ANNO VICESIMO SECUNDO

VICTORIÆ REGINÆ.

****

C A P. XXVI.

An Act to amend the Laws concerning Superannuations and other Allowances to Persons having held Civil Offices in the Public Service.

[19th *April* 1859.]

WHEREAS an Act was passed in the Session holden in the Fourth and Fifth Years of King *William* the Fourth, Chapter Twenty-four, "to alter, amend, and consolidate "the Laws for regulating the Pensions, Compensations, and Allow- "ances to be made to Persons in respect of their having held "Civil Offices in His Majesty's Service:" And whereas by an Act of the Session holden in the Twentieth and Twenty-first Years of Her Majesty, Chapter Thirty-seven, Section Twenty-seven of the first-recited Act, by which an Abatement was directed to be made from the Salaries of Civil Servants entitled to Superannuation Allowance, was repealed: And whereas it is desirable further to amend the said Act as herein-after mentioned: Be it therefore enacted by the Queen's most Excellent Majesty, by and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, as follows:

4 & 5 W. 4. c. 24.

20 & 21 Vict. c. 37.

Sections 10, 11, 13, 14, 15, 17, 19, and 24 of 4 & 5 W. 4. c. 24. repealed.

I. Sections Ten, Eleven, Thirteen, Fourteen, Fifteen, Seventeen, Nineteen, and Twenty-four of the said Act of the Fourth and Fifth

Years of King *William* the Fourth are hereby repealed, but such Repeal shall not affect any Pension, Compensation, or Superannuation Allowance granted or Act done before the passing of this Act.

Ordinary Rate of Superannuation Allowance.

II. Subject to the Exceptions and Provisions herein-after contained, the Superannuation Allowance to be granted after the Commencement of this Act to Persons who shall have served in an established Capacity in the permanent Civil Service of the State, whether their Remuneration be computed by Day Pay, weekly Wages, or annual Salary, and for whom Provision shall not otherwise have been made by Act of Parliament, or who may not be specially excepted by the Authority of Parliament, shall be as follows; (that is to say,)

To any Person who shall have served Ten Years and upwards, and under Eleven Years, an annual Allowance of Ten Sixtieths of the annual Salary and Emoluments of his Office:

For Eleven Years, and under Twelve Years, an annual Allowance of Eleven Sixtieths of such Salary and Emoluments:

And in like Manner a further Addition to the annual Allowance of One Sixtieth in respect of each additional Year of such Service, until the Completion of a Period of Service of Forty Years, when the annual Allowance of Forty Sixtieths may be granted; and no Addition shall be made in respect of any Service beyond Forty Years:

Provided always, that if any Question should arise in any Department of the Public Service as to the Claim of any Person or Class of Persons for Superannuation under this Clause, it shall be referred to the Commissioners of the Treasury, whose Decision shall be final.

This Act to apply to Persons already in the Civil Service, but without Prejudice to existing Rights.

III. Nothing herein contained shall interfere with the Grant, to the Officers and Clerks who entered the Public Service prior to the Fifth Day of *August* One thousand eight hundred and twenty-nine, of such Superannuation Allowances as might hereafter have been granted to them under Section Nine of the said Act of the Fourth and Fifth Years of King *William* the Fourth, or shall prevent, restrict, or diminish any other Superannuation Allowance, Pension, Gratuity, or Compensation which, if this Act had not been passed, might hereafter have been granted to any Person who shall have entered the Public Service before the passing of this Act, but, except as aforesaid, the Provisions herein-after contained shall apply as well to Persons who have already entered the Public Service, whether before or after the said Fifth Day of *August* One thousand eight hundred and twenty-nine, as to those who may hereafter enter the Public Service.

IV. It

Provision for computing Amount of Superannuation to Persons holding professional and other special Offices.

IV. It shall be lawful for the Commissioners of the Treasury from Time to Time, by any Order or Warrant, to declare that for the due and efficient Discharge of the Duties of any Office or Class of Offices to be specified in such Order or Warrant, professional or other peculiar Qualifications, not ordinarily to be acquired in the Public Service, are required, and that it is for the Interest of the Public that Persons should be appointed thereto at an Age exceeding that at which Public Service ordinarily begins; and by the same or any other Order or Warrant to direct that when any Person now holding or who may hereafter be appointed to such Office or any of such Class of Offices shall retire from the Public Service, a Number of Years not exceeding Twenty, to be specified in the said Order or Warrant, shall, in computing the Amount of Superannuation Allowance which may be granted to him under the foregoing Section of this Act, be added to the Number of Years during which he may have actually served, and also to direct that in respect of such Office or Class of Offices the Period of Service required to entitle the Holders to Superannuation may be a Period less than Ten Years, to be specified in the Order or Warrant; and also to direct that, in respect of such Office or Class of Offices, the Holder may be entitled to Superannuation, though he may not hold his Appointment directly from the Crown, and may not have entered the Service with a Certificate from the Civil Service Commissioners: Provided always, that every Order or Warrant made under this Enactment shall be laid before Parliament.

