one month after service of notice of the same, appeal to a Judge of the Supreme Court by way of summons in Chambers; and the Judge may disallow such surcharge if he considers that the expenditure to which it relates was duly authorised by law, or is satisfied that the  
10 expenditure in question was authorised *bona fide* in the interest and for the public service of the local authority, and in pursuance of legal advice given in writing by a solicitor of the Supreme Court.

Appeal from sur-  
charge.

On any such appeal the onus shall be upon the appellant, who shall be deemed liable to such surcharge unless the contrary be  
15 proved to the satisfaction of the Judge.

On any such appeal evidence may be taken orally or by affidavit, at the discretion of the Judge.

26. The Audit Office is hereby empowered, by precept under the hand of the Controller and Auditor-General or of the Assistant  
20 Controller and Auditor in the form set forth in the *Second Schedule* to this Act, to require any such person as he thinks fit to appear personally before him, at a time and place to be named in such precept, and to produce any accounts, vouchers, books, or papers in the possession or control of such person. If any person refuses or neglects  
25 to attend at the time and place required of him by any such precept, or to produce any account-books, vouchers, or money in his possession or under his control which he is required to produce, or refuses to answer any lawful question asked him by the Audit Office, he shall be liable to a penalty of *one hundred pounds*.

Audit precept.

Second Schedule.

30     27. All legal proceedings taken under the provisions of this Act by the Audit Office shall be taken in the name of the Controller and Auditor-General.

Proceeding in name  
of Controller and  
Auditor-General.

It shall be lawful for the Audit Office to incur all necessary expenses in any such legal proceedings, and the Treasury shall issue  
35 and pay the same out of the Consolidated Fund.

Where such proceedings arise out of any defalcation on the part of the local authority or any of its officers, the costs of the same shall be deemed to be a debt due to the Crown, and recoverable accordingly.

40     Neither the Controller and Auditor-General nor the Assistant Controller and Auditor shall be personally liable for any costs or consequences arising out of any proceedings taken under this Act.

28. All such expenses incurred under this Act not otherwise recoverable shall be recovered as a debt due to the Crown from the  
45 local authority concerned, or may be deducted from any subsidies or other moneys at any time payable out of the Public Account to such local authority.

Expenses a debt by  
local authority.

29. The Accountant to every local authority shall prepare and shall affix and maintain in a conspicuous place at the offices of the  
50 same a list of all ratepayers whose rates shall not have been paid for three months and upwards after such rates became payable, and shall erase from such list the name of every ratepayer as soon as his rates are paid.

List of outstanding  
rates to be posted.

Penalty for not publishing accounts.

30. If any local authority, or the Mayor, Chairman, or accountant thereof, shall refuse or neglect to publish within the time prescribed any account or statement which they or he are required to publish within such time, each of the members of such authority, or the Mayor, Chairman, or accountant as the case may be, shall be liable to a penalty of *ten pounds*, and to a further penalty of *ten pounds* for every day during which such default shall continue. 5

Ratepayer may sue for illegal expenditure.

31. If the Audit Office shall certify that any moneys have been unlawfully paid, or that any liability has been unlawfully incurred, by a local authority, the income of which is derived or in part derived from rates, any ratepayer of the district may, in any Court of competent jurisdiction, sue the members who consented to such payment or the incurring of such liability, either jointly or severally, for the amount of such payment or liability, and may recover judgment for the same together with all costs of the proceedings. 10

The amount of such costs, when recovered, shall be paid to the ratepayer who sued, and the other moneys recovered to the local authority concerned. 15

Who may inspect accounts.

32. Any member of a local authority, and any ratepayer of the district over which its authority extends, and any person holding any security charged upon the property or income thereof, may at all reasonable times inspect the accounts of such local authority, and may take copies from any part thereof; and any person refusing or obstructing such inspection or copying of any accounts in his custody or control shall be liable to a penalty not exceeding *ten pounds* for every such offence. 20

Cost of audit recoverable from local authority.

33. The costs and expenses of auditing the accounts of any local authority, and the costs and expenses of any arbitration held by the Audit Office between two or more local authorities under the provisions of any Act in that behalf, shall be according to a scale which the Governor in Council is hereby authorised from time to time to fix. All such costs and expenses shall be paid into the Public Account by the local authority or local authorities concerned respectively, and in default of such payment may be recovered as a debt due to the Crown, or may be deducted from any subsidy or other public moneys at any time payable to the local authority or local authorities concerned. 25

All moneys so recovered shall be carried to the credit of the vote for the Audit Department. 30

All such charges made upon any local authority before the passing of this Act under the authority of any Order in Council purporting to have been issued under the provisions of any Act in that behalf, shall be deemed to have been duly made under the authority of this Act. 35

Governor may direct audit of savings-banks accounts.

