Anno vicesimo nono

Georgii II. Regis.

An Act for the better recruiting His Majesty's Forces on the Continent of *America*; and for the better Regulation of the Army, and preventing of Desertion there.



WHEREAS the speedy and effectual recruiting His Majesty's Regiments of Foot, and other Land Forces, in North America, is in the present Situation of Affairs, of great Importance to the Security and Defence of the British Provinces and Colonies: And whereas there are in several of the said Provinces and Colonies, great Numbers of indented Servants, who may be willing to inlist as Soldiers, in such of His Majesty's Forces as now Preamble.

now are, or hereafter may be, employed in the said Provinces or Colonies: But whereas Doubts may arise, whether such indented Servants can be legally inlisted; for obviating whereof; May it please Your Majesty, that it may be enacted; and be it enacted by the King'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 it shall and may be lawful to and for all or any of the Officers of any of His Majesty's Forces serving in America, to inlist as a Soldier or Soldiers, any such indented Servant or Servants, in any of the British Provinces or Colonies on the Continent of America, who shall be willing to enter and inlist in any of the said Forces; any Law, Custom, or Usage, to the contrary in any wise notwithstanding.

Indented Servants may be inlisted as Soldiers.

Provided nevertheless, That if the Owner, Proprietor, or Master of such indented Servant, shall object to the said Servant's inlisting as a Soldier, within Six Months after such Inlistment, the Officer inlisting such indented Servant, or the Commanding Officer of the Regiment or Company in which such indented Servant shall serve, at the Time such Objection is made, shall either give him up to his said Owner, Proprietor, or Master, on receiving back the Inlisting-money; or shall pay such Sum, as any Two Justices of the Peace in the Province or Colony where the said Owner, Proprietor, or Master, of such indented Servant, so inlisting as aforesaid doth reside, shall, on Application of either of the said Officers, adjudge to be a reasonable Recompence, to him the said Owner, Proprietor, or Master, in Proportion to the original Purchase-money given by the said Owner, Proprietor, or Master, for the said indented Servant, and to the Time of Service, yet remaining to be performed in Consequence of his Indenture.

Master objecting thereto, within Six Months after,

Servant to be restored, on returning the Inlisting-money;

or Satisfaction to be made him for Servant's Time.

And, to prevent any unjust or fraudulent Arrests of Soldiers, after they have inlisted in any of the said Forces; be it further enacted by the Authority aforesaid, That no Person whatsoever who shall list and enter himself as a Volunteer, in any of His Majesty's said Forces, shall be liable to be taken out of His Majesty's Service, by any Process or Execution whatsoever (other than for some criminal Matter) unless for a real Debt, or other just Cause of Action; and unless,

No Volunteer liable to Process, unless for some criminal Matter,

unless, before the taking out such Process or Execution (not being for a criminal Matter) the Plaintiff or Plaintiffs therein, or some other Person or Persons in his or their Behalf, shall make Affidavit before One or more Judge or Judges of the Court, out of which such Process or Execution shall issue, or before some Person authorized to take Affidavits in such Court, that to his or their Knowledge the original Sum, justly due and owing to the Plaintiff or Plaintiffs from the Defendant or Defendants, in the Action or Cause of Action, on which such Process shall issue, or the original Debt for which such Process or Execution shall be issued out, amounts to the Value of Ten Pounds Sterling, at least, over and above all Costs of Suit, in the same Action, or in any other Action, on which the same shall be grounded; a Memorandum of which Oath shall be marked on the Back of such Process or Writ; for which Memorandum or Oath no Fee shall be taken; and if any Person so inlisting as a Soldier in His Majesty's said Forces, shall nevertheless be arrested contrary to the Intent of this Act, it shall and may be lawful for any Judge or Judges of such Court, or any Justice or Justices of the Peace of the Province or Colony in which such Arrest shall be made, upon Complaint made by the Party arrested, or by any of his superior Officers, to examine into the same, by Oath of the Parties (which Oath he or they are respectively hereby impowered to administer) or otherwise, and by Warrant under his or their Hand and Seal, or Hands and Seals, to discharge such Soldier so arrested or detained, contrary to the Intent of this Act, without paying any Fee or Fees, upon due Proof made before him or them, that such Soldier so arrested or detained, was legally inlisted as a Soldier in His Majesty's Service, and was arrested and detained contrary to the Intent of this Act; and also to award to the Party complaining such Costs, as such Judge or Judges, Justice or Justices, shall think reasonable: For the Recovery whereof, such Party shall have the like Remedy as the Person who made the said Arrest, or took out the Execution, might have had for his Costs, or as the Plaintiff in the said Action might have had for the Recovery of his Costs, in case Judgement had been given for him with Costs, against the Defendant in the said Action.

or unless for a real Debt of the Value of 10 *l.*

Oath of the Debt to be made before a Judge,

and marked on the Back of the Process.

Person arrested contrary hereto, to be set at Liberty;

and Costs awarded to the Complainant.

