CAP. XXXVIII.

An Act further to amend the Laws relating to the Militia. [13th *August* 1859.]

51 G. 3. c. 118.

'WHEREAS an Act was passed in the Fifty-first Year of King *George* the Third, Chapter One hundred and eighteen, "to permit the Interchange of the *British* and "*Irish* Militias respectively;" and by Section Eight of that Act it was enacted, that no Regiment, Battalion, or Corps of *British* or *Irish* Militia should continue to serve in *Ireland* or *Great Britain* respectively for any longer Period than Two Years successively, and that no greater Number than One Fourth Part of the Militia of *Great Britain* should at any One Time be employed in *Ireland*, nor any greater Number than One Third Part of the Militia of *Ireland* be at One Time employed in *Great Britain*, except in case of Invasion or Rebellion, as therein mentioned; and by Section Nine of that Act it was enacted, that no Regiment, Battalion, or Corps of *British* or *Irish* Militia, having once performed its Period of Service in *Ireland* or *Great Britain* respectively, should be again liable to serve in *Ireland* or *Great Britain* respectively, until the Expiration of Six or Four Years respectively, to be calculated from the Termination of such Period of Service, except in case of Invasion or Rebellion as therein mentioned: And whereas it is expedient that the Restrictions contained in the said Sections on the Interchange of the Militia in different Parts of the United Kingdom should, except as to Persons now serving in the Militia, be repealed, and that the Laws relating to the Militia should be otherwise amended:' Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and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:

Sections 8 and 9 of the Act 51 G. 3. c. 118. repealed as to Men hereafter raised for the Militia.

I. All Persons who may be commissioned, raised, and enrolled in and for the regular Militia in *Great Britain* and *Ireland* respectively at any Time after the passing of this Act, under any Act now in force or which may hereafter be in force for raising Men for the Militia, shall be liable to serve in all Parts of the United Kingdom of *Great Britain* and *Ireland* during all or any Part of their Terms of Service in the Militia; and as respects such Persons as aforesaid, Sections Eight and Nine of the said Act of the Fifty-first Year of King *George* the Third shall be repealed.

Her Majesty may employ the present Militia making voluntary Offers beyond the limited Period of Interchange.

II. It shall be lawful for Her Majesty to employ, in *Ireland* or *Great Britain* respectively, beyond the Period of Two Years mentioned in Section Eight of the said Act, or before the Expiration of Six or Four Years mentioned in Section Nine of the said Act, such Part of the *British* and *Irish* Militia respectively raised before the passing of this Act, as may make a voluntary Offer, duly certified by their respective Commanding Officers, so to extend their Services, and as Her Majesty may think proper to permit to extend their Services in consequence of such voluntary Offers as aforesaid; and it shall be lawful for Her Majesty by any Order signed by the Principal Secretary of State, or by the Lord Lieutenant or other Chief Governor or Governors of *Ireland* or by his or their Chief Secretary, directed to the Commanding Officer of any Regiment, Battalion, or Corps of the said *British* or *Irish* Militia respectively, to propose to such Regiment, Battalion, or Corps to extend the Period of their Services in *Ireland* or *Great Britain*, as the Case may be, beyond the said Term of Two Years, or before the Expiration of the said Six Years or Four Years respectively, under such Rules and Regulations as Her Majesty may think fit and appoint.

The Militia who volunteer may be employed in addition to the Proportion now limited.

III. In reckoning the One Fourth Part of the *British* Militia which may at one Time be employed in *Ireland*, or the One Third Part of the *Irish* Militia which may at one Time be employed in *Great Britain*, any Part of the present *British* or *Irish* Militia respectively which shall have volunteered to serve in *Ireland* or *Great Britain* respectively beyond the said Period of Two Years, or before the Expiration of such Six Years or Four Years, shall be excluded, and may be so employed in addition to such One Fourth Part or One Third Part of the same Militia, as the Case may be.

