

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1821. York: R. C. Horne, 1821.

2 George IV – Chapter 4

**An Act to repeal an Act passed in the fifty-fifth year of His late Majesty's Reign, entitled "An Act to explain and amend an Act passed in the fifty-third year of His Majesty's Reign, entitled 'An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed in his Majesty's Service,'" and also an Act passed in the fifty-sixth year of His late Majesty's Reign, entitled "An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the Service, and the widows and children of persons who may have been killed in the Service, and to extend the provisions of the same" and an Act passed in the fifty-seventh year of His late Majesty's Reign, entitled "An Act to repeal part of and amend an Act passed in the fifty-sixth year of His Majesty's Reign, entitled 'An Act to repeal part of and to alter and amend the Laws now in force for granting Pensions to persons disabled in the Service, and the widows and children of persons who may have been killed in the Service, and to extend the provisions of the same' and to make provision for granting Pensions to persons disabled in the Service, and to the widows and children of persons who may have been killed in the Service, or who may have died while in captivity with the enemy, during the late War with the United States of America." Passed 14th April, 1821.**

Whereas by a certain Act of the Parliament of this Province, passed in the fifty-sixth year of His late Majesty's Reign, entitled "An Act to repeal part of, and to alter and amend the Laws now in force for granting pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provision of the same" the classes of Militia Pensioners were greatly increased so that the Public Revenue has been found wholly unable to bear the charge thereby incurred: And whereas the said Act being limited in its duration, is now about to expire, and it is become necessary to confine the Militia Pensions with the exceptions hereinafter mentioned to the objects provided for by the Laws of this Province passed during the late War, and to provide for such investigation of the claims of the different Pensioners, as may prevent further loss to the Revenue from any misrepresentation or deceit which may have been practised: Be it therefore enacted, by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province'" and by the authority of the same, That the Act of the Parliament of this Province passed in the fifty-fifth year of the Reign of His late Majesty King George the Third, entitled "An Act to explain and amend an Act passed in the fifty-third year of His Majesty's Reign, entitled "An Act to provide for the maintenance of persons disabled and the widows and children of such persons as may be killed in his Majesty's service" and also the Act of the

Parliament of this Province, passed in the fifty-sixth year of His said late Majesty's Reign, entitled "*An Act to repeal part of, and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service and to extend the provision of the same*" and also the Act of the Parliament of this Province passed in the fifty-seventh year of His said late Majesty's Reign, entitled "*An Act to repeal part of, and amend an Act passed in the fifty-sixth year of His Majesty's Reign, entitled 'An Act to repeal part of, and to alter and amend the Laws now in force for granting Pensions to persons disabled in the service, and the widows and children of persons who may have been killed in the service, and to extend the provisions of the same*" shall be and the same are hereby repealed.

II. And be it further enacted by the authority aforesaid, That the Pensions of all and every person and persons, who have been placed on the Militia Pension List of this Province, under the provisions of any Act of the Parliament thereof, passed since the fifty-third year of the Reign of His said late Majesty, and who could not by a certain Act of the Parliament of this Province passed in the said fifty-third year of His said late Majesty's Reign, entitled "*An Act to provide for the maintenance of persons disabled, and the widows and children of such persons as may be killed in His Majesty's service*" have been entitled to be placed upon the Pension List of this Province, shall cease and be no further payable after the period of the payment of the same respectively, that shall arrive next after the passing of this Act. Provided always nevertheless, That the widows now on the Pension List, whose husbands died in captivity with the enemy during the late War, shall and may continue to receive their Pensions in the same manner as if their husbands had been killed in action with the enemy.

III. And be it further enacted by the authority aforesaid, That no person shall be placed upon the Militia Pension List of this Province by reason of any claim now existing, unless such person shall make his application within twelve months from the passing of this Act, and that the Pension of any person who may be placed upon the Pension List of this Province by reason of any such claim, shall be payable and take date only from the time of his application.

IV. And be it further enacted by the authority aforesaid, That it shall and may be lawful for the Governor, Lieutenant Governor or Person administering the Government of this Province, to appoint any two or more Members of the Medical Board of this Province for the time being to be Inspectors of Militia Pensioners now placed or hereafter to be placed on the Pension List of this Province on the ground of incapacity to earn their living by hard labor, in consequence of wounds or casual injuries received on service during the late War, and that two of the Inspectors so appointed shall between the first day of May and the first day of November next after the passing of this Act, attend on two successive days at Cornwall, Brockville, Kingston, Hamilton in the District of Newcastle, Hamilton in the District of Gore, Niagara, Vittoria, and Sandwich, for the purpose of inspecting such of the said pensioners as shall present themselves for their inspection, and that notice of the time and place of the sitting of such Inspectors, at each of the said places respectively, shall be published at least two months before such sitting in the Upper Canada Gazette, and also put

up at least four weeks before such sitting at the Door of the Court-house or place where the Quarter Sessions in each District are usually holden.

