Anno quarto & quinto

Annæ Reginæ.

An ACT for the better Recruiting Her Majesties Army and Marines.



Whereas for a Supply of Men to Recruit Her Majesties Land-Forces and Marines, it is judged necessary, That Soldiers should be forthwith Raised throughout the several Counties, Ridings, Cities, Towns and Places within this Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed, by Common Consent and Grant in Parliament; Be it therefore Enacted by the Queens 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 for the Justices of the Peace of every County and Riding, Liberty or Place within this Realm, or any Three or more of them, as also the Mayor or Head-Officer, or Officers of every City or Town-Corporate within this Realm, having Justices of the Peace, together with any Two or more Justices of the Peace of the same City or Town-Corporate respectively, or in default of such Justices, Then with Two or more Justices of the Peace of the County, wherein the said City or Town is, at any time or times between the last Day of February, One thousand seven hundred and five, and the First Day of March, One thousand seven hundred and six, within their several and respective Limits and Jurisdictions to Raise and Levy such Able-bodied Men, as have not any Lawful Calling or Imployment, or visible Means for their Maintenance and Livelyhood, to serve as Soldiers for the purposes aforesaid, and to Require and Command all and every the High-Constables, Petty-Constables, Headboroughs and Tythingmen, or any of them, within

their respective Jurisdictions, to be Aiding and Assisting to them in putting this present Act in Execution, and for that purpose, to Issue out their Warrants under the Hands and Seals of any Three or more such Justices or Magistrates, as are hereby Authorized to Levy and Raise such Soldiers, thereby Requiring and Commanding such High-Constables, Petty-Constables, Headboroughs, Tythingmen and other Parish-Officers, as aforesaid, every or any of them, to make Search, or cause to be made Search, within their respective Parishes, Townships, Constablewicks or other Places, for all such Persons, as they can find, who are within the Description of this Act, and to bring before such Justices and Magistrates, as aforesaid, or any Three or more Justices or Magistrates, who have Power to Execute this Act in such County, Riding, Liberty or Place, City or Town-Corporate respectively, any such Person or Persons described, as aforesaid, at such time and place as shall be prefixed in the said Warrants respectively; And in case the Justices and Magistrates, hereby Authorized to put this Act in Execution, upon the Examination of the Persons brought before them, in pursuance of this Act, shall find them to be such as are hereby Intended to be Entertained as Soldiers in Her Majesties Service, they shall cause such Persons to be delivered over by the said High-Constables, Petty-Constables, Headboroughs, Tythingmen or other Parish-Officers, unto such Officer or Officers, belonging to Her Majesties Forces, as shall be appointed to Raise and Receive such Men, within every County, Riding, Liberty, City or Place respectively, upon such Officer or Officers giving a Receipt under his or their Hands, acknowledging what Men are so delivered to him or them; and the respective Officers who shall receive such new Raised Men, shall out of the Levy-Money, pay to every Person so raised Twenty Shillings, and to the Constable or other Officer Employed in Raising of them, any Sum not exceeding Ten Shillings a Man, to be Ascertained by the Justices and Magistrates Authorized to put this Act in Execution; and shall then cause the Fourteenth and Twenty Third Articles of War against Mutiny and Desertion to be Read to them, in the presence of such Justices or Magistrates, viz. **Article the Fourteenth,** No Man shall presume so far as to Raise, or cause the least Mutiny or Sedition in the Army, upon pain of Death; and if any Number of Soldiers shall presume to Assemble to take Counsel amongst themselves for the Demanding their Pay, or shall at any time Demand their Pay in a Mutinous Manner, any inferiour Officers accessary thereunto shall suffer Death for it, as the Heads and Ringleaders of such Mutinous and Seditious Meetings, and the Soldiers shall be Punished with Death; And if any Captain being Privy thereunto, shall not Suppress the same, or Complain of it, he shall likewise be Punished with Death. **Article the Twenty Third,** All Officers or Soldiers that shall Desert, either in the Field upon a March, in Quarters, or in Garison, shall Die for it. And all Soldiers shall be reputed and suffer as Deserters, who shall be found a Mile from their Garison, or Camp, without Leave from the Officer commanding in Chief: Which said Justices or Magistrates shall cause an Entry or Memorial thereof to be made, together with the Names of the Persons raised, and a Certificate thereof in Writing, under the Hands and Seals of such Justices or Magistrates, to be

