

## VI.

1446

### THE FIRST BRITISH MUTINY ACT. (1689.)

An Act for punishing Officers or Soldiers who shall Mutiny or Desert their Majestyes Service.

Whereas the raising or keeping a standing Army within this Kingdome in time of peace unlesse it be with consent of Parlyament is against Law. And whereas it is judged necessary by their Majestyes and this present Parlyament That dureing this time of Danger severall of the Forces which are now on foote should be continued and others raised for the Safety of the Kingdome for the common defence of the Protestant Religion and for the reducing of Ireland.

And whereas noe man may be forejudged of Life or Limbe, or subjected to any Kinde of punishment by Martiall Law, or in any other manner than by the judgment of his Peeres, and according to the Knowne and Established Laws of this Realme. Yet, nevertheless, it being requisite for retaineing such Forces as are or shall be raised dureing this exigence of Affaires in their Duty an exact Discipline be observed. And that Soldiers who shall Mutiny or Stirr up Sedition, or shall desert Their Majestyes Service be brought to a more exemplary and speedy Punishment than the usuall forms of Law will allow:

Bee it therefore Enacted by the King and Queenes most Excellent Majestyes by and with the Advice and Consent of the Lords Spirituall and Temporall and Commons in this present Parlyament assembled, and by authorities of the same. That from and after the Twelfth day of Aprill in the yeare of our Lord One thousand six hundred eighty-nine every person being in Their Majestyes Service in the Army, and being mustered and in pay as an Officer or Soldier who shall at any time before the Tenth day of November in the yeare of our Lord One thousand six hundred eighty-nine, excite, cause, or joyne in any mutiny or sedition in the Army, or shall desert Their Majestyes Service in the Army, shall suffer death or such other punishment as by a Court Martiall shall be inflicted.

3. And it is hereby further enacted and declared, That Their Majestyes, or the Generall of their Army for the time being, may by vertue of this Act have full power and authoritie to grant Commissions to any Lieutenants, Generall or other Officers, not under the degree of Collonels, from time to time to call and assemble Court-Martialls for punishing such offences as aforesaid.

4. And it is hereby further enacted and declared, That noe Court-Martiall which shall have power to inflict any punishment by vertue of this Act for the offences aforesaid shall consist of fewer than thirteene, whereof none to be under the degree of Captaines.

5. Provided alwayes, That no field Officer be tryed by other than field Officers. And that such Court Martial shall have power and authoritie to administer an oath to any witness in order to the examination or tryall of the offences aforesaid.

6. Provided alwayes, That nothing in this Act contained shall extend or be construed to exempt any officer or soldier whatsoever from the ordinary proesse of Law.

7. Provided alwayes, That this Act, or anything therein contained shall not extend or be any wayes construed to extend to or concerne any of the Militia Forces of this Kingdome.

8. Provided alsoe, That this Act shall continue and be in force untill the said Tenth day of November in the said yeare of our Lord One thousand six hundred eighty-nine and noe longer.

9. Provided always, and bee it enacted, That in all tryalls of offenders by Courts Martial to be held by vertue of this Act, where the offence may be punished by Death, every Officer present at such tryall, before any proceeding be had thereupon, shall take an oath upon the Evangelists before the Court

(and the Judge Advocate or his Deputy shall, and are hereby respectively authorized to administer the same) in these words, that is to say:—

“ You shall well and truly try and determine according to your evidence the matter now before you between Our Sovereign Lord and Lady the King and Queen's Majesties and the Prisoner to be tried.      “ So helpe you God.”

10. And noe Sentence of Death shall be given against any offender in such case by any Court Martiall unlesse nine of thirteene Officers present shall concur therein. And if there be a greater number of Officers present, then the judgement shall passe by the concurrence of the greater part of them soe sworne, and not otherwise; and noe Proceedings, Tryall, or Sentence of Death shall be had or given against any Offender, but betweene the hours of eight in the morning and one in the afternoone.

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The British Articles of War of 1718, promulgated by the Crown under the Act of 4 Geo. I, c. 4, (see *ante*, Vol. I, p. 7,) are given “ in substance ” in Tindal's Rapin's History of England, vol. IV, book XXVII, p. 559, and are extracted in the Journal of the Military Service Institution for June, 1886.