V. And be it further enacted by the authority aforesaid, That the said Inspectors shall examine all such Pensioners as shall present themselves at the times and places so to be appointed, of which Pensioners a nominal list shall be furnished to the said Inspectors by the Pension Agent of this Province, and that the said Inspectors or either of them may administer an oath to any such Pensioner as aforesaid, and take his affidavit in writing upon any matter relative to the wound or injury stated by him to have been received on actual service during the War, the circumstances under which it was received the duty he was upon and the nature and extent of the wound or injury; and if it shall appear to the said Inspectors, upon due examination and personal inspection, that such Pensioner is at the time of such examination so disabled from the wound or injury stated by him to have been received on actual service during the late War, as to be incapable of earning his livelihood, the said Inspectors shall give to such Pensioner a certificate under their hands to that effect. Provided always, That in case of any difference of opinion between the said Inspectors as to the propriety of granting such certificate in any particular case, the same shall and may be decided by the opinion on personal examination and inspection of any person duly authorised to practice Physic or Surgery within this Province who may be called in by the said Inspectors for that purpose.

VI. And be it further enacted by the authority aforesaid, That the said Inspectors shall keep a record in writing of all their proceedings, and shall deposit the same in the hands of the General Agent for Militia Pensions, and that all such Pensioners as shall be reported by the said Commissioners in manner aforesaid, not to be so incapacitated as to entitle them to a Pension according to Law, shall from the time of such report being received by the Pension Agent be struck off the Pension List of this Province and shall receive nothing more than the arrearages that may be due him on account of his Pension up to the time of his examination before such Inspectors.

VII. Provided always nevertheless, That it shall be in the power of any person who may think himself aggrieved by the report of such Inspectors to present himself personally at any time within two years thereafter before the Medical Board at York, at any of their appointed sittings, and if it shall appear to such Board on revising the report and proceedings on the examination of such Pensioner by the Inspectors as aforesaid, and on personal examination, that he is entitled by reason of his disability to be placed upon the Pension List of this Province, it shall and may be lawful for the Secretary of the said Board under their direction to give such Pensioner a certificate to that effect, for which he shall be authorized to receive a fee of five shillings, and upon production of such certificate, to the Pension Agent of this Province, it shall and may be lawful for such Agent to replace the name of such Pensioner upon the List, and to pay him all arrearages of Pensions, as if he had never been struck off.

VIII. And be it further enacted by the authority aforesaid, That after the Report of the Inspectors so to be appointed shall have been received by the Pension Agent, such Agent

shall pay no Pension to or on account of any person who by this Act ought to have presented himself to such Inspectors unless he has so presented himself and been recommended by them to be continued on the List, but that all payment of such Pension shall be suspended until such Pensioner shall have appeared personally before the Medical Board at York, and obtained their certificate in the same manner and on payment of the same fee as is herein before provided in the case of appeal to the said Board, and if such Pension shall for default of such appearance and certificate remain suspended for two years, all arrears from the time of such suspension shall cease, and in case of the restitution of such Pensioner to the List, his Pension shall be payable only from the time of his restitution.

IX. And be it further enacted by the authority aforesaid, That the Inspectors appointed under this Act shall be entitled to receive the sum of two Guineas per day for every day they shall be necessarily employed in the execution of this Act, and one Guinea per day for their travelling expences, to be paid by Warrant of the Governor, Lieutenant Governor, or Person administering the Government of this Province.

X. And be it further enacted by the authority aforesaid, That if any person shall wilfully forswear himself in any oath taken by virtue of this Act, he shall be deemed guilty of wilful and corrupt perjury.

XI. And whereas it is necessary to continue the provisions for the more easy payment of the said Pensions, Be it therefore further enacted by the authority aforesaid, That the Agent now appointed for the payment of Militia Pensions shall and may during the pleasure of the Governor, Lieutenant Governor, or Person administering the Government of this Province continue in the discharge of his duty as such Agent, upon his entering into a Bond with sureties to His Majesty His Heirs and Successors, himself in one thousand pounds and two sureties in five hundred pounds each, for the due performance of the several duties imposed by this Act, and such Agent shall be entitled to receive the annual Salary of one hundred Pounds and the annual sum of fifty Pounds in lieu of all contingencies, and that upon any future vacancy of the said office the Governor, Lieutenant Governor, or Person administering the Government of this Province shall and may appoint a fit and proper person resident at the seat of Government to act as General Agent for the payment of all such Pensions as aforesaid, which Agent shall be required to give the like security and shall be entitled to receive the same Salary and allowances as before mentioned.

XII. And be it further enacted by the authority aforesaid, That the amount due upon all such Pensions as aforesaid shall be paid in advance every six months by the Receiver General to such Agent as aforesaid in discharge of any warrant or warrants which shall for that purpose be issued by the Governor, Lieutenant Governor, or Person administering the Government of this Province.

