ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

****

C A P. XCIII.

An Act for the Establishment of County and District Constables by the Authority of Justices of the Peace. [27th *August* 1839.]

WHEREAS by an Act passed in the Second Year of the Reign of His late Majesty, intituled *An Act for amending* 1 & 2 W. 4.
the Laws relative to the Appointment of Special Constables, c. 41.
and for the better Preservation of the Peace, it is amongst other things enacted, that in all Cases where it should be made to appear to any Two or more Justices of the Peace of any County, Riding, or Division having a separate Commission of the Peace, or to any Two or more Justices of the Peace of any Liberty, Franchise, City, or Town in *England* or *Wales*, upon the Oath of any credible Witness, that any Tumult, Riot, or Felony had taken place or might be reasonably apprehended in any Parish, Township, or Place situate within the Division or Limits for which the said respective Justices usually act, and such Justices should be of opinion that the ordinary Officers appointed for preserving the Peace are not sufficient for the Protection of the Inhabitants and the Security of the Property in any such Parish, Township, or Place as aforesaid, then and in every such Case

such Justices, or any Two or more Justices acting for the same Division or Limits, are thereby authorized to nominate and appoint, by Precept in Writing under their Hands, so many as they should think fit of the Householders or other Persons (not legally exempt from serving the Office of Constable) residing in such Parish, Township, or Place as aforesaid, or in the Neighbourhood thereof, to act as Special Constables for such Time and in such Manner as to the said Justices respectively should seem fit and necessary, for the Preservation of the Public Peace, and for the Protection of the Inhabitants, and the Security of the Property in such Parish, Township, or Place: And whereas the Powers of Justices of the Peace for making such Appointments as aforesaid were enlarged by an Act passed in the Sixth Year of the same Reign, intituled *An Act for enlarging the Powers of Magistrates in the Appointment of Special Constables:* And whereas it is expedient that the Powers of the said Justices for appointing Constables be further enlarged, and that Powers be given for charging the Expences of paying such Constables upon the several Divisions in which they shall be appointed: 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 in all Cases where it shall be made to appear to the Justices of the Peace of any County in *England* or *Wales* in General or Quarter Sessions assembled, or at any Adjournment thereof, that the ordinary Officers appointed for preserving the Peace are not sufficient for the Preservation of the Peace, and for the Protection of the Inhabitants, and for the Security of Property within the County, it shall be lawful for them to set forth the same, by a Report in Writing under the Hands of the Majority of the Justices there present, and to declare how many Constables are needed in their Opinion to be appointed within their County for the Purposes aforesaid, and the Rates of Payment which it would be expedient to pay to the chief and other Constables; and every such Report shall be sent to One of Her Majesty's Principal Secretaries of State: Provided always, that the Number of Constables shall not be more than One Man for every Thousand of the Inhabitants according to the last Parliamentary Enumeration of the Population for the Time being, the Population of the Boroughs and Towns herein-after excepted from the Operation of this Act being deducted therefrom.

5 & 6 W. 4. c. 43.

Justices in Quarter Sessions may report to the Secretary of State the Necessity of an additional Appointment of Constables.

Limitation of Numbers.

Alteration of Number of Constables.

II. And be it enacted, That it shall be lawful for the Justices assembled in General or Quarter Session, from Time to Time, with the Consent of One of Her Majesty's Principal Secretaries of State, to increase or diminish the Number of Constables first appointed under this Act for their County.

Rules for their Government, Pay, &c.

III. And whereas it is expedient that the Rules for the Government, Pay, Clothing, and Accoutrements and Necessaries of such Constables as may be appointed under this Act be uniform, as nearly

as may be; be it enacted, That such Rules shall be from Time to Time made by One of Her Majesty's Principal Secretaries of State, but not so as to increase the Number of Men proposed to be appointed; and the Rules so made shall be sent to the Clerk of the Peace for each County in which or in any Division of which this Act shall be in operation; and it shall be lawful for the Secretary of State, upon the Representation of the Justices of the County, setting forth any special Reasons, to amend or add to such Rules so as to make them applicable to the special Circumstances of such County; and all such Rules shall be binding on all Persons whom they may concern; and Copies of all such Rules shall be laid before both Houses of Parliament within Six Weeks after the making thereof, if Parliament is then sitting, and if Parliament is not sitting then within Six Weeks after the next meeting of Parliament.

to be made by the Secretary of State.

IV. And be it enacted, That as soon as any such Rules, as finally settled, shall have been received from the Secretary of State, the Justices of the County in General or Quarter Session assembled, or at any Adjournment thereof, shall, subject to the Approval of the Secretary of State, appoint a Person duly qualified according to the Rules to be Chief Constable of the County, and in every Case of Vacancy of the Office shall, subject to the like Approval, appoint another fit Person in his Room; and every Chief Constable so to be appointed may hold his Office until dismissed by the Justices in General or Quarter Session assembled, or at any Adjournment thereof: Provided always, that when any County shall have been divided for the Purpose of returning Members to serve in Parliament for each Division, it shall be lawful to appoint Two Chief Constables for such County, if the Justices of such County shall think fit: Provided also, that it shall be lawful to appoint the same Chief Constable for Two or more adjoining Counties or Parts of Counties, if the Justices of such Counties in General or Quarter Session assembled shall mutually agree to join in such Appointment.

One or more Chief Constables of the County to be appointed, who may serve for more than One County.

V. And be it enacted, That, with the Notice of the Time of holding any such General or Quarter Session, or Adjournment thereof, as now required by Law, Notice shall be given of the Day and Hour at which any Business relating to the Adoption of this Act, or the Appointment or Dismissal of any Chief Constable under this Act, or the Increase or Diminution of the Number of Constables, will begin at such Session; and the Clerk of the Peace of each County shall give such Notice as last mentioned on the Requisition of any Five Justices acting for such County.

Notice of Proceedings under this Act to be inserted in Notices now required by Law.

VI. And be it enacted, That, subject to the Approval of Two or more of the Justices of the County in Petty Sessions assembled, the Chief Constable shall appoint the other Constables to be appointed for the County, and a Superintendent to be at the Head of the Constables

Chief Constable to appoint the Petty Constables.

Constables in each Division of the County, and at his Pleasure may dismiss all or any of them, and shall have the general Disposition and Government of all the Constables so to be appointed, subject to such lawful Orders as he may receive from the Justices in General or Quarter Session assembled, or at any Adjournment thereof, and to the Rules established for the