

ANNO UNDECIMO & DUODECIMO

VICTORIÆ REGINÆ.

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CAP. XCI.

An Act to make Provision for the Payment of Parish Debts, the Audit of Parochial and Union Accounts, and the Allowance of certain Charges therein. [31st *August* 1848.]

WHEREAS it is expedient to make some Provisions as to the Payment in certain Cases of Debts incurred by the Overseers of the Poor in Parishes after their Year of Office has expired: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, That if the Overseers of the Poor in any Parish shall lawfully, by virtue of their Office, contract any Debt on account of the Parish within Three Months prior to the Termination of their Year of Office, and the same shall not have been discharged by them before their Year of Office shall have determined, such Debt shall be payable by and recoverable from their immediate Successors in Office, and chargeable upon the Poor Rate of the said Parish, in like Manner as the same would have been payable and chargeable by such first-mentioned Overseers during their Year of Office; and if any such Debt shall have been contracted during their Year of Office, but more than Three Months prior to its Termination, the same shall be payable by and recoverable from their

If Overseers contract Debts within Three Months of Termination of their Year of Office, their immediate Successors shall discharge the same.

their immediate Successors in Office, if the Rate-payers of the Parish in Vestry assembled, and the Commissioners for administering the Laws for Relief of the Poor in *England*, shall consent, but not otherwise.

Provision for Payment of Bills of Costs for legal Proceedings.

II. Provided nevertheless, and be it enacted, That where any Proceedings have been commenced or shall be hereafter carried on, for or on behalf of any Parish, in a Court of Law, regarding any Matter affecting the Poor Rates of such Parish, it shall not be necessary that the Bill of Costs of the Solicitor or Attorney engaged therein shall be paid before the Termination of the Proceedings, but in any such Case the Amount of the Bill, when duly taxed, if otherwise chargeable against the Parish, shall be payable out of the Poor Rates within the Space of One Year next following the Termination of the Proceedings, but not afterwards, unless the Commissioners aforesaid shall by their Order authorize the Payment of the Costs and Expenses attending any such Proceedings by annual Instalments not exceeding Five, to commence from such Termination.

Parties who have advanced Money on behalf of Unions and Parishes to be reimbursed.

III. And whereas in many Cases Sums of Money expended by Officers or other Persons on behalf or for the Benefit of Unions and Parishes, without legal Authority, have not been allowed by the Auditors, though the Guardians of the Unions and the Rate-payers of the Parishes interested have been willing and desirous that such Sums should be paid out of the Funds of those Unions or Parishes respectively, and great Loss, in consequence of such Sums not being allowed, has been sustained by Individuals; and it is desirable that Power should be given for the Relief of such Persons, under certain Circumstances: Be it therefore enacted, That if any Person, since the passing of the Act of the Fifth Year of the Reign of His late Majesty, intituled *An Act for the Amendment and better Administration of the Laws relating to the Poor in* England *and* Wales, and before the passing of this Act, have advanced or expended Money on behalf and for the Benefit of any Union or Parish, without having had due legal Authority for such Advance or Expenditure, and the same shall not have been allowed in the Accounts of the Union or of the Parish on behalf of which it has been expended or advanced, and the major Part of the Guardians of such Union or Parish, or the Rate-payers of such Parish in Vestry assembled, as the Case may be, shall express their Consent to the Reimbursement of such Sum of Money out of the Funds of the Union or Parish so interested, the Commissioners aforesaid may, if they think fit, by their Order authorize the Reimbursement of such Sum of Money by the Guardians of the Union or Parish, or the Overseers of the Parish, as the Case may require, in such Manner as the said Commissioners shall deem most advisable, so however that if the same be not repaid at once it shall be repaid by equal annual Instalments not exceeding Five; and all Payments subsequently made in conformity with such Order, but not otherwise, shall be allowed by the Auditor in the Accounts of the Guardians, Overseers, or other Officers who shall make the Payment in obedience to such Order: Provided always, that nothing herein contained shall apply to authorize the Repayment of any Sum of Money which has been paid on

4 & 5 W. 4. c. 76.

any

any other Account than that of the Relief of the Poor, or in respect of some Matter chargeable upon or connected with the Poor Rate.

Appeal against Disallowances and Surcharges may be determined by the Poor Law Board on the Merits, and such Disallowances, &c. may be remitted in certain Cases.