delivered to the Officer appointed to receive them; And from and after Payment of the said Twenty Shillings or Tender, and Refusal thereof, and Reading the said Articles of War, every Person so raised, shall be Deemed a Listed Soldier to all Intents and Purposes, and shall be subject to the Discipline of War, and in case of Desertion shall be proceeded against, Tryed and Punished by Death or otherwise, as a Deserter, by any Law now in Force, or by any Act to be made this Session of Parliament, is to be Proceeded against, Tryed and Punished.

And for the Incouragement of fit and able Persons voluntarily to Enter themselves in Her Majesties Service, It is hereby further Enacted and Declared, That the Officer who is to raise such Recruits, shall out of the Levy-Money forthwith pay to every Person, who shall voluntarily Enter himself in Her Majesties Service, the Sum of Forty Shillings, and such Officer shall take a Discharge, under the Hand of each Volunteer, Signed in the Presence of Two or more Witnesses, testifying his Payment of the said Forty Shillings; and no Person so Listed under the Hands and Seals of Three or more Justices of the Peace, or Listing himself voluntarily according to the true meaning of this Act, as aforesaid, shall be liable to be taken out of Her Majesties Service by any Process, other than for some Criminal Matter.

Provided always, 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 voluntarily Listed, or left at his or their last place of Residence before such Listing) to File a Common Appearance in any Action to be brought for or upon the Account of any Debt whatsoever, so as to Entitle such Plaintiff or Plaintiffs to proceed therein to Judgment and Outlawry, and to have any Execution thereupon, other than against the Body or Bodies of him or them so voluntarily Listed, as aforesaid; This Act or any thing herein, or any former Law or Statute to the contrary notwithstanding.

Provided always, and it is hereby Declared, That no Justice of the Peace or Magistrate, which now hath, or at any time, during the continuance of this Act, shall have any Military Office or Imployment, other than in the Militia of this Kingdom, shall Execute any Power or Authority by this Act given to Justices of the Peace or Magistrates, as aforesaid.

Provided also, That this Act shall not extend to the Taking or Levying any Person to Serve as a Soldier, who hath any Vote in the Election of any Member or Members to serve in Parliament, in any County, City, Borough, Town, Port or Place within the Kingdom of England, Dominion of Wales, or Town of Berwick upon Tweed.

And be it further Enacted, That the Justices of the Peace, and Magistrates of every respective County, Riding, Liberty, City or Place, before whom any Persons shall be Listed in pursuance of this Act, do and shall at every General Quarter-Sessions, for such County, Riding, Liberty, City or Place, exhibit an Account under their Hands and Seals of the Names of the several Persons by them so Listed at any time preceding such respective General Quarter-Sessions, together with

the Names of the Parishes or Places from whence, and the Parish Officers or other Officers by whom, and times when such Persons were Brought and Listed, and of the Names of the Officers to whom such Persons were delivered, and of the Regiment and Company to which such Officer belonged; And that such Account shall be kept by the Clerk of the Peace of such County, Riding, Liberty, City or Place, among the Records thereof, to which Accounts all Persons shall and may, at all reasonable times, have free Access and Perusal, without any Fee or Charge; And the Clerk of the Peace for every such County, Riding, Liberty, City or Place, is hereby Required from time to time, within Twenty Days after such General Quarter-Sessions, to transmit true Copies and Duplicates thereof, attested by himself, into the Office of Her Majesties Secretary of War for the time being, to be compared with the Muster-Rolls.

Provided, and be it Enacted by the Authority aforesaid, That if One Justice or Two Justices of the Peace shall, without the full Number of the Justices by this Act Impowered, Levy any Man, and Deliver him over to any Officer, under Colour of this Act, such Justice or Justices offending therein shall forfeit One hundred Pounds to the Party grieved, to be Recovered by Action of Debt, or on the Case, Bill, Suit or Information, in any of Her Majesties Courts of Record, wherein no Essoign, Protection, Privilege, Wager of Law, or more than One Imparlance, shall be Granted or Allowed.

