ANNO QUADRAGESIMO PRIMO

GEORGII III. REGIS.

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C A P. LXVII.

An Act to amend several Acts for raising a Militia Force in *Scotland*. [24th *June* 1801.]

WHEREAS by an Act passed in the Thirty-seventh Year of the Reign of His present Majesty, intituled, *An Act to raise and embody a Militia Force in that Part of the Kingdom of* Great Britain *called* Scotland, it is enacted, That the Lieutenant, or failing him, any Three or more Deputy Lieutenants, shall transmit to His Majesty's Privy Council, an Account, in Writing, signed by him or them, of the true State of the Number of Persons returned in the Lists therein mentioned; on Receipt of which, His Majesty, by Order of Council, should forthwith apportion and divide over the several Counties, Stewartries, Cities, and Places, the Number of Militia to serve for such County, Stewartry, City, or Place, so as not to exceed the Number of Six thousand Men over that Part of *Great Britain* called *Scotland*: And whereas by an Act passed in the Thirty-eighth Year of the Reign of His present Majesty, intituled, *An Act to give further Time for executing and for enlarging the Powers of an Act made in the last Session of Parliament, intituled,* '*An Act to raise* '*and embody a Militia Force in that Part of the Kingdom of* Great Britain '*called* Scotland,' it is enacted, That until such Time as Returns shall have been transmitted to His Majesty's Privy Council, from all the Counties, Stewartries, Cities, and Places in *Scotland*, the total Number of Militia Men to be apportioned for those Counties, Stewartries, Cities, and Places, from which Returns had been received as directed by the said

Preamble. 37 Geo. III, Cap. 103,

38 Geo. III. Cap. 12,

5 H Act,

Orders in Council of *March* 25, 1798, and of *May* 18, and *Nov.* 18, 1798, recited.

Act, ſhould not exceed Five thouſand five hundred: And whereas His Majeſty, by an Order in Council bearing Date the Twenty-fifth Day of *March*, in the Year One thouſand ſeven hundred and ninety-eight, was graciouſly pleaſed to apportion and divide over ſuch ſeveral Counties, Stewartries, Cities, and Places, for which ſuch Accounts had been tranſmitted, the Number of Militia to ſerve for ſuch Counties, Stewartries, Cities, and Places, reſpectively, according to the Numbers therein mentioned, and amounting in the Whole to the Number of Five thouſand four hundred and ninety-two Men: And whereas by Two other Orders in Council, dated the Eighteenth Day of *May* and the Eighteenth Day of *November*, in the Year One thouſand ſeven hundred and ninety-eight, His Majeſty was graciouſly pleaſed to order the Whole of the ſaid Number of Five thouſand four hundred and ninety-two Men, ſo apportioned, to be called out and embodied: And whereas Doubts have ariſen in the Execution of theſe Orders in Council, whether the Number of Men ſo apportioned ſhould include the Non-commiſſioned Officers, or whether the Number ſhould be excluſive of ſuch Non-commiſſioned Officers: And whereas it is expedient to add the Number of Non-commiſſioned Officers appertaining to the Militia Force now embodied to the aforeſaid Number of Five thouſand four hundred and ninety-two Men, and that in apportioning the ſame upon the ſeveral Counties, Stewartries, Cities, and Places, for which they are to ſerve, the Number of Non-commiſſioned Officers ſhould be included in ſuch Apportionment; may it therefore 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 the total Number of Private Men, including Non-commiſſioned Officers, directed to be embodied by the aforeſaid Orders in Council, ſhall be Five thouſand ſeven hundred and ſixty-eight, and that the Number (including Non-commiſſioned Officers ſerving or to ſerve for the ſeveral Counties, Stewartries, Cities, and Places following) ſhall be as follows; (that is to ſay) For the County of *Edinburgh*, Two hundred and thirty; for the City of *Edinburgh*, Eighty-three; for the County of *Linlithgow*, Seventy-four; for the County of *Haddington*, One hundred and forty-four; for the County of *Berwick*, One hundred and fifty-three; for the County of *Peebles*, Fifty-three; for the County of *Selkirk*, Twenty-ſix; for the County of *Roxburgh*, One hundred and fifty-eight; for the Stewartry of *Kirkcudbright*, One hundred and thirty-two; for the County of *Wigton*, Ninety-four; for the County of *Ayr*, Three hundred and Fifty-nine; for the County of *Renfrew*, One hundred and ninety-ſix; for the County of *Lanerk*, Five hundred and ſixty-three; for the County of *Sterling*, Two hundred and two; for the County of *Kinroſs*, Twenty-ſeven; for the County of *Fife*, Three hundred and fifty; for the County of *Dunbarton*, Seventy-ſix; for the County of *Bute*, Thirty-two; for the County of *Argyle*, Two hundred and ſeventy-one; for the County of *Inverneſs*, One hundred and ninety; for the County of *Perth*, Five hundred and twenty-ſix; for the County of *Forfar*, Three hundred and ſeventy-two; for the County of *Kincardine*, One hundred and ſix; for the County of *Aberdeen*, Four hundred and eighty-three; for the County of *Banff*, One hundred and Thirty-one; for the County of *Elgin*, Ninety-ſix; for the County of *Nairn*, Twenty-three; for the County of *Cromarty*, Twenty-three;

