ANNO TERTIO & QUARTO

VICTORIÆ REGINÆ.

CAP. L.

An Act to provide for keeping the Peace on Canals and Navigable Rivers. [4th *August* 1840.]

WHEREAS Robberies and other Outrages are frequently committed on Canals and Navigable Rivers throughout *England* and *Wales*, and it is expedient that Power be given to appoint Constables for better keeping the Peace, and for the Prevention and Detection of Crime, along the Line of such Canals and Rivers, and in the Neighbourhood thereof: Be it therefore enacted by the Queen'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 it shall be lawful for any Two Justices of the Peace, and for the Watch Committee of any incorporated Borough, within their several Jurisdictions, on the Application of the Committee or Board of Directors acting in the Management of the Affairs of the Company of Proprietors of any Canal or Navigable River, or of any Clerk or Agent of any such Company, duly authorized by such Committee or Board of Directors, to appoint so many Persons as they shall think fit from among those who shall be recommended to them for that Purpose by such Company of Proprietors, Clerk or Agent, to act as Constables on and along such Canal or River; and every Person so appointed shall take an Oath or make a solemn Declaration in the Form or to the Effect following; (that is to say,)

Appointment of Constables for Canals and Rivers;

who shall take the following Oath.

5 E

I *A.B.*,

Oath of Constables.

'I A.B., having been appointed a Constable to act upon and along the [*name the Canal or Navigable River*], under the Provisions of [*here insert the Title of this Act*], do swear, That I will well and truly serve our Sovereign Lady the Queen in the said Office of Constable, without Favour or Affection, Malice or Ill-will; and that I will, to the best of my Power, cause the Peace to be kept, and prevent all Offences against the Peace; and that, while I continue to hold the said Office, I will, to the best of my Skill and Knowledge, discharge the Duties thereof faithfully according to Law.

'So help me GOD.'

Powers of Constables.

Such Oath or Declaration to be administered by any One such Justice; and every Person so appointed, and having taken such Oath or made such Declaration as aforesaid, shall have full Power to act as Constable for the Preservation of the Peace, and for the Security of Persons and Property against Felonies and other unlawful Acts, on such Canal or River, and the Towing Paths and Works belonging thereto, and on and within any Railways, Tramroads, Wharfs, Quays, Locks, Docks, Landing Places, Warehouses, Lands, and Premises belonging to any such Company, and in all Places not more than One Quarter of a Mile distant from either Bank of such Canal or River, or from such Railways, and shall have all such Powers, Protections, and Privileges for the apprehending of Offenders, as well by Night as by Day, and for doing all Things for the Prevention, Discovery, and Prosecution of Felonies and other Offences, and for keeping the Peace, which any Constable duly appointed has within his Constablewick: Provided always, that such Power shall not extend to authorize any such Person to act as such Constable within the Metropolitan Police District, or the City of *London* and the Liberties thereof, or in any Places beyond the Banks, Towing Paths, and other the Premises belonging to such Company, as may be situate within any other City or any incorporated Borough, any thing in this Act contained to the contrary notwithstanding.

Dismissal of Constables.

II. And be it enacted, That it shall be lawful for any Two Justices, or the Watch Committee of any incorporated Borough, to dismiss any such Constable who shall act within their several Jurisdictions, or for the Company of Proprietors of any such Canal or River for which any such Constables shall be appointed, or for any Clerk or Agent of such Company duly authorized by the Committee or Board of Directors of such Companies, to dismiss any such Constable from his Office of Constable; and upon every such Dismissal all Powers, Protections, and Privileges belonging to any such Person by reason of such Appointment shall wholly cease; and no Person so dismissed shall be capable of being again appointed or acting as a Constable for the same Canal or River, without the Consent of the Authority by which he was dismissed.

Constables how paid.

III. And be it enacted, That it shall be lawful for every such Company of Proprietors to pay to every such Constable, out of the Monies and Effects of the Company, such Salary or Allowances, and at such Times and in such Manner, as the Company shall think fit.

IV. And

IV. And be it enacted, That every Constable who shall be guilty of any Neglect or Breach of Duty in his Office of Constable shall be liable to a Penalty not more than Ten Pounds, the Amount of which Penalty may be deducted from any Salary due to such Offender, or, in the Discretion of the Magistrate before whom such Offender shall have been convicted, such Offender may be imprisoned in the Gaol or House of Correction for the County or Place in which such Offence shall have been committed, with or without hard Labour, for any Time not more than One Calendar Month. Penalty on Constables for Neglect of Duty.