34. The Governor may at any time direct the Audit Office to audit the accounts of any savings-bank established under "The Savings Bank Act, 1858." 40

Audit Inspectors.

35. The Audit Office may from time to time appoint any officer of the Audit Office or other fit person to be an Inspector to inspect any of the accounts required to be audited by this Act, and to report thereon to the Audit Office. 45

Repealing.

36. The several sections of the several Acts mentioned in the *Third* Schedule to this Act, and the provisions of every Act which are contrary to the provisions of this Act, are hereby repealed. 50



## SCHEDULES.

Schedules.

## FIRST SCHEDULE.

Sec. 24.

## AUDIT SURCHARGE.

In the matter of the Accounts of the [insert name of local authority.]  
 WHEREAS I, \_\_\_\_\_, the Controller and Auditor-General, duly appointed under  
 "The Public Revenues Act, 1891," have audited the accounts of the said  
 for the year ended on the \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, and have found that the  
 sum of £ \_\_\_\_\_ has been paid out of the funds of the said \_\_\_\_\_ without authority  
 of law, and *ultra vires* of the said \_\_\_\_\_: And whereas the expenditure of the  
 said sum of £ \_\_\_\_\_ was authorised at a meeting of the said \_\_\_\_\_, held on the  
 \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_, at which meeting the members of the Council herein-  
 after mentioned, that is to say, [insert names of members] were present and assenting  
 to such payment, and that the said \_\_\_\_\_ was not acting *bonâ fide* and under  
 legal advice [or that the expenditure of the said sum was not authorised by the  
 said \_\_\_\_\_]:

Now, therefore, I, the said \_\_\_\_\_, as such Controller and Auditor-General,  
 hereby disallow the said payment of £ \_\_\_\_\_, and, by virtue of the provisions of  
 the 23rd section of "The Public Revenues Act, 1891," and of the powers thereby  
 vested in me, and of any other powers in anywise enabling me in that behalf, do  
 hereby surcharge the said \_\_\_\_\_ [jointly and severally] with the said sum of  
 £ \_\_\_\_\_

Dated at Wellington, this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

Controller and Auditor-General.

## SECOND SCHEDULE.

Sec. 26.

To

THESE are to command and require you, laying aside all and singular business and  
 excuses, to appear in your proper person before me at \_\_\_\_\_, on the \_\_\_\_\_ day  
 of \_\_\_\_\_ next, at \_\_\_\_\_ o'clock in the \_\_\_\_\_ noon of the same day, then and  
 there to testify all those things which you know touching [Insert subject of inquiry],  
 and also that you bring with you [Insert description of the documents required to be  
 produced]; and this you shall by no means omit, under the penalty of one hundred  
 pounds.

Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 189\_\_\_\_.

Controller and Auditor-General.

## THIRD SCHEDULE.

Sec. 26.

- 1878, No. 19.—"The Public Revenues Act, 1878," section 33.  
 1885, No. 38.—"The Public Revenues Act, 1885," section 7.  
 1886, No. 39.—"The Public Revenues Act, 1886," section 9.  
 1890, No. 36.—"The Public Revenues Acts Amendment Act, 1890," section 3.  
 1886, No. 50.—"The Municipal Corporations Act, 1886," sections 162 to 176 in-  
 clusive, 190, 201, and 203.  
 1886, No. 49.—"The Counties Act, 1886," sections 174 to 191 inclusive, 211, 218,  
 and 317.  
 1887, No. 12.—"The Counties Act Amendment Act, 1887," section 2.  
 1881, No. 35.—"The Town Districts Act, 1881," sections 44 and 45.  
 1883, No. 35.—"The Town Districts Act 1881 Amendment Act, 1883," section 27.  
 1882, No. 43.—"The Road Boards Act, 1882," sections 100 to 111 inclusive.  
 1878, No. 35.—"The Harbours Act, 1878," sections 174 to 186 inclusive.  
 1886, No. 45.—"The Harbours Act 1878 Amendment Act, 1886," sections 10, 11  
 and 14.  
 1884, No. 49.—"The Rivers Boards Act, 1884," sections 124 to 127 inclusive.  
 1885, No. 28.—"The Rivers Boards Act 1884 Amendment Act, 1885," section 9.  
 1888, No. 32.—"The Local Bodies' Audit Act, 1888."