Total of Private Men, including Non-commiſſioned Officers, to be embodied by recited Orders in Council to be 5,768, as herein particularized.

three; for the County of *Roſs*, One hundred and ſixty-four; for the County of *Sutherland*, Fifty-ſeven; for the County of *Caithneſs*, Seventy-three; for the County of *Dumfries*, Two hundred and fifty-nine; for the County of *Clackmanan*, Forty-two.

On *Aug.* 1, yearly, while the Militia Force continue, His Majeſty's Lieutenants ſhall meet and direct Liſts of Perſons from 18 to 30 Years of Age, to be made up, from which the Men ſhall be ballotted for.

II. And whereas it is expedient that all Perſons who have attained their Nineteenth Year ſhould be liable to ſerve in the Militia aforeſaid: And whereas it is alſo proper and expedient, in order to ſupply Vacancies, that Liſts of the Perſons liable to ſerve ſhould be made up once a Year; be it enacted, That His Majeſty's Lieutenant for each County, Stewartry, City, or Place, together with any Two or more Deputy Lieutenants; and on the Death or Removal, or in the Abſence, of His Majeſty's Lieutenant, the Deputy Lieutenants, or any Three or more of them, ſhall, on the Firſt Day of *Auguſt* One thouſand eight hundred and one, and ſhall on the Firſt Day of *Auguſt* in every Year, during the Continuance of the ſaid Militia Force (and where ſuch Day ſhall happen on a *Sunday*, then on the *Monday* thereafter), meet at the ſame Borough or principal Town of the County, Stewartry, or Place where they hitherto have uſually met for the Purpoſes of the Militia Acts, and ſhall in like Manner and Form as directed by the aforeſaid Acts of the Thirty-ſeventh and Thirty-ninth Years of the Reign of His preſent Majeſty, proceed to iſſue Directions for making out fair and true Liſts in Writing of all the Men uſually and at that Time dwelling within their reſpective Pariſhes and Places, from and after the Age of Eighteen Years complete, and not exceeding the Age of Thirty Years complete; and ſuch Liſts being afterwards amended as the Caſe may require, and in the ſame Mode and under the ſame Regulations as here preſcribed by the aforeſaid Acts of the Thirty-ſeventh and Thirty-ninth Years of the Reign of His preſent Majeſty, ſhall be the Liſts from whence the Number neceſſary to complete the Proportions of Men to be furniſhed by each County, Stewartry, City, or Place, according to this preſent Act, ſhall be ballotted for, and from whence alſo Vacancies ſhall be ſupplied in the Manner directed by theſe Acts and by this preſent Act.

If any Perſon ballotted for cannot be found, a Certificate thereof ſhall be given by the Conſtable to a Deputy Lieutenant, and another ſhall be balloted for; but if the former can be found, he ſhall be compelled to ſerve.

III. And be it further enacted, That in caſe any Perſon who ſhall be ballotted for to ſerve in the Militia, in the Manner directed by the aforeſaid Acts of the Thirty-ſeventh and Thirty-ninth Years of the Reign of His preſent Majeſty, cannot be found, ſo that Notice may be given to him in Manner directed by the aforeſaid Act of the Thirty-ſeventh of His preſent Majeſty, then the Conſtable or other Officer duly authorized to ſerve ſuch Notice ſhall, within Twenty Days after he ſhall be authorized to ſerve ſuch Notice, produce to ſome one of the Deputy Lieutenants to whom he ſhall be directed to give it, a Certificate that ſuch Perſon is not to be found perſonally, and hath not any Place of Abode, which he has been able to find, at which ſuch Notice may be left; and the Deputy Lieutenants, or any Two or more of them, are hereby required forthwith thereafter to hold a Subdiviſion or Diſtrict Meeting, and to proceed to ballot for another Perſon to ſerve in the Room of every ſuch Militia Man not to be found ſo that Notice may be ſerved upon him as aforeſaid; and in caſe ſuch laſt Perſon ſhall at any Time afterwards be diſcovered, he ſhall, notwithſtanding any Perſon ſhall have been choſen in his Room, be compelled to ſerve in the ſame Manner, and for the ſame Term, as if no Perſon had been choſen in his Room: Provided always, That if ſuch Perſon can be

