CHAP. 86.

An Act for the better Regulation of the Regular and Auxiliary Land Forces of the Crown; and for other purposes relating thereto. [17th August 1871.]

A.D. 1871.

WHEREAS it is expedient to provide for the better regulation of the regular and auxiliary land forces of the Crown, and for other purposes relating thereto:

And whereas by Royal Warrant, dated the twentieth day of July one thousand eight hundred and seventy-one, all regulations regulating or fixing the prices at which any commissions in Her Majesty's Forces may be purchased, sold, or exchanged, or in any way authorising the purchase or sale or exchange for money of any such commissions, from and after the first day of November one thousand eight hundred and seventy-one, in this Act referred to as the said appointed day, have been cancelled and determined:

Be it 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:

PRELIMINARY.

1. This Act may be cited for all purposes as "The Regulation of the Forces Act, 1871." Short title of Act.

PART I.

COMMISSIONS IN HER MAJESTY'S FORCES.

PART I. *Commissions.*

2. No person shall be punished under the Acts fifth and sixth Edward the Sixth, chapter sixteen, and forty-ninth George the Third, chapter one hundred and twenty-six, or either of them, or by or in pursuance of the sentence of any court-martial, for any offence committed previously to the said appointed day in relation to any purchase, sale, or exchange of commissions having a regulation price, or in relation to any bargain, act, or deed relating thereto. No punishment for sale, &c. of commissions previous to appointed day.

A.D. 1871.

PART I. *Commissions.*

Compensation to officers holding saleable commissions.

3. Every officer holding on the said appointed day a saleable commission in Her Majesty's Army shall, on his retirement under the circumstances herein-after mentioned, be entitled in respect of such commission to receive, on application to the Commissioners appointed under this Act, and in this Act referred to as the Commissioners, such price or sum as is herein-after mentioned; that is to say,

1. Where such officer is permitted to retire from a regiment in the Army under circumstances in which, if the said Royal Warrant had not issued, he would have been permitted to retire by sale of his commission:

   He shall be entitled to receive a sum equal to the estimated price at which the commission held by him on the said appointed day would have been saleable if the said Royal Warrant had not issued.

2. Where such officer is permitted to retire on full pay or to go on half pay, on promotion or otherwise, and proves to the satisfaction of the Commissioners that he would, if the said Royal Warrant had not issued, have on such retirement received according to the custom of his regiment a certain sum of money:

   He shall be entitled to receive the over-regulation price of the commission which was held by him on the said appointed day.

3. Where such officer being on half pay is permitted to retire from the Army by commutation of his half pay, and proves to the satisfaction of the Commissioners that if the said Royal Warrant had not issued he would have been eligible, by the regulations of the Army in force at the time of the passing of this Act, for retirement by sale of his commission, whether on exchanging to full pay or otherwise:

   He shall be entitled to receive such sum, if any, as, in addition to the sum paid by the Commutation Board under the Pensions Commutation Act, 1869, will amount to the regulation price of the saleable commission held by him on the said appointed day.

Provided that—

The number of half-pay officers of each rank entitled in any one year to receive compensation on retirement shall not exceed the limit specified in the table in the schedule hereto.

"A saleable commission" in this Act means a commission in the Army in respect of which Her Majesty's warrant for the pay and

promotion of the Army, and the regulations of the Army in force at the time of issuing of the said Royal Warrant provide that on the occasion of the holder vacating the same a certain price may be given.

"The estimated price at which a commission would have been saleable if the said Royal Warrant had not issued" shall in this Act be the regulation price of such commission, together with the over-regulation price, if any.

"The regulation price of a commission" shall mean the price authorised to be given or received in respect of such commission by Her Majesty's warrant for the pay and promotion of the Army, and the regulations of the Army in force at the time of the issuing of the said Royal Warrant, and in the case of an officer holding, on the said appointed day, a commission, the full price of which (if such commission were sold on that day) he would not be entitled to receive, shall include any allowance made in respect of such commission by the said warrant and regulations on account of service, whether performed before or after the said appointed day.

"The over-regulation price" of a commission in any regiment shall be the customary sum, if any, payable in that regiment beyond the regulation price on the occasion of such commission being vacated, and shall be determined by the Commissioners, as nearly as may be, according to the custom prevalent in the regiment prior to the first day of January one thousand eight hundred and seventy-one.