V. And be it enacted, That every Constable who shall be dismissed from or shall cease to hold his Office, and who shall not forthwith deliver over all the Clothing, Accoutrements, Appointments, and all other Necessaries which have been supplied to him for the Execution of his Duty, to such Person and at such Time and Place as shall be directed by the Company on whose Recommendation he shall have been appointed, or by any Clerk or Agent of such Company duly authorized by the Company to receive the same, shall be liable to be imprisoned in any Gaol or House of Correction as aforesaid, with or without hard Labour, for any Time not exceeding One Calendar Month; and it shall be lawful for any Justice of the Peace to issue his Warrant to search for and seize, to the Use of such Company, all the Clothing, Accoutrements, Appointments, and other Necessaries which shall not be so delivered over, wherever the same may be found. Constables dismissed to deliver up Accoutrements.

VI. And be it enacted, That every Person who shall assault or resist any Constable appointed as aforesaid in the Execution of his Duty, or who shall aid or incite any Person so to assault or resist, shall for every such Offence be liable to a Penalty not more than Ten Pounds, or, in the Discretion of the Magistrate before whom he shall be convicted, may be imprisoned in any Gaol or House of Correction as aforesaid, with or without hard Labour, for any Time not more than Two Calendar Months. Penalty for Assaults on Constables.

VII. And be it enacted, That every Person who shall be found upon any such Canal or River, or in or upon any Lock, Dock, Warehouse, Wharf, Quay, or Bank thereof, or on board of any Boat or Vessel lying or being in any such Canal or River, or in any Lock or Dock thereunto belonging, having in his Possession or under his Control any Tube or other Instrument for the Purpose of unlawfully obtaining any Wine, Spirits, or other Liquors or Goods, or having in his Possession any Skin, Bladder, or other Utensil for the Purpose of unlawfully secreting or carrying away any such Wine, Spirits, or other Liquors or Goods, and any Person who shall attempt unlawfully to obtain any such Wine, Spirit, or other Liquors or Goods, shall for every such Offence be liable to a Penalty not more than Five Pounds, or, in the Discretion of the Magistrate before whom he shall be convicted, may be imprisoned as aforesaid, with or without hard Labour, for any Time not more than One Calendar Month. Possessing Instruments for unlawfully procuring and carrying away Liquors.

VIII. And be it enacted, That every Person who shall bore, pierce, break, cut open, or otherwise injure any Cask, Box, or Package containing Unlawfully injuring the Contents of Packages.

taining Wine, Spirits, or other Liquors, or any Case, Box, Sack, Wrapper, Package, or Roll of Goods, on board of any Boat, Vessel, or Waggon, or in or upon any Warehouse, Wharf, Quay, or Bank of or belonging to any such Canal or River, with Intent feloniously to steal or otherwise unlawfully obtain or to injure the Contents or any Part thereof, or who shall unlawfully drink or wilfully spill or allow to run to waste any such Liquors or any Part thereof, shall for every such Offence be liable to a Penalty not more than Five Pounds, over and above the Value of the Goods or Liquors so taken or destroyed, or, in the Discretion of the Magistrate before whom he shall be convicted, may be imprisoned as aforesaid, with or without hard Labour, for any Time not more than One Calendar Month.

Constable, &c. having just Cause to supect Felony, may enter on board Vessels and take up suspected Persons.

IX. And be it enacted, That it shall be lawful for every Constable appointed as aforesaid, having just Cause to suspect that any Felony, or any other Offence contrary to the Provisions of this Act, has been or is about to be committed in or on board of any Boat or other Vessel lying in any such Canal or River, or any Lock or Dock thereunto belonging, to enter at all Times, as well by Night as by Day, into and upon every such Boat or other Vessel, and therein to take all necessary Measures for the Prevention or Detection of all Felonies or other Offences which he has just Cause to suspect to have been or to be about to be committed, and to take into Custody all Persons suspected of being concerned in such Felonies or other Offences, and also to take charge of all Property so suspected to be stolen or embezzled.

Constable may apprehend without Warrant in certain Cases.

X. And be it enacted, That it shall be lawful for any such Constable to take into Custody, without a Warrant, any loose, idle, and disorderly Person whom he shall find disturbing the public Peace, or whom he shall have good Cause to suspect of having committed or being about to commit any Felony, Misdemeanor, or Breach of the Peace, or other Offence contrary to the Provisions of this Act, and every Person whom he shall find, between Sunset and the Hour of Eight in the Morning, lying or loitering in or upon any Towing Path, or in or upon any Wharf, Bridge, Railway, Quay, Landing Place, Lock, Dock, or upon the Bank of any such Canal or River, and not giving a satisfactory Account of himself.