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ſo diſcovered, ſo that Notice can be given to him before the Day on which the Perſon ballotted for to ſerve in his Place ſhall be ordered to join the Regiment, then the Perſon ballotted for to ſerve in his Place ſhall go free, and the Perſon ſo diſcovered ſhall be the only Perſon who ſhall ſerve.

37 *Geo.* III, Cap. 103. 44 *Geo.* III, Cap. 31. 39 *Geo.* III, Cap. 62.

IV. And whereas by the aforeſaid Act of the Thirty-ſeventh Year of His preſent Majeſty, it is provided, that no Perſon ſerving as a Commiſſioned Officer in any Regiment, Troop, or Company in His Majeſty's other Forces, or in any Corps of Volunteers raiſed by virtue of an Act, paſſed in the Thirty-fourth Year of His preſent Majeſty's Reign, intituled, *An Act for encouraging and diſciplining ſuch Corps or Companies of Men as ſhall voluntarily enrol themſelves for the Defence of their Counties, Towns, or Coaſts, or for the general Defence of the Kingdom, during the preſent War*, or who ſhall have been duly entered therein on or before the paſſing of the aforeſaid Act of the Thirty-ſeventh Year of His preſent Majeſty, or in any One of His Majeſty's Caſtles or Forts; nor any Non-commiſſioned Officer or Private Man ſerving in any of His Majeſty's other Forces, or in any Volunteer or Yeomanry Corps, Troop, or Company whatever, provided he hath been duly entered therein on or before the paſſing of the aforeſaid Act of the Thirty-ſeventh Year of His preſent Majeſty, and provided he hath punctually attended at all ſuch Times and Places as may have been agreed upon for the Exerciſe of ſuch Corps, Troop, or Company, ſhall be liable to ſerve perſonally or provide a Subſtitute to ſerve in the Militia to be raiſed by virtue of the aforeſaid Act of the Thirty-ſeventh Year of His preſent Majeſty: And whereas by another Act made in the Thirty-ninth Year of the Reign of His preſent Majeſty, intituled, *An Act to amend an Act made in the Thirty-ſeventh Year of the Reign of His preſent Majeſty, and Two Acts made in the laſt Seſſion of Parliament, for raiſing a Militia Force in that Part of the Kingdom of* Great Britain *called* Scotland; it is enacted, that every Perſon enrolled or to be enrolled and ſerving in any Volunteer Corps, or any Corps or Body of Men aſſociated for the Defence of any City, Town, or Place, and for maintaining publick Tranquillity and good Order within the ſame, whether of Infantry or Cavalry, in that Part of *Great Britain* called *Scotland*, which then were or ſhould be raiſed in purſuance of any Act or Acts of Parliament, ſhould be exempt from being liable to ſerve perſonally in the ſaid Militia, or to provide a Subſtitute; and that all the Powers, Regulations, Conditions, and Reſtrictions contained in an Act paſſed in the ſame Seſſion of Parliament, intituled, *An Act for exempting, during the preſent War, Perſons ſerving in Volunteer Corps and Aſſociations from being ballotted for the Militia, under certain Conditions*, ſhould extend to all Volunteer Corps or Aſſociations in that Part of *Great Britain* called *Scotland*; be it enacted, That the Names of all ſuch Perſons ſerving in Volunteer Corps or Aſſociations, above the Age of Eighteen and not exceeding the Age of Thirty Years, ſhall nevertheleſs be inſerted in the Liſts to be made up upon the Firſt Day of *Auguſt* in every Year, in Manner directed by this Act, and their Names ſhall be written or printed on diſtinct Pieces of Paper, in Manner directed by the aforeſaid Acts of the Thirty-ſeventh and Thirty-ninth Years of the Reign of His preſent Majeſty, and ſhall be encloſed in the Box or Veſſel from whence the Ballots thereby preſcribed ſhall be made, in Manner therein ſpecified; but the Pieces of Paper containing the Names of ſuch Perſons ſo ſerving in Volunteer Corps or Aſſociations, ſhall be marked in ſuch Manner as denote that they

