

PETER HUNTER ESQUIRE, LIEUTENANT GOVERNOR.

Treble costs.

sued, or shall discontinue his, her or their suit or prosecution, or if judgement be given for the defendant or defendants upon demurrer or otherwise, such defendant or defendants shall have treble costs to him or them awarded against the plaintiff or plaintiffs.

## CHAP. II.

An ACT for the exemplary Punishment of all and every person and persons who shall seduce, or attempt to seduce, or aid or assist, or attempt to aid or assist any Soldier to desert his Majesty's service, or who shall harbour, conceal, receive or assist any Deserter from such service.

[Passed 9th March, 1804.]

Preamble.

WHEREAS pernicious practices have for some time past prevailed in this Province, by evil disposed persons disaffected to his Majesty's Government, and particularly to the Military Service thereof, in seducing and deluding his Subjects who had engaged themselves as Soldiers in such service, and prevailing on them to desert, and also in harbouring, assisting and concealing such Deserters; for remedy whereof for the future, and for the exemplary punishment of such persons in such cases offending, Be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of, and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of his Majesty's reign, intituled, "An Act for making more effectual provision for the government of the Province of Quebec, in North America, and to make further provision for the government of the said Province," and by the authority of the same, That from and after the passing of this Act, if any person or persons whomsoever (other than such as are, or shall be enlisted as Soldiers) shall, by words or with money, or by any other ways or means whatsoever, directly or indirectly, prevail upon, procure, persuade, or encourage, or endeavour or attempt to prevail upon, procure, persuade or encourage any such Soldier or Soldiers to desert or leave his Majesty's service, and shall be thereof lawfully convicted, the Court or Judge before whom such offender shall be so convicted, shall immediately on such conviction, award and adjudge such person and persons so convicted as aforesaid, to be committed to the common Gaol of the District where such offender shall be so tried, there to remain without Bail or Mainprize for the space of six Calendar months; and if from the circumstances and heinousness of the crime, it shall be thought proper and expedient to increase the punishment, such Court or Judge shall also further award and adjudge, that such offender so convicted as aforesaid, shall forfeit and pay a sum not exceeding forty pounds, and if such offender shall not on or before the third day previous to the expiration of such imprisonment as aforesaid pay such fine, then and in such case the said offender shall be publicly whipped.

Any person procuring, persuading, &c. Soldiers to desert, to be committed to gaol for six months, and if found expedient Judge may order him to pay 40l. and if not paid, to be publicly whipped.

Persons harbouring Deserters to forfeit 20l. and if not paid, to be committed to gaol for three months.

II. And be it further Enacted by the Authority aforesaid, That if any person from and after the passing of this Act, shall harbour, conceal, receive or assist any Deserter from his Majesty's service, knowing him to be such, such person so offending shall forfeit the sum of twenty pounds, and if such sum of twenty pounds shall not immediately on such conviction being pronounced be paid into Court, the Court or Judge before whom such conviction shall be had, shall forthwith award, order and adjudge such offender to be committed to the common Gaol of the District in which such offender shall be so convicted, there to remain without Bail or Mainprize for the space of three Calendar months, or until such time, not exceeding three Calendar months, as the said sum of twenty pounds shall be paid.

III. Provided nevertheless, That no conviction shall be pronounced under the authority of this Act, in any Court or Jurisdiction whatsoever in this Province, save and except by indictment preferred or presented before a Court, or Judge or Judges sitting in the execution of a Commission of Oyer and Terminer and General Gaol Delivery; nor shall any prosecution be carried on by virtue of this Act, if the same shall not be commenced, within six Calendar months next after the offence shall be charged

Prosecution to be commenced