XIII. And be it further enacted by the authority aforesaid, That when and so often as such Agent shall have received the amount of such Pension or Pensions he shall insert a notice thereof in the York Gazette for three months immediately after such receipt, and that any

person or persons not appearing personally or by Agent to claim the amount of Pension due him her or them within two years after such notice, shall receive no arrears unless he can prove himself to have been resident out of this Province during one half of the said period.

XIV. And be it further enacted by the authority aforesaid, That on the receipt of such Pension or Pensions as aforesaid by the said Agent, he shall, and he is hereby required so to do, pay the full amount of all such Pensions without any deductions to such person or persons as may be entitled to claim the same or to his, her or their Agent or Agents, Representative or Representatives, Guardian or Guardians, Executors or Administrators.

XV. And be it further enacted by the authority aforesaid, That each and every person or persons whose names may have already been or who may hereafter be inserted on the Pension List of this Province shall as soon after the first day of July and first day of January in each and every year as may be convenient, transmit to the said Agent an affidavit, as the case may require, in the following forms:

“I A. B. of \_\_\_\_\_ in the \_\_\_\_\_ District of \_\_\_\_\_ late in the Regiment of Militia, do solemnly swear that I am the Person whose name has been heretofore inserted in the Pension List of this Province.”

“I G. H. of \_\_\_\_\_ in the \_\_\_\_\_ District \_\_\_\_\_ do solemnly swear that I am the Widow of A. B. who died of wounds received in action with the enemy (or who was killed in action with the enemy.”)

“I G. H. do solemnly swear that I am the Widow of A. B. who was killed by casualty while on duty in actual service during the late war.”

“I A. B. (Guardian, Executor, or Administrator as the case may be) do solemnly swear that I verily believe, that J. H. is the youngest son (or daughter) of G. who was killed in action with the enemy (or who died from wounds received in action) (or who was killed by casualty on actual service during the late war,) and that the said J. H. is not sixteen years of age.”

“I C. D. Senior Officer of the \_\_\_\_\_ Regiment of \_\_\_\_\_ Militia (as the case may be) do hereby certify that C. D. the Widow of A. B. who was killed in action during the late War with the United States of America, or wounded and died in consequence, or was killed by casualty while performing duty on actual service (as the case may be) is still living and unmarried” —Which affidavit and certificate with the receipt of such Pensioner or Pensioners, Guardian or Guardians, Agent or Agents, Executors or Administrators shall be taken and allowed to be a sufficient voucher for the payment of such Pension or Pensions as aforesaid.

XVI. And be it further enacted by the authority aforesaid, That any person claiming hereafter within the period prescribed by this Act to be placed upon the Pension List of this Province by reason of disability from wounds or other injuries received during the service,

shall before his admission upon such List attend personally at York and present himself for examination to the Medical Board at York and obtain their Certificate in like manner and on payment of the like fees as in the case of persons appealing to the said Board under the Provisions of this Act.

XVII. And be it further enacted by the authority aforesaid, That all monies paid under the authority of this Act shall be accounted for to his Majesty by the Receiver General of this Province through the Lords Commissioners of His Majesty's Treasury in such manner and form as His Majesty His Heirs and Successors shall be graciously pleased to direct.

XVIII. And be it further enacted by the authority aforesaid, That the oaths directed to be taken by this Act except those herein before directed to be administered by the Members of the Medical Board, shall and may be administered by any Justice of the Peace in this Province.

XIX. And be it further enacted by the authority aforesaid, That every Officer, Non-commissioned Officer or Private Militia Man acting as Provincial Artillery Driver, or in the Colored Corps, or employed with the Indians, or serving in the late Provincial Marine Establishment, who now is placed on the Pension List of this Province or whose Widow or Children are now receiving a Pension on their account, shall be deemed and taken to have been a Militia Man.

XX. And be it further enacted by the authority aforesaid, That the said Agent shall regularly on the thirty first day of December in each and every year transmit to the Governor, Lieutenant Governor or Person administering the Government of this Province a detailed abstract account, supported by the vouchers, of all Pensions paid by him under the authority of this or any former Act.

XXI. And be it further enacted by the authority aforesaid, That notwithstanding the repeal of the above mentioned Act passed in the fifty-fifth year of His late Majesty's Reign, the Pension of all persons placed or to be placed on the List by reason of disability from wounds or injuries received on service, shall be the sum of twenty pounds per annum.

XXII. Provided always, nevertheless, That no person receiving a Pension in any of His Majesty's Dominions by reason of wounds or injuries received on Militia service in this Province, shall be entitled to receive any additional Pension by virtue of this Act, or of the above recited Act passed in the fifty-third year of His late Majesty's Reign.

XXIII. And be it further enacted by the authority aforesaid, That this Act shall continue and be in force for and during the term of four years and from thence until the end of the then next ensuing Session of Parliament and no longer.