Where an officer retires from the Army in a higher rank than that held by him on the said appointed day, and proves to the Commissioners that he has served previously to the said appointed day a number of years, the value of which service, calculated as hereinafter mentioned, amounts to a sum exceeding the regulation price of the commission held by him on the said appointed day, then, if otherwise entitled, he shall receive, instead of the regulation price of such last-mentioned commission, the value of such service, calculated as aforesaid, to an amount not exceeding the regulation price of a commission of the rank next above the rank held by him on the said appointed day.

The rate at which the value of such service as aforesaid shall be calculated shall, in the case of service as an officer, be fifty pounds for every year of home service, and one hundred pounds for every year of foreign service, and in the case of service in the ranks shall be twenty-five pounds for every year of home service, and fifty pounds for every year of foreign service.

A.D. 1871.

PART I. *Commissions.*

No officer shall receive over-regulation price under this Act who has at any time previously realized such price or any part thereof.

No officer, on retirement from the Army, shall receive in pursuance of this Act a greater sum in respect of such retirement than he would have received if the said Royal Warrant had not issued.

Compensation to officers of certain Indian regiments.

4. The Commissioners shall have power to consider the claims on retirement of any officers who on the said appointed day are serving in the regiments of the line following, that is to say, the cavalry regiments numbered nineteen, twenty, and twenty-one, and the infantry regiments numbered from one hundred and one to one hundred and nine, both inclusive, and to grant to such officers when permitted to retire a compensation equal to the sums they would have received according to the custom of their regiment from the junior officers of their regiments had they retired therefrom prior to the said appointed day.

Provision for expense of compensating officers.

5. All expenses incurred by the Commissioners in carrying into effect this Act shall be defrayed out of moneys to be provided by Parliament.

PART II. *Auxiliary Forces.*

PART II.

AUXILIARY FORCES.

Jurisdiction of lieutenants of counties in respect of auxiliary forces revested in Her Majesty.

6. After a day to be named by order of Her Majesty in Council, all jurisdiction, powers, duties, command, and privileges over, of, or in relation to the militia, yeomanry, and volunteers of England, Scotland, and Ireland, or any of such forces or any part thereof, vested in or exerciseable by the lieutenants of counties, or by the Lord Lieutenant of Ireland, either of his own motion or with the advice of the Privy Council in Ireland, shall revert to Her Majesty, and shall be exerciseable by Her Majesty, through her Secretary of State, or any officers to whom Her Majesty may, by and with the advice of her said Secretary of State, delegate such jurisdiction, powers, duties, command, and privileges, or any of them or any part thereof; saving nevertheless to the lieutenants of counties, and to the Lord Lieutenant of Ireland, their jurisdictions, powers, duties, and privileges in relation to the appointment of deputy lieutenants, and saving also to the lieutenants of counties their jurisdictions, powers, duties, and privileges in relation to the raising of the militia by ballot, and the proceedings incidental thereto; and after the day named as last aforesaid all officers in the militia, yeomanry, and volunteers of

England, Scotland, and Ireland shall hold commissions from Her Majesty, and such commissions shall be prepared, authenticated, and issued in the manner in which commissions of officers in Her Majesty's land forces are prepared, authenticated, and issued according to any law or custom for the time being in force, and all commissions held on the appointed day by officers in the militia, yeomanry, and volunteers shall be deemed to have been so issued.

Commissions or first appointments to the rank of cornet, ensign, or lieutenant in any regiment or corps of militia, yeomanry, or volunteers shall be given to persons recommended by the lieutenants of the county to which such regiment or corps belongs if a person approved by Her Majesty is recommended for any such commission or appointment by such lieutenant within thirty days after notice of a vacancy for such commission or appointment has been given to such lieutenant by the said Secretary of State by letter addressed to him by post.

Number of auxiliary forces.

7. The first class of the army reserve, the militia reserve, and the militia shall consist respectively of such number of men as may from time to time be provided by Parliament.

Training for militia.

8. Men enlisted in the militia shall attend at the head-quarters of the militia in which they are enlisted, or at such other place and at such time as may be directed by the Secretary of State, for preliminary instruction for a period of not more than six months.

Application of Mutiny Act to volunteers when in training.

9. When any part of the volunteer force is assembled for the purpose of being trained and exercised with the militia or regular forces, the Mutiny Act and Articles of War shall apply to the part of the volunteer force so assembled in the same manner as they apply in pursuance of the Volunteer Act, 1863, to volunteers on actual military service.