IV. And be it enacted, That where any Appeal shall be made to the said Commissioners against any Allowance, Disallowance, or Surcharge made by any Auditor in the Accounts of any Guardians, Overseers, or their Officers, it shall be lawful for the said Commissioners to decide the same according to the Merits of the Case; and if they shall find that any Disallowance or Surcharge shall have been or shall be lawfully made, but that the Subject Matter thereof was incurred under such Circumstances as make it fair and equitable that the Disallowance or Surcharge should be remitted, they may, by an Order under their Seal, direct that the same shall be remitted, upon Payment of the Costs, if any, which may have been incurred by the Auditor or other competent Authority in the enforcing of such Disallowance or Surcharge.

Mode of certifying as to Balances to Officers.

V. And whereas Doubts exist as to the Powers and Duties of Auditors in certifying the Sums due from the Overseers and other Officers, and it is desirable to remove such Doubts: Be it therefore enacted, That where any Overseer or Officer shall be continuing in Office at the Time when the Accounts are audited, the Auditor shall certify as due such Sums of Money only as shall be disallowed or surcharged by him in the Accounts so audited; but where the Term of Office of such Overseer or Officer shall have expired at the Time when the Accounts are audited, he shall ascertain the Balance which he shall find to be then due on the Accounts so audited, together with the Sums (if any) which he shall have disallowed or surcharged, and shall give Credit for all Sums which shall be proved before him to have been paid in respect of such Balance to the succeeding Overseers or Officers, or otherwise lawfully applied on behalf of the Parish or Union interested therein, before the Date of his Audit, and he shall certify, report, and recover, in the Manner provided by Law, the Balance remaining due after such Credit shall have been given; and every Certificate made by any Auditor, if made according to the Forms set forth in the Schedule hereunto annexed, or to the like Effect, shall be deemed to be sufficient: Provided always, that where the Sum, or the Aggregate of the Sums, disallowed by the Auditor in the Account of any Officer, shall not amount to Forty Shillings, the same may be paid over with the Balance due from such Officer, instead of being paid to the Treasurer.

Sums paid by Overseers to Constables, &c. by Order of Justices under 18 G. 3. c. 19. or 5 & 6 Vict. c. 109. not to be disallowed by Auditors.

VI. And be it enacted, That where any Money shall have been paid by an Overseer to a Constable, Headborough, Tithingman, or other Peace Officer, in obedience to any Authority in Writing purporting to be an Order of a Justice made according to the Provision of the Act passed in the Eighteenth Year of the Reign of His late Majesty *George* the Third, for the Payment of the Charges of Constables in certain Cases, or an Order of Justices in Petty Sessions assembled, purporting to be made in conformity with the Provisions contained in the Act of the Sixth Year of the Reign of Her present Majesty, for the Appointment and Payment of Parish Constables, it shall not be disallowed by any Auditor or other Authority competent

petent to examine, allow, and disallow the Accounts of Overseers, on any Ground whatsoever.

Notice of Audit to be advertised.

VII. And be it enacted, That, in addition to the Notices now required by Law to be given by the Auditor, he shall also give Notice by Advertisement in some Newspaper circulating in the County wherein the Union or the greater Part of it, or, in the Case of a Parish not comprised in a Union, wherein such Parish shall be situated, a reasonable Time prior to the holding of his Audit; and the Production of a Copy of such Newspaper shall in all Courts and for all Purposes be deemed sufficient Evidence of the Notice of the Audit; and, except where a Party, not being an Officer bound to account to the Auditor, shall be surcharged by such Auditor, it shall not be necessary to prove that the Audit of any Accounts was adjourned, and that Notice of any such adjourned Audit was given.

As to Proceedings necessary to be taken against Persons now liable to be surcharged by Auditor, and to whom no Notice is required to be given.

VIII. And be it enacted, That if an Auditor shall see Cause to surcharge any Person now liable by Law to be surcharged by him, and to whom no Notice is now required by Law to be given, with any Sum of Money in reference to any Payment considered by him to have been illegally or improperly made, he shall, if the Person be not present at such Audit, cause Notice in Writing of his Intention to make such Surcharge to be given, by Post or otherwise, to the Person against whom he shall propose to make this Surcharge, addressed to him at his last known Place of Abode, and shall adjourn the Audit, so far as it shall relate to such particular Matter, for a sufficient Time to allow of such Person appearing before him, and showing Cause against such Surcharge, and at such Time the said Auditor shall hear the Party, if present, and determine according to the Law and Justice of the Case.

What shall be required to be proved by Auditors in order to recover Sums certified by them to be due.