The Names of Perſons ſerving in Volunteer Corps or Aſſociations from 18 to 30 Years of Age ſhall be inſerted in the Liſts to be made up annually, on *Aug.* 1, and if any be drawn by Ballot, and the Perſons whoſe

they were Perſons ſo ſerving in Volunteer Corps or Aſſociations at the Time ſuch Liſts were ſo made up; and in the Event that the Piece of Paper containing the Name of any ſuch Perſon ſo ſerving in any Volunteer Corps or Aſſociation, ſhall be drawn as the Perſon upon whom the Ballot falls, Notice ſhall be immediately ſerved upon ſuch Perſon in the Manner directed by the ſaid Act of the Thirty-ſeventh Year of the Reign of His preſent Majeſty; and in caſe ſuch Perſon ſhall not produce, at the Time to which the Meeting at which he was ſo ballotted ſhall be adjourned (and which Meeting the ſaid Lieutenants and Deputy Lieutenants are hereby directed and empowered to adjourn for any Space not exceeding Six Days for this ſpecial Purpoſe) a Certificate from the Commanding Officer (which Certificate ſuch Commanding Officer is hereby required forthwith to give) that he was duly entered in ſuch Volunteer Corps or Aſſociation at the Time he was ſo ballotted for to ſerve in the Militia, and hath punctually attended at all Times and Places agreed upon for the Exerciſe of ſuch Corps or Aſſociation, then ſuch Perſon ſhall be liable to ſerve in the Militia of the County, Stewartry, City, or Place for which he ſhall have been ballotted, in the ſame Manner with any other Perſon or Perſons upon whom the Ballot falls in Terms of the aforeſaid Act of the Thirty-ſeventh Year of His preſent Majeſty, and of this preſent Act; but in caſe it ſhall appear to ſuch adjourned Meeting, from the Certificate of ſuch Commanding Officer, that ſuch Perſon was duly entered in ſuch Volunteer Corps or Aſſociation at the Time he was ballotted for to ſerve in the Militia, and hath punctually attended at all Times and Places agreed upon for the Exerciſe of ſuch Volunteer Corps or Aſſociation, then the Piece of Paper containing the Name of ſuch Perſon ſhall be replaced in the aforeſaid Box or Veſſel, and a freſh Ballot or Ballots ſhall forthwith take place in the Manner directed by the aforeſaid Acts of the Thirty-ſeventh and Thirty-ninth Years of the Reign of His preſent Majeſty, and by this preſent Act.

Names ſhall be drawn, ſhall not produce a Certificate from the Commanding Officer, that they were duly entered in ſuch Volunteer Corps, at the Time of the Ballot, and had duly attended Exerciſe, they ſhall be liable to ſerve; but if ſuch Certificate be produced, a freſh Ballot ſhall take place.

V. And whereas it may be expedient that the Adjutants, Serjeants, and Drummers of the aforeſaid Militia Force raiſed for that Part of the United Kingdom of *Great Britain* and *Ireland* called *Scotland*, ſhould not be diſbanded at the Period ſpecified in the aforeſaid Act of the Thirty-ſeventh Year of the Reign of His preſent Majeſty, at which the ſame ſhall expire; be it enacted, That it ſhall and may be lawful for His Majeſty to retain in actual Service, and to cauſe full Pay to be iſſued to the Adjutants, Serjeant Majors, and the Whole or ſuch Proportion of the Serjeants and Drummers of each Regiment of the Militia aforeſaid, as His Majeſty ſhall think fit, for any Time not exceeding One Calendar Month after the Expiration of the Firſt Seſſion of Parliament which ſhall be held next after the Concluſion of the preſent War.

His Majeſty may retain in Service and Pay Adjutants, Serjeant Majors, and Serjeants, and Drummers of the Militia, till a certain Period.

VI. And whereas Doubts may ariſe whether Officers of His Majeſty's Forces other than Militia Forces, may not ſit in Courts-martial upon the Trial of Officers or Private Men of the Militia aforeſaid, but it is expedient that Officers of the Militia ſhould alone ſit in ſuch Courts-martial; be it enacted, That no Officer ſerving in His Majeſty's Forces, other than Militia Forces, ſhall ſit in any Court-martial upon the Trial of any Officer or Soldier ſerving in the Militia aforeſaid, and that no Officer ſerving in

Officers of His Majeſty's other Forces, not to ſit on Militia Courts Martial, nor Militia Officers on others.

the Militia aforeſaid ſhall ſit in any Court-martial upon the Trial of any Officer or Soldier ſerving in any of His Majeſty's Forces other than the Militia Forces.

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