Allowances in Cases of bodily Injury.

V. It shall be lawful for the Commissioners of the Treasury to grant to any Person who, being the Holder of an Office in respect of which a Superannuation Allowance may be granted, but not having completed the Period which would have entitled him to a Superannuation Allowance, is compelled to quit the Public Service by reason of severe bodily Injury, occasioned, without his own Default, in the Discharge of his public Duty, a Gratuity not exceeding Three Months Pay for every Two Years of Service, or a Superannuation Allowance not exceeding Ten Sixtieths of the annual Salary and Emoluments of his Office.

Power to Treasury to grant Gratuities in case of short Service.

VI. It shall be lawful for the Commissioners of the Treasury to grant to any Person who, being the Holder of an Office in respect of which a Superannuation Allowance may be granted, is constrained, from Infirmity of Mind or Body, to leave the Public Service before the Completion of the Period which would entitle him to a Superannuation Allowance, such Sum of Money by way of Gratuity as the said Commissioners may think proper, but so as that

that no such Gratuity shall exceed the Amount of One Month's Pay for each Year of Service.

Power to Treasury to grant Allowances on Abolition of Offices.

VII. It shall be lawful for the Commissioners of the Treasury to grant to any Person retiring or removed from the Public Service in consequence of the Abolition of his Office, or for the Purpose of facilitating Improvements in the Organization of the Department to which he belongs, by which greater Efficiency and Economy can be effected, such special annual Allowance by way of Compensation as on a full Consideration of the Circumstances of the Case may seem to the said Commissioners to be a reasonable and just Compensation for the Loss of Office; and if the Compensation shall exceed the Amount to which such Person would have been entitled under the Scale of Superannuation provided by this Act if Ten Years were added to the Number of Years which he may have actually served, such Allowance shall be granted by special Minute, stating the special Grounds for granting such Allowance, which Minute shall be laid before Parliament, and no such Allowance shall exceed Two Thirds of the Salary and Emoluments of the Office.

Condition of Grant of full Superannuations to public Servants not Heads of Departments.

VIII. It shall not be lawful for the Commissioners of the Treasury to grant the full Amount of Superannuation Allowance which can be granted under this Act to any Person not being the Head Officer or One of the Head Officers of a Department, unless upon Production of a Certificate (signed by the Head Officer of the Department, or by Two Head Officers, if there be more than One) that he has served with Diligence and Fidelity to the Satisfaction of such Head Officer or Officers; and in every Case in which any Superannuation Allowance is granted, after the Refusal of such Certificate, the Minute granting it shall state such Refusal and the Grounds on which the Allowance is granted.

Power to Treasury to grant Allowances for special Services,

and for Demerits in individual Cases.

IX. Provided, That it shall be lawful for the Commissioners of the Treasury to grant to any Person any Superannuation, Compensation, Gratuity, or other Allowance of greater Amount than the Amount which might be awarded to him under the foregoing Provisions, when special Services rendered by such Person, and requiring special Reward, shall appear to them to justify such Increase, but so that such Allowance shall in no Case exceed the Salary and Emoluments enjoyed by the Grantee at the Time of Retirement, and the Grounds of every such Increase shall be stated in a Minute of the Treasury, which shall be laid before Parliament; and it shall be lawful for the said Commissioners to grant to any Person any such Allowance of

of less Amount than otherwise would have been awarded to him where his Defaults or Demerit in relation to the Public Service appear to them to justify such Diminution.

Evidence of Infirmity of Persons under Sixty.

X. It shall not be lawful to grant any Superannuation Allowance under the Provisions of this Act to any Person who shall be under Sixty Years, unless upon Medical Certificate to the Satisfaction of the Commissioners of the Treasury that he is incapable, from Infirmity of Mind or Body, to discharge the Duties of his Situation, and that such Infirmity is likely to be permanent.

Persons superannuated under Sixty may be required to serve again.

XI. Every Person to whom a Superannuation or Compensation Allowance shall have been granted before he shall have attained the Age of Sixty Years shall, until he has attained that Age, be liable to be called upon to fill, in any Part of Her Majesty's Dominions in which he shall before have served, any Public Office or Situation under the Crown for which his previous public Services may render him eligible; and if he shall decline, when called upon to do so, to take upon him such Office or Situation, or shall decline or neglect to execute the Duties thereof satisfactorily, being in a competent State of Health, he shall forfeit his Right to the Compensation or Superannuation Allowance which had been granted to him.

Persons to retain Right to Superannuation on Transfer to other Employment under the Crown.

XII. And whereas it will be for the Advantage of the Public Service that Officers holding Employments entitling them to Superannuation Allowances under this or other Acts shall be eligible for other Public Employments at home and abroad, without forfeiting their Claims to such Allowances:

Every Officer already or hereafter to be transferred from Employment entitling him to Superannuation Allowance to Public Employment under the Crown not so entitling him shall be entitled, on his ultimate Retirement from the Public Service, to the same Allowance as if he had continued to hold the vacated Appointment and at the same Rate of Salary as when the same was vacated, subject nevertheless to the Conditions which would in that Case have been applicable with respect to the Grant of such Allowance; provided that it shall be lawful for the Commissioners of the Treasury, in the Case of Officers transferred to Governorships and Lieutenant-Governorships of Colonies, and other high Offices abroad, conferred for a limited Period, to grant such Superannuation Allowance to such Officers on the Expiration of such Term of Service without a Renewal of Public Employment; but any Officer to whom such Grant is made while under the Age of Sixty Years shall be subject to the same Liability to be called upon to fill Office under the Crown, as herein provided concerning other Persons under that Age to whom like Allowances are granted.

Orders, &c., within what Time to be laid before Parliament.

XIII. All Orders, Warrants, and Minutes by this Act directed to be laid before Parliament shall be laid before both Houses of Parliament within Fourteen Days after the making thereof if Parliament be sitting, and if Parliament be not sitting then within Fourteen Days after the next Meeting thereof.

Section 6. of 57 G. 3. c. 65. only to apply to Officers having had Seats in Parliament.

XIV. No Pension shall be granted under the Provisions of Section Six of the Act of the Fifty-seventh Year of King *George* the Third, Chapter Sixty-five, to any Person who shall not have had a Seat in One of the Houses of Parliament during the Period or One Half of the Period for which he has held Office, as in the said Section is mentioned.

Acts in Schedule to be construed as referring to this Act.

XV. The several Sections mentioned in the Schedule hereto of the several Acts of Parliament, also therein mentioned, shall be construed as if this Act, instead of the said Act of the Fourth and Fifth Years of the Reign of King *William* the Fourth, had been referred to in the said Sections; and such other Enactments as refer to the Scale of Superannuation Allowance established by the Provisions hereby repealed of the said Act of King *William* the Fourth shall be construed as if the Scale established by this Act had been referred to.

Allowances to be paid free from Taxes.

XVI. All Superannuations, Compensations, Gratuities, and other Allowances granted or hereafter under this Act to be granted shall be paid to the Persons entitled to receive the same without any Abatement or Deduction in respect of any Taxes or Duties whatever at present existing, except the Tax upon Property or Income.

Who to be deemed Civil Servants.

XVII. For the Purposes of this Act, no Person hereafter to be appointed shall be deemed to have served in the permanent Civil Service of the State unless such Person holds his Appointment directly from the Crown, or has been admitted into the Civil Service with a Certificate from the Civil Service Commissioners; nor shall any Person, already appointed to any Office, be held to have served in the permanent Civil Service as aforesaid, unless such Person belong to a Class which is already entitled to Superannuation Allowance, or to a Class in which, if he had been appointed thereto subsequently to the passing of this Act, he would, as holding his Appointment directly from the Crown, or as having been admitted into the Civil Service with such Certificate as aforesaid, have become entitled to such Allowance; and no Person shall be entitled to any Superannuation Allowance under this Act, unless his Salary or Remuneration has been provided out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, or out of Monies voted by Parliament.

XVIII. So

XVIII. So much of the said Act of the Fourth and Fifth Years of King *William* the Fourth, Chapter Twenty-four, as is now in force and not hereby repealed, and this Act, shall be construed together as One Act. 4 & 5 W. 4. c. 24. and this Act to be construed together.

XIX. It shall be sufficient, in citing this Act, to use the Expression "The Superannuation Act, 1859." Short Title.

SCHEDULE A.

5 & 6 W. 4. c. 42. s. 1.
7 W. 4. & 1 Vict. c. 30. s. 21.
8 & 9 Vict. c. 100. ss. 5. 10.
13 & 14 Vict. c. 89. s. 39.
15 & 16 Vict. c. 73. s. 15.
15 & 16 Vict. c. 87. s. 46.
17 & 18 Vict. c. 78. s. 22.
19 & 20 Vict. c. 110. s. 9.

LONDON:
Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE,
Printers to the Queen's most Excellent Majesty. 1859.