Power to Constables and Persons aggrieved to apprehend certain Offenders.

XI. And be it enacted, That any Person found committing any Offence punishable upon summary Conviction by virtue of this Act may be taken into Custody, without a Warrant, by any Constable, or may be apprehended by the Owner of the Property with respect to which the Offence shall be committed, or by his Servant, or any Person authorized by him, and may be detained until he can be delivered into the Custody of a Constable to be dealt with according to Law; and every such Constable may also stop, search, and detain any Vessel, Boat, Cart, or Carriage in or upon which there shall be Reason to suspect that any thing stolen or unlawfully obtained may be found, and also any Person who may be reasonably suspected of having or conveying in any Manner any thing stolen or unlawfully obtained.

XII. And

Stolen Property offered in Pawn may be detained.

XII. And be it enacted, That any Person to whom any Property shall be offered to be sold, pawned, or delivered, if he shall have reasonable Cause to suspect that any such Offence has been committed with respect to such Property, or that the same or any Part thereof has been stolen or unlawfully obtained, is hereby authorized, and if in his Power is required, to apprehend and detain, and as soon as may be to deliver such Offender into the Custody of a Constable, together with such Property, to be dealt with according to Law.

Not to repeal Local Acts containing Penalties.

XIII. Provided always, and be it enacted, That nothing herein contained shall be construed to prevent any Person from being indicted for any indictable Offence made punishable on summary Conviction by this Act, or to prevent any Person from being liable under any other Act or Acts to any other higher Penalty or Punishment than is provided for such Offence by this Act, so nevertheless that no Person be punished twice for the same Offence.

Offences how to be tried, and Penalties how enforced.

XIV. And be it enacted, That any Two Justices of the Peace within their several Jurisdictions shall be empowered summarily to convict any Person charged with any Offence against this Act, on the Oath of One or more Witnesses, or by Confession of such Person, and to award the Penalty or Punishment herein provided for such Offence.

If Penalty is not paid the Offender may be committed, or the Penalty levied by Distress.

XV. And be it enacted, That in every Case of the Adjudication of a pecuniary Penalty under this Act, and Nonpayment thereof, it shall be lawful for the Justices before whom any Offender shall have been convicted to commit such Offender to any Gaol or House of Correction within his Jurisdiction for a Term not more than One Calendar Month, where the Sum to be paid shall not exceed Five Pounds, and in any Case not more than Two Calendar Months, the Imprisonment to cease on Payment of the Penalty and the Costs for the Recovery thereof; or instead of Imprisonment it shall be lawful for the Justices, by Warrant under their Hands and Seals, to order such Penalty, with the reasonable Costs and Charges of the Conviction, to be levied by Distress and Sale of the Goods and Chattels of the Offender; and all such Convictions and Warrants shall be taken to be within the Provisions of an Act passed in the Fifth Year of the Reign of King *George* the Fourth, intituled *An Act for the more effectual Recovery of Penalties before Justices and Magistrates on Conviction of Offenders, and for facilitating the Execution of Warrants by Constables.* 5 G. 4. c. 18.

Form of Conviction.

XVI. And be it enacted, That any Justice of the Peace before whom any Person shall be summarily convicted for any Offence against this Act may cause the Conviction to be drawn up, on Paper or Parchment, in the following Form of Words, or to the like Effect; (that is to say,)

'{ County, City, or Borough of } to wit. } BE it remembered, That on the Day of in the Year of our Lord in the County of *A. E.* is convicted before us *J. P.*, and *J. J. P.*,

A ' *J. J. P.*, Two of Her Majesty's Justices of the Peace for the said ' County, for that he the said *A. E.* did [*here specify the Offence, and* ' *the Time and Place when and where the same was committed, as the* ' *Case may be*]; and we do adjudge that the said *A. E.* shall for the ' said Offence forfeit the Sum of and shall pay the same ' immediately [*or* shall pay the same on or before the ' Day of] to *C. D.*, to be by him applied according to the ' Directions of the Statute in that Case made and provided. Given ' under our Hands the Day and Year first above-mentioned.

' *J. P.* and *J. J. P.*'

Convictions not to be quashed for Want of Form.