Her Majesty may accept voluntary

IV. It shall be lawful for Her Majesty to employ in any of the Isles of *Guernsey*, *Jersey*, *Alderney*, and *Sark*, and the *Isle of Man*, such Part of the Militia now raised or hereafter

to

to be raised in any Part of the United Kingdom as may make a voluntary Offer, duly certified by their respective Commanding Officers, so to extend their Services, and as Her Majesty may think proper to permit to extend their Services in consequence of such voluntary Offers as aforesaid; and it shall be lawful for Her Majesty by any Order signed by the Principal Secretary of State, or by the Lord Lieutenant or other Chief Governor or Governors of *Ireland* or by his or their Chief Secretary, directed to the Commanding Officer of any Regiment, Battalion, or Corps of the said Militia respectively, to propose to such Regiment, Battalion, or Corps to extend their Services to the said Isles of *Guernsey*, *Jersey*, *Alderney*, *Sark*, and *Man*, under such Rules and Regulations as Her Majesty may think fit and appoint.

Offers of Militia to serve in the Channel Islands.

V. No Person serving in the said Militia raised before the passing of this Act shall be compelled to make an Offer to serve or be engaged to serve, except by his own Consent, beyond the said Period of Two Years, or before the Expiration of the said Six Years or Four Years respectively, out of that Part of the United Kingdom in or for which he was enrolled; and no Person now serving, or hereafter serving in such Militia, shall be compelled to make an Offer to serve in the said *Channel Isles*, or be engaged so to serve, except by his own Consent; and no Commanding Officer shall certify according to this Act any voluntary Offer previously to his having explained to every Person of the Militia offering so to serve that the Offer is to be purely voluntary on his Part.

Commanding Officer to explain the Offer to be voluntary.

VI. Where under the Enactments respecting the Appointment of Adjutants in the Militia in *Ireland*, Three Years Service in Her Majesty's Regular Forces or the Forces of the *East India* Company is a Qualification, Five Years Service shall be required for Adjutants hereafter to be appointed; and for the Qualification of Persons to be appointed Adjutants in the Militia, as well in *England* and *Scotland* as in *Ireland*, Service in the Army of the *East India* Company and in Her Majesty's *Indian* Army or in either of them shall be deemed equivalent to Service for the like Term in Her Majesty's Regular Army.

Qualification for Adjutants in Ireland and Great Britain assimilated.

Service in the East Indian Army to be a Qualification.

VII. The Power vested in Her Majesty to direct the Militia of a County, Riding, or Place in *England* to be united with a Militia of any County, Riding, or Place adjoining, and the like Power vested in the Lord Lieutenant of *Ireland* as to the Militia of a County in *Ireland*, may be exercised not only where the Number of Militiamen required to be raised for the County, Riding, or Place appears insufficient to be conveniently formed into a separate Regiment, Battalion, or Corps, but also where the Number of Militiamen actually raised and serving for such County, Riding, or Place appears to Her Majesty or (in *Ireland*) to the Lord Lieutenant insufficient to be conveniently formed into or continued as a separate Regiment, Battalion, or Corps; and in every Case where the Militia of Two or more Counties, Ridings, or Places are united, it shall be lawful for Her Majesty or (in *Ireland*) for the Lord Lieutenant to direct what Officers shall be appointed by the Lieutenants of such respective Counties, Ridings, or Places, and what Officers already appointed for the separate Militias shall serve in the United Militia, and generally to give such Orders and Directions in relation to the Organization of the United Militia as to Her Majesty or (in *Ireland*) to the Lord Lieutenant may seem convenient.

Powers vested in Her Majesty for uniting the Militias of Counties extended.

VIII. So much of the following Sections of the Acts passed in the Session holden in the Seventeenth and Eighteenth Years of Her Majesty, *videlicet*, Chapter One hundred and five, Section Thirty-eight, Chapter One hundred and six, Section Forty-four, and Chapter One hundred and seven, Section Seventeen, as provides for the Appointment of the Times and Places of Training and Exercise of Militiamen in *England*, *Scotland*, and *Ireland* respectively, shall be repealed; and the Times and Places of Training and Exercise of the Militiamen in *England* and *Scotland* respectively shall be appointed by Her Majesty, by Order signified by One of Her Principal Secretaries of State; and the Times and Places of Training and Exercise of the Militiamen in *Ireland* shall be appointed by the Lord Lieutenant, by Order signified by his Chief or Under Secretary; and the Powers vested in the Lord Lieutenant under this and the preceding Section may be exercised by the other Chief Governor or Governors of *Ireland* for the Time being.

Times and Places of Training in Great Britain to be appointed by Her Majesty; in Ireland by the Lord Lieutenant.

IX. Any Militia Volunteer who unlawfully absents himself during the whole of the Time of Training and Exercise in any Year, or during any Part of such Time exceeding

Term of Service of Militiamen absent

from annual Training to be extended.