PART III.

SUPPLEMENTAL PROVISIONS.

As to Sale of Commissions.

Appointment of Commissioners to compensate officers.

10. For the purpose of carrying into effect the provisions of this Act relating to the payment of money to officers in respect of their commissions, Her Majesty may by warrant under her sign manual appoint any number of persons not exceeding three to be Commissioners during Her Majesty's pleasure, and may, on the occasion of any vacancy in the office of any Commissioner by death, resignation, or otherwise, by the like warrant appoint some other fit person to fill such vacancy. The Commissioners so appointed shall be a

A.D. 1871.

PART III. *Supplemental Provisions. As to Sale of Commissions.*

body corporate with a common seal, and shall be styled "The Army Purchase Commissioners."

There may be paid to all or any one or more of the Commissioners appointed under this Act such salary or compensation for their or his services as the Treasury may determine.

Any act or thing required or authorised to be done by the Commissioners may be done by any two of them.

Appointment of clerks.

11. The Commissioners may, with the sanction of the Treasury as to number and salaries, appoint and from time to time remove such clerks and servants as the Commissioners may require for the purposes of this Act, award them their salaries, and assign to them their duties.

Powers and duties of Commissioners.

12. The following enactments shall be made with respect to the proceedings of the Commissioners; (that is to say,)

1. The Commissioners shall as soon as possible after their appointment ascertain the regulation price and the over-regulation price, if any, of every saleable commission:
2. The Commissioners may examine on oath any witnesses for the purpose of ascertaining any matter required to be ascertained by them for the purposes of this Act, and may administer an oath for the purpose of such examination:
3. Any person examined as a witness by the Commissioners who in their opinion makes a full and true disclosure touching all the matters in respect of which he is examined shall receive a certificate under the hand of one or more of the Commissioners, stating that the witness has upon his examination made a full and true disclosure as aforesaid; and if any civil or criminal proceeding be at any time thereafter instituted against such witness in respect of any matter touching which he has been so examined, the tribunal before which such proceeding is instituted shall, on the production and proof of the certificate, stay the proceeding, and may in its discretion award to such witness any costs he may have been put to by the institution of the proceeding; and no evidence taken by the Commissioners shall be admissible against any person in any civil or criminal proceeding whatever, except in the case of a witness who may be accused of having given false evidence before such Commissioners.
4. The Commissioners shall account to the Treasury in such form, and at such intervals of time, as the Treasury may direct, for all acts done by them in pursuance of this Act, and an

abstract of the accounts of the Commissioners shall from time to time be laid before both Houses of Parliament.

5. The Commissioners may, in the case of any officer applying for the price of his commission, make such investigations as they may think necessary for the purpose of ascertaining whether such officer has or has not received any payment for his commission, or otherwise dealt with the same in contravention of this Act, and no officer who has received any payment for his commission or otherwise dealt with the same in contravention of this Act shall be entitled to receive any payment from the Commissioners under this Act.

Decision of Commissioners to be conclusive.

13. No appeal shall be had from any decision of the Commissioners under this Act; and the Commissioners shall not be compelled by mandamus, injunction, or order of any court to exercise or abstain from exercising any power conferred on them by this Act.

As to Auxiliary Forces.

Returns in relation to militia how to be made.

14. All returns required or authorised to be made in relation to the militia by any Act for the time being in force shall be made to such persons as may be prescribed by the Secretary of State.

Order as to billeting and quartering of militia.

15. Any order relating to the quartering or billeting of any regiment or part of a regiment of militia or yeomanry which might, if this Act had not passed, have been made by or on the application of the lieutenant of the county, may henceforth be made by or on the application of the colonel or other commanding officer for the time being of the regiment or part of a regiment of militia or yeomanry requiring to be quartered or billeted.

PART IV.

Miscellaneous and Definitions.

Power of Government on occasion of emergency to take possession of railroads.

16. When Her Majesty, by Order in Council, declares that an emergency has arisen in which it is expedient for the public service that Her Majesty's Government should have control over the railroads in the United Kingdom, or any of them, the Secretary of State may, by warrant under his hand, empower any person or persons named in such warrant to take possession in the name or on behalf of Her Majesty of any railroad in the United Kingdom, and of the plant belonging thereto, or of any part thereof, and may take possession of any plant without taking possession of the railroad itself, and to use the same for Her Majesty's service at such

A.D. 1871.