IX. And be it enacted, That in any Proceedings to be taken by an Auditor, or by his Attorney, before Justices, to recover Sums certified by him to be due, it shall be sufficient for him to produce a Certificate of his Appointment under the Seal of the Poor Law Commissioners, or of the Commissioners aforesaid, and to state and prove that the Audit was held, that the Certificate was made in the Book of Account of the Union or Parish to which the same relates, and that the Sum certified to be due had not been paid to the Treasurer of the Guardians of the Union or of the Parish, as the Case may require, within Seven Days after the same had been so certified, nor within Three clear Days before the laying of the Information, of which Nonpayment a Certificate in Writing purporting to be signed by the Treasurer, shall be sufficient Proof on the Part of the Auditor; and if at the hearing of such Information it shall be proved that the said Sum had been paid to the Treasurer subsequently to the Date of such last-mentioned Certificate, the Costs incurred by such Auditor shall be paid by the Party against whom the Information shall be laid, unless he prove that Notice of such Payment had been given to the Auditor Twenty-four Hours at least prior to the laying of the Information.

X. And

Auditor may, upon Cause being shown, appoint a Deputy.

X. And be it enacted, That the said Commissioners may at any Time, upon sufficient Cause being shown to them, authorize any Person, selected by the Auditor, to act temporarily as his Deputy, and shall communicate to the several Unions and Places forming his District the Name of the Person so appointed to act as his Deputy, and such Person shall thereupon be empowered to act in all respects, and with the same Authorities, and subject to the same Duties and Liabilities, as the Auditor himself is entitled or subject to.

Power for Parishes, with Consent of Vestries, mutually to bear the Costs of several Appeals involving the same common Principle.

XI. And be it enacted, That where Appeals are brought at the same Time against the Poor Rates of several Parishes, which may appear to involve some common Principle, it shall be lawful for the Overseers or other Authorities therein, with the Consent of the respective Vestries of such Parishes, to enter into an Agreement, to be approved of by the said Commissioners, mutually to bear the Costs which may be properly incurred in and about the Trial of such Appeals on the Part of the several Respondents, as well as Costs of the Appellants, if any, which may be awarded against the Respondents, in such Proportions as shall be fixed and determined with reference to the Amount of Interest of the several Parishes in the Question, or otherwise as shall appear just; and the said Agreement shall continue binding upon the several Parishes and their respective Overseers in succession until the several Appeals shall have been finally determined.

Power for Guardians of Parishes, &c. under Local Acts to grant Out-door Relief, in the same Manner as in Unions formed under 4 & 5 W. 4. c. 76.

XII. And whereas in certain Parishes and Unions wherein the Relief of the Poor is administered by Guardians or other competent Authorities under the Provisions of particular Statutes or Local Acts applicable thereto Doubts have been entertained whether any poor Person can be relieved by such Guardians or other Authorities out of the Workhouses belonging to such Parishes and Unions respectively, and it is expedient to remove such Doubts, and to give Authority for such Relief out of the Workhouse: Be it enacted, That in all Cases where the Relief of the Poor is administered in any Parish or Union under the Provisions of any Local Act it shall be lawful for the Guardians or other competent Authority administering the Relief to the Poor in any such Parish or Union, if they think fit, to administer such Relief in all respects in like Manner and with the like Powers and Authorities as any Board of Guardians of a Union formed under the Provisions of the Act passed in the Fifth Year of the Reign of His late Majesty, aforesaid, is now or shall hereafter be authorized to do; and all Relief heretofore granted by such Guardians or other Authority shall, if otherwise lawfully granted, be held lawful for all Purposes, although the same shall have been granted out of the Workhouse of such Parish or Union, as the Case may be, and the Costs and Charges thereof shall not be disallowed by any Auditor, Justice, or other competent Authority in that Behalf, on the Ground that the same was granted out of the Workhouse: Provided always, that the Cost of all such Relief so given or to be given shall be charged among the Parishes in the same Union in like Manner and in like Proportion as the Relief heretofore or hereafter to be given in the Workhouse of such Parish or Union is now or shall hereafter be chargeable.

Interpretation of Act.

XIII. And be it enacted, That the several Words used in this Act shall be construed in the Manner prescribed by the said hereinbefore recited Act, and the Acts explaining and extending it.

SCHEDULE to which this Act refers.

Forms of Certificates.

1.—*Against an accounting Officer.*

I do hereby certify, That in the Account of *A.B.*, the [*set out the Name of the Office*] of the Parish of [*or* of the Union], I have disallowed [*or* surcharged] the Sum of

As witness my Hand, this Day of 1848.

M.N., Auditor of the District, which comprises the above-named Parish or Union.

2.—*Against a Person not an accounting Officer.*

I do hereby certify, That in the Accounts of the Union [*or* of the Parish of] I have disallowed the Sum of £ as a Payment illegally made out of the Funds of such Union [*or* Parish] and I find that *C.D.* of authorized the making of such illegal Payment, and I do hereby surcharge the said *C.D.* with the same.

As witness my Hand, this Day of 1848.

M.N., Auditor of the District, which comprises the above-named Union or Parish.

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