And, to the end that honest Creditors, who aim only at the Recovery of their just Debts, may not be hin-

dered from suing for the same, but may be able to proceed in a more speedy and cheap Method; be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for any Plaintiff or Plaintiffs, upon Notice first given in Writing of the Cause of Action to such Person or Persons so inlisted, or left at his or their last Place of Residence, before his or their inlisting, to file a common Appearance in any Action to be brought for or upon account of any Debt whatsoever, so as to intitle such Plaintiff to proceed therein to Judgement and Outlawry, and to have an Execution thereupon, other than against the Body or Bodies of him or them so inlisted as aforesaid; this Act, or any other Law or Statute to the contrary notwithstanding.

Plaintiff may file a common Appearance.

Persons accused of Capital Crimes, &c. to be delivered over to the Civil Magistrate, &c.

Provided always, That if any Commission, or Non-commission Officer, or Soldier, shall be accused of any Capital Crime, or of any Violence or Offence against the Person, Estate, or Property, of any of His Majesty's Subjects, which is punishable by the known Laws of the Colony or Province where such Crime shall be committed; the Commanding Officer or Officers of the respective Regiment, Battalion, Company, or Party, in His Majesty's Service in America, is and are hereby required to use his and their utmost Endeavours to deliver over such accused Person to the Civil Magistrate; and shall be also aiding and assisting to the Officers of Justice in the seizing and apprehending such respective Offender, in order to bring him to his Trial; and if any such Commanding Officer shall wilfully neglect or refuse, upon Application made to him for that Purpose, to deliver over any such accused Person to the Civil Magistrate, or to be aiding and assisting to the Officers of Justice in the apprehending such Offender, every such Officer so offending, and being thereof convicted before any Two or more Justices of the Peace for the Province or Colony where the Fact shall be committed, by the Oath of Two credible Witnesses, shall be ipso facto cashiered, and utterly disabled to hold any Civil or Military Employment in His Majesty's Service; provided the said Conviction be affirmed at the next Quarter Sessions of the Peace, or Gaol Delivery, to be held for the said Province or Colony, and a Certificate thereof be transmitted to the Judge Advocate, who is hereby required to certify the same to the next Court-martial.

And,

And, for preventing Soldiers from deserting his Majesty's Service, and encouraging the apprehending of Deserters in the said Province and Colonies; be it further enacted by the Authority aforesaid, That it shall and may be lawful to and for the Constable, Headborough, Tythingman, or any other Civil Officer, of the Town or Place where any Person who may be reasonably suspected to be a Deserter shall be found, to apprehend, or cause him to be apprehended, and to cause such respective Person to be brought before any Justice of the Peace living in or near such Town or Place, who shall examine such suspected Person; and if by his own Confession, or the Testimony of One or more credible Witness or Witnesses upon Oath (which Oath such Justice is hereby impowered to administer) it shall appear that such Person is a listed Soldier, and ought to be with the Regiment, Company, or Battalion, to which he belongs, such Justice of the Peace shall forthwith cause him to be conveyed to the Gaol of the Town or Place where he shall be so apprehended, and transmit an Account thereof, either to the Commanding Officer of the said Regiment, Battalion, or Company, or to the Governor or Commander in Chief of the Province or Colony in which such Deserter shall be apprehended, to the End such Person may be proceeded against according to Law; and the Keeper of such Gaol shall receive the full Subsistence of such Deserter or Deserters, during the Time he or they shall continue in his Custody, for the Maintenance of such Deserter or Deserters, but shall not be intitled to any Fee or Reward on Account of the Imprisonment of such Deserter or Deserters; any Law or Custom to the contrary notwithstanding. Justices may commit Deserters.

And for the better Encouragement of Persons to apprehend Deserters; be it further enacted by the Authority aforesaid, That the Commanding Officer of the Regiment to which any such Deserter shall belong, shall pay, or cause to be paid, into the Hands of such Person who shall apprehend, or cause to be apprehended, any Deserter from his Majesty's Service, the Sum of Twenty Shillings Sterling Money for every Deserter that shall be so apprehended and committed. Reward for taking up Deserters.

And for the more effectual preventing any Person from harbouring Deserters, or buying their Arms, Clothes, or Accoutrements, in the said Provinces or Colonies; be it further enacted by the Authority aforesaid, That if any Person shall harbour, conceal, or assist, any Deserter Penalty on Persons concealing Deserters, or buying their Arms, Clothes, &c.