Fourteen Days, shall, whether he shall or shall not have been punished for his Offence, be liable to serve, after the Expiration of the Term for which he may have been enrolled, for an additional Year for every annual Period of Training and Exercise from or during which he so absents himself; and in every such Case the Colonel or Commanding Officer shall make an Entry on the Roll in which such Volunteer is enrolled of his Absence as aforesaid, and such Entry shall be conclusive Evidence of the Fact of such Volunteer having so absented himself.

Fraudulent Re-enlistment to be deemed Desertion.

X. Any Militia Volunteer who before the Expiration of his Engagement as a Militiaman in any Regiment, Battalion, or Corps, enrols or offers to enrol himself in any other Regiment, Battalion, or Corps of the Militia raised in any Part of the United Kingdom, or in the same Regiment, Battalion, or Corps, whether by the same or by different Names (save in the Way of lawful Renewal of his Engagement,) shall be deemed a Deserter.

Volunteer fraudulently re-enlisting to be subject to serve in any Regiment in which he has enlisted, and to be subject to Stoppages.

XI. Any Militia Volunteer who before the Expiration of his Engagement enrols or offers to enrol himself as aforesaid, may, by Order of the Secretary-at-War, be required to serve in any Regiment, Battalion, or Corps of Militia in which he may have fraudulently enrolled or offered to enrol himself, and thereupon such Militia Volunteer shall be liable to serve in such Regiment, Battalion, or Corps for the same Term and in the same Manner as if his Enrolment therein had been lawful, or he had been lawfully enrolled pursuant to his Offer; and such Order may be made upon any such Militia Volunteer in lieu of or in addition to any Punishment to which he may be otherwise liable, whether he may have been tried by a Court-martial or before a Justice of the Peace; and every such Offender shall forfeit all Bounty due or which would have become due to him, and shall be subjected to such Stoppages from his daily Pay, and for such Time, and to be applied in such Manner, as the Secretary-at-War may direct, to meet the Loss or Expense occasioned by the fraudulent Conduct of the Offender.

Deserters may be tried by Court-martial or may be proceeded against summarily before Justices.

XII. Every Deserter from the Militia in any Part of the United Kingdom, and every Person who in respect of any Offence against the Militia Laws is deemed a Deserter, may, whenever he is apprehended, and whether his Term of Service shall or shall not have expired, be tried by a Regimental Court-martial, and punished in manner provided for the Punishment of Deserters by any Act in force for punishing Mutiny and Desertion, and for the better Payment of the Army and their Quarters, and the Articles of War for the Time being in force, with regard to Persons subject to such Act and Articles of War who are tried by District Court-martial, but so that no Punishment shall extend to the Loss of Life or Limb; or such Deserter may, whenever he is apprehended as aforesaid or within One Month thereafter, be tried summarily by any Justice or Justices of the Peace in any Part of the United Kingdom where such Deserter may be when summary Proceedings against him are instituted, and upon summary Conviction before any such Justice or Justices shall forfeit and pay any Sum not less than Forty Shillings and not exceeding Twenty Pounds, and in default of Payment shall be committed to the Common Gaol or House of Correction, to be imprisoned, with or without Hard Labour, for any Time not less than Two Months and not exceeding Six Months; and it shall be lawful for the Secretary-at-War to direct in which of the aforesaid Modes any such Deserter shall be tried.

17 & 18 Vict. c. 105. s. 40., 17 & 18 Vict. c. 106. s. 59., and 17 & 18 Vict. c. 107. s. 23. repealed.

XIII. Section Forty of the said Act of the Seventeenth and Eighteenth Years of Her Majesty, Chapter One hundred and five; Section Fifty-nine of the said Act of the Seventeenth and Eighteenth Years of Her Majesty, Chapter One hundred and six; and Section Twenty-three of the said Act of the Seventeenth and Eighteenth Years of Her Majesty, Chapter One hundred and seven, shall be repealed.

Application of Penalties.

XIV. All Penalties imposed by this Act upon Militiamen (except the Stoppages from Pay herein-before provided for, and except the Deductions from Bounty which shall be brought to Public Credit,) shall be paid to the Commanding Officers of the respective Regiments, Battalions, or Corps of Militia to which the Offenders belong, and shall be made and accounted for as Part of the Public Stock of such Regiments, Battalions, or Corps respectively.