And be it further Enacted by the Authority aforesaid, That if any Action, Plaint, Suit or Information shall be Commenced or Prosecuted against any Person or Persons for what he or they shall do in Pursuance or in Execution of this Act, such Person or Persons so sued in any Court whatsoever, shall and may plead the General Issue, Not Guilty, and upon any Issue joined, may give this Act, and the Special Matter in Evidence; and if the Plaintiff or Prosecutor shall become Nonsuit, or forbear further Prosecution, or suffer a Discontinuance, or if a Verdict pass against him, the Defendant shall recover Treble Costs, for which they shall have the like Remedy, as in any Case where Costs by Law are given to Defendants.

And forasmuch as great Numbers of Harvest-Labourers have been Impressed during the time of Harvest, and many others, being under an Apprehension of being Impress, have Absconded themselves, whereby the Harvest hath been got in with great Difficulty and Charges, and such few Harvest-men that did work, did exact extravagant Prices from their Masters for such their Work: For the Prevention thereof, Be it Enacted by the Authority aforesaid, That from and after the First Day of June, One thousand seven hundred and six, until the Twenty fifth Day of September following, all Harvest-Labourers, and all Persons working at Hay-Harvest and Corn-Harvest Work in the time aforesaid, within the Kingdom of England, Dominion of Wales, and Town of Berwick upon Tweed, shall not be Impressed by virtue of this Act, but shall be Free and Exempted from the same, during the time aforesaid: Provided they have a Certificate under the Hands of the Minister and Churchwardens of the Parish where they live, Allowed under the Hands and Seals of Two Justices of the Peace of the same County, Riding, City or Place.

And whereas some Doubts have arisen whether the Justices of the Peace, or any Three or more of them, within their several and respective Limits and Jurisdictions, have Power and Authority, by their Warrants issued to the several High-Constables, to Command them to send their Warrants to the several and respective Petty-Constables within their several and respective Hundreds, Commanding them to make Search for all such Persons as they could find, who were within the Description of any former Act for the better Recruiting Her Majesties Land-Forces and Marines, to the Obstruction of the Execution of the said Acts, and may tend to Hinder the Execution of this present Act: For Remedy whereof, Be it further Enacted by the Authority aforesaid, That it always was and is now Declared, That the said High-Constables then might, and now shall, and are hereby Required to Issue out their Warrants pursuant to the Warrants Issued to them by the said Justices, or Three or more of them, to the several and respective Petty-Constables within their several and respective Hundreds, who are hereby Commanded and Required to make Search for all such Persons as they can find, who are within the Description of this present Act, as well as if the said Justices, or Three or more of them, had issued their Warrants to the said Petty-Constables themselves.

And whereas several Soldiers being duly Listed, do afterwards Desert, and are often found wandring, or otherwise absenting themselves Illegally from Her Majesties Service, It is hereby further Enacted, That it shall and may be Lawful to and for the Constable, Headborough or Tythingman of the Town or Place where any Person, who may reasonably be suspected to be such a Deserter, shall be found, to Apprehend, or cause him to be Apprehended, and to cause such Person to be brought before any Justice of Peace, living in or near such Town or Place, who hath hereby Power to Examine such suspected Person; And if by his Confession, or by Testimony of One or more Witness or Witnesses upon Oath, or by the Knowledge of such Justice of the Peace, it shall appear or be found, that such suspected Person is a Listed Soldier, and ought to be with the Troop or Company to which he belongs, such Justice of the Peace, shall forthwith cause him to be Conveyed to the Goal of the County or Place where he shall be found, and transmit an Account thereof to the Secretary at War for the time being, to the end such Person may be proceeded against according to Law. Provided always, That this Power of Imprisoning Deserters, shall not extend to any Person who hath not been actually in Her Majesties Service as a Soldier, since the Eighth Day of March, One thousand seven hundred and one.

FINIS.