

unless it be made to appear that it was out of his power to collect the same by levy and sale of any property liable to be seized and sold therefor; if the impossibility to collect any portion of such delinquent taxes have resulted from any irregularity or defect in the assessment, then the Assessor, whose duty it was to make the assessment, shall be liable and be deemed debtor to the treasury for the amount remaining uncollected for that cause.

SEC. 79. The Treasurer of said city and county shall receive and safely keep in a secure fire-proof vault, to be prepared for the purpose, all moneys belonging to, or which shall be paid into the treasury, and shall not loan, use, or deposit the same, or any part thereof, with any banker or other person, nor pay out any part of said moneys, except upon demands authorized by this Act, and after they have been duly audited; he shall keep the key of said vault and not suffer the same to be opened except in his presence. At the closing up of the same, each day, he shall take an account and enter in the proper book, the exact amount of money on hand, and at the end of every month shall make and publish a statement of all receipts into, and payments from, the treasury, and on what account. If he violate any of the provisions of this section, he shall be considered a defaulter, and shall be deemed guilty of a misdemeanor in office, and be liable to removal, and shall be proceeded against accordingly; if he loan or deposit said moneys, or any part thereof, contrary to the provisions of this section, or apply the same to his own use or to the use of any other person, in any manner whatsoever, or suffer the same to go out of his personal custody, except in payment of audited demands upon the treasury, he shall be deemed guilty of felony, and on conviction thereof, shall suffer imprisonment in the State Prison for a period not less than three or more than ten years.

SEC. 80. The Treasurer shall keep the moneys belonging to each fund separate and distinct, and shall, in no case, pay demands chargeable against one fund out of moneys belonging to another, except as otherwise provided in this Act, without an express order of the Board of Supervisors, which can only be made at or after the third regular session, held during the fiscal year, by a vote of two-thirds. The said Treasurer shall give his personal attendance at his public office during the office hours fixed in this Act; and if he absent himself therefrom, except on account of sickness or urgent necessity, during such office hours, he shall lose his salary for the entire day on which he was absent.

SEC. 81. Repealed. (See Act of the Legislature, March 28, 1859.)

SEC. 82. No payment can be made from the treasury or out of the public funds of said city and county, unless the same be specifically authorized by this Act, nor unless the demand which is paid, be duly audited, as in this Act provided, and that must appear upon the face of it. No demand upon the treasury shall be allowed by the Auditor in favor of any person or officer in any manner indebted thereto, without first deducting the amount of such indebtedness, nor to any person or officer having the collection, custody, or disbursement of public funds, unless his account has been duly presented, passed, approved and allowed, as required in this Act; nor in favor of any officer who shall have neglected to make his official returns or his reports, in writing, in the manner and at the time required by law, or by the regulations established by the Board of Supervisors; nor to any officer who shall have neglected or refused to comply with any of the provisions of this or any other Act of the Legislature, regulating the duties of such officer, on being required in writing, to comply therewith, by the President of the Board of Supervisors, or the Supervisor of the respective district; nor in favor of any officer for the time he shall have absented himself without lawful cause, from the duties of his office during the office hours prescribed in this Act; and the Auditor may examine any office, receiving a salary from the treasury, on oath, touching such absence.

SEC. 83. The term "audited," as used in this Act with reference to demands upon the treasury, is to be understood their having been presented to, and passed upon, by every officer and board of officers, and finally allowed as required by law: and this must appear upon the face of the paper representing the demand, or else it is not