from his Majesty's Service, knowing him to be such, each and every Person so offending, shall forfeit, for every such Offence, the Sum of Five Pounds Sterling; and if any Person shall knowingly detain, buy, or exchange, or otherwise receive any Arms, Clothes, Caps, or other Furniture belonging to his Majesty, from any Soldier or Deserter, upon any Account or Pretence whatsoever, or cause the Colour of such Clothes to be changed, each and every Person so offending, shall forfeit, for every such Offence, the Sum of Five Pounds Sterling, upon Conviction, by the Oath of One or more credible Witness or Witnesses, before any One or more of his Majesty's Justices of the Peace of the Colony or Province where the Offence shall be committed; which said respective Penalties shall be levied by Distress and Sale of the Goods and Chattles of such Offender or Offenders, by Warrant under the Hand or Hands of such Justice or Justices of the Peace, and shall be applied, One Moiety to the Informer, or Person by whose Means such Deserter shall be apprehended, and the other Moiety to the Commanding Officer of the Troop or Company to which such Deserter or Soldier shall respectively belong; and in case any such Offender who shall be convicted of harbouring or assisting any such Deserter or Deserters, or of having knowingly received any Arms, Clothes, Caps, or other Furniture belonging to his Majesty, or of having caused the Colour of such Clothes to be changed, shall not have sufficient Goods and Chattles to answer the Payment of the said respective Penalties, or shall not within Four Days after Conviction pay the same, that then and in every such Case, such Justice or Justices of the Peace shall and may by Warrant under his or their Hand and Seal, or Hands and Seals, either commit such Offender to the Common Gaol of the Place where the Offence shall be committed, there to remain without Bail or Mainprize, for any Time not exceeding Three Months, or cause such Offender to be publickly whipt.

Penalty on Officer breaking open House without Warrant.

Provided always, That if any Officer shall break open, or forcibly enter any Dwelling-house or Out-house to search for Deserters, without a Warrant from One or more Justice or Justices of the Peace (which Warrant such Justice or Justices are hereby impowered to grant to a Commission Officer only) such Officer shall, for every such Offence, forfeit the Sum of Twenty Pounds Sterling; to be recovered by any Person or Persons who shall sue

for the same in any Court of Record in any Province or Colony on the Continent of America.

Provided always, and it is hereby enacted by the Authority aforesaid, That when and as often as any Person or Persons shall be inlisted as a Soldier or Soldiers in His Majesty's Land Forces on the Continent of America, he and they shall within the Space of Four Days, but not sooner than Twenty four Hours after such inlisting, be carried before the next Justice of the Peace for the County, City, or Place, or the Chief Magistrate of any City or Town of the Province or Colony where such Person shall be so inlisted (not being an Officer of the Army) and before such Justice or Chief Magistrate, he or they shall be at Liberty to declare his or their Dissent to such inlisting, and upon such Declaration, and returning the inlisting Money, and also each Person so dissenting paying the Sum of Twenty Shillings Sterling for the Charges expended or laid out upon him, such Person or Persons so inlisted shall be forthwith discharged and set at Liberty in the Presence of such Justice or Chief Magistrate; but if such Person or Persons shall refuse or neglect within the Space of Twenty four Hours to return and pay such Money as aforesaid, he or they shall be deemed and taken to be inlisted, as if he or they had given his or their Assent thereto before the said Justice or Chief Magistrate; or if such Person or Persons shall declare his or their having voluntarily inlisted himself or themselves, then such Justice or Chief Magistrate shall, and he is hereby required forthwith to certify under his Hand that such Person or Persons is or are duly inlisted, setting forth the Place of the Birth and Calling of him or them respectively (if known) and that the Second and Sixth Sections of the Articles of War against Mutiny and Desertion were read to him or them, and that he or they had taken the Oath mentioned in the said Articles of War; and if any such Person or Persons so to be certified as duly inlisted, shall refuse to take the Oath of Fidelity before the said Justice or Chief Magistrate, it shall and may be lawful for such Officer from whom he has received such Money as aforesaid, to detain or confine such Person or Persons until he or they shall take the Oath before required; and every military Officer who shall act contrary thereto, or offend herein, shall be forthwith cashiered and displaced from his Office, and shall be utterly disabled to have or hold any military Office or

Clause for Relief of Persons hastily listing themselves.

Employment in His Majesty's Service; and for every such Offence, shall forfeit the Sum of Fifty Pounds, to be recovered as any other Penalty is by this Act directed to be recovered.

Persons refusing the said Relief to be proceeded against, as if duly listed.

And be it further enacted by the Authority aforesaid, That if any Person or Persons shall receive the Inlisting-money from any Officer (knowing it to be such) and shall abscond, or refuse to go before such Justice or Chief Magistrate, in order to declare his Assent or Dissent, as aforesaid; such Person or Persons shall be deemed and taken to be inlisted, to all Intents and Purposes whatsoever, and shall and may be proceeded against, as if he or they had taken the Oath directed by the said Articles of War to be taken before such Justice or Chief Magistrate.

Commencement and Continuance of this Act.

And be it further enacted by the Authority aforesaid, That this Act, and every Clause, Article, and Matter therein contained, shall have Continuance for the Space of Three Years, from and after the Twenty fifth of March, One thousand seven hundred and fifty six, and from thence to the End of the then next Session of Parliament.

FINIS.