XVII. And be it enacted, That no Conviction for any Offence against this Act shall be quashed for Want of Form, or be removed by Certiorari or otherwise into any of Her Majesty's Superior Courts of Record; and that no Warrant of Commitment shall be held void by reason of any Defect therein, provided it be therein alleged that it is founded on a Conviction, and there be a good and valid Conviction to sustain the same; and that where any Distress shall be made for levying any Money by virtue of this Act the Distress itself shall not be deemed unlawful, nor the Party making the same be deemed a Trespasser, on account of any Defect or Want of Form in the Summons, Conviction, Warrant of Distress, or other Proceedings relating thereto, nor shall the Party distraining be deemed a Trespasser from the beginning on account of any Irregularity afterwards committed by him, but the Person aggrieved by such Irregularity may recover full Satisfaction for the special Damage (if any) in an Action upon the Case.

Venue; Limitation of Actions; General Issue. Tender of Amends.

XVIII. And for the Protection of Persons acting in the Execution of this Act, be it enacted, That all Actions and Prosecutions to be commenced against any Person for any thing done in pursuance of this Act shall be laid and tried in the County where the Fact was committed, and shall be commenced within Six Calendar Months after the Fact committed, and not otherwise; and Notice in Writing of such Cause of Action shall be given to the Defendant One Calendar Month at the least before the Commencement of the Action; and in any such Action the Defendant may plead the General Issue, and give this Act and the special Matter in Evidence, at any Trial to be had thereupon; and no Plaintiff shall recover in any such Action if Tender of sufficient Amends shall have been made before such Action brought, or if a sufficient Sum of Money shall have been paid into Court after such Action brought by or on behalf of the Defendant; and if a Verdict shall pass for the Defendant, or the Plaintiff shall become Non-suit, or discontinue any such Action after Issue joined, or if upon Demurrer or otherwise Judgment shall be given against the Plaintiff, the Defendant shall recover his full Costs as between Attorney and Client, and have the like Remedy for the same as any Defendant hath by Law in other Cases; and though a Verdict shall be given for the Plaintiff in any such Action such Plaintiff shall not have Costs against the Defendant, unless the Judge before whom the Trial is had shall certify his Approbation of the Action and of the Verdict obtained thereupon.

XIX. And

Appeal to Quarter Sessions.

XIX. And be it enacted, That in every Case of summary Conviction before any Justices of the Peace under this Act, in which the Penalty adjudged to be paid shall be more than Three Pounds, any Person who shall think himself aggrieved by the Conviction may appeal to the Justices of the Peace at the next General or Quarter Sessions of the Peace to be holden for the County, Riding, or Division wherein the Cause of Complaint shall have arisen; provided that such Person, at the Time of the Conviction, or within Forty-eight Hours thereafter, shall enter into a Recognizance, with Two sufficient Sureties, conditioned personally to appear at the said Sessions to try such Appeal, and to abide the further Judgment of the Justices at such Sessions assembled, and to pay such Costs as shall be by the last-mentioned Justices awarded; and it shall be lawful for the Justices by whom such Conviction shall have been made to bind over the Witnesses who shall have been examined in sufficient Recognizances to attend and be examined at the hearing of such Appeal; and that every such Witness, on producing a Certificate of his being so bound, under the Hand of the Justices, shall be allowed Compensation for his Time, Trouble, and Expences in attending the Appeal, which Compensation shall be paid, in the first instance, by the Treasurer of the County or Riding, in like Manner as in Cases of Misdemeanor, under the Provisions of an Act passed in the Seventh Year of the Reign of King *George* the Fourth, intituled *An Act for improving the Administration of Criminal Justice in England*; and in case the Appeal shall be dismissed, and the Order or Conviction affirmed, the reasonable Expences of all such Witnesses attending as aforesaid, to be ascertained by the Court, shall be repaid to the Treasurer of the County or Riding by the Appellant. 7 G. 4. c. 64.

Powers of Companies to be exercised by Directors.

XX. And be it enacted, That all the Powers hereby vested in any Company of Proprietors of any such Canal or Navigable River may be exercised by the Directors or Committee of Management, or other Body of Persons, under whatever Style or Name they may be known, duly authorized according to the Constitution of such Company to manage the Affairs of such Company respectively, and if there shall be no such Body, or more than One such Body, so that it may be doubtful by whom the said Powers ought to be exercised, then by such Body of Persons as shall be appointed for that Purpose by the Proprietors at any General or Special Meeting of the Proprietors convened for that Purpose, with the like Forms and Notices as are required by Law in each Case respectively with regard to such Meetings.

Act may be amended this Session.

XXI. And be it enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

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