

term, a circulation could be kept up between the army and the people, and the citizen and the foldier be more intimately connected together.

To keep this body of troops in order, an annual act of parliament likewise passes, "to punish mutiny and desertion, and for the better payment of the army and their quarters." This regulates the manner in which they are to be dispersed among the several inn-keepers and victuallers throughout the kingdom; and establishes a law martial for their government. By this, among other things, it is enacted, that if any officer and foldier shall excite, or join any mutiny, or, knowing of it, shall not give notice to the commanding officer; or shall desert, or list in any other regiment, or sleep upon his post, or leave it before he is relieved, or hold correspondence with a rebel or enemy, or strike or use violence to his superior officer, or shall disobey his lawful commands; such offender shall suffer such punishment as a court martial shall inflict, though it extend to death itself.

HOWEVER expedient the most strict regulations may be in time of actual war, yet, in times of profound peace, a little relaxation of military rigour would not, one should hope, be productive of much inconvenience. And, upon this principle, though by our standing laws^w (still remaining in force, though not attended to) desertion in time of war is made felony, without benefit of clergy, and the offence is triable by a jury and before the judges of the common law; yet, by our militia laws before-mentioned, a much lighter punishment is inflicted for desertion in time of peace. So, by the Roman law also, desertion in time of war was punished with death, but more mildly in time of tranquillity*. But our mutiny act makes no such distinction: for any of the faults above-mentioned are, equally at all times, punishable with death itself, if a court martial shall think proper. This discretionary power of the court martial is indeed to be guided by the directions of the crown; which, with regard to

^w Stat. 18 Hen. VI. c. 19. 2 & 3 Edw. VI. c. 2.

* *Ff.* 49. 16. 5.