PART IV. *Miscellaneous, &c.*

times and in such manner as the Secretary of State may direct; and the directors, officers, and servants of any such railroad shall obey the directions of the Secretary of State as to the user of such railroad or plant as aforesaid for Her Majesty's service.

Any warrant granted by the said Secretary of State in pursuance of this section shall remain in force for one week only, but may be renewed from week to week so long as, in the opinion of the said Secretary of State, the emergency continues.

There shall be paid to any person or body of persons whose railroad or plant may be taken possession of in pursuance of this section, out of moneys to be provided by Parliament, such full compensation for any loss or injury they may have sustained by the exercise of the powers of the Secretary of State under this section as may be agreed upon between the said Secretary of State and the said person or body of persons, or, in case of difference, may be settled by arbitration in manner provided by "The Lands Clauses Consolidation Act, 1845."

Where any railroad or plant is taken possession of in the name or on behalf of Her Majesty in pursuance of this section, all contracts and engagements between the person or body of persons whose railroad is so taken possession of and the directors, officers, and servants of such person or body of persons, or between such person or body of persons and any other persons in relation to the working or maintenance of the railroad, or in relation to the supply or working of the plant of such railroad, which would, if such possession had not been taken, have been enforceable by or against the said person or body of persons, shall during the continuance of such possession be enforceable by or against Her Majesty.

For the purposes of this section "railroad" shall include any tramway, whether worked by animal or mechanical power, or partly in one way and partly in the other, and any stations, works, or accommodation belonging to or required for the working of such railroad or tramway.

"Plant" shall include any engines, rolling stock, horses, or other animal or mechanical power, and all things necessary for the proper working of a railroad or tramway which are not included in the word "railroad."

Power of militia and volunteer corps to acquire land for any necessary purposes.

17. The provisions of Part V. of the Volunteer Act, 1863, intituled "Acquisition of Land for Ranges," shall extend—

(1.) To the acquisition of land or any easement in land by any volunteer corps for the purpose of storing arms, making drill sheds, or any other military purpose approved by

the Secretary of State as being conducive to the better efficiency of the corps; and

(2.) To the acquisition of land or any easement in land by a regiment of militia or yeomanry for rifle or artillery practice, and for the erection of butts, targets, batteries, and other accommodations for the use of the regiment when practising with rifles or artillery, or for any other purpose for which a volunteer corps may acquire land, and all the provisions of the said Part V. shall apply accordingly, and be construed as if the words "any regiment of militia or yeomanry" were therein substituted for the words "any volunteer corps."

Saving as to trophy tax.

18. Nothing in this Act contained shall affect the raising and application of the trophy tax as heretofore levied and applied in the city of London.

Definitions.

Interpretation of certain terms in the Act.

19. In this Act, if not inconsistent with the context, the following terms have the meanings herein-after respectively assigned to them; that is to say,—

"The Secretary of State" means one of Her Majesty's Principal Secretaries of State:

"Lieutenant of a County" includes a Vice-Lieutenant, also the Commissioners of Lieutenancy of the City of London, the Governor of the Isle of Wight, the Warden of the Cinque Ports, the Warden of the Stannaries, the Constable of the Tower, and any other officer or officers however named having a jurisdiction in relation to the General or Local Militia similar to that of Lieutenant or Lieutenants or Deputy Lieutenants of a county:

"Lord Lieutenant of Ireland" shall include the lords justices or other chief governors or governor of Ireland for the time being:

"Army Reserve" means the reserve forces established by the Reserve Force Act, 1867, and any Act amending the same:

"Militia" shall include general and local militia:

"Militia Reserve" means the men enlisted from time to time under the Militia Reserve Act, 1867, or any Act amending the same:

"Officer" means "commissioned officer."

SCHEDULE above referred to.

TABLE.

RULE for finding the limit of the number of half-pay officers of each rank entitled in any one year to receive compensation on commutation of their half pay.

Find the number of officers in each rank of the service who have retired from half pay by sale of their commissions in each of the five years preceding the first day of January one thousand eight hundred and seventy, whether immediately after returning from half pay to full pay or otherwise.

The largest number in any one of the five years as respects each rank is the limit to be found.

LONDON: Printed by GEORGE EDWARD EYRE and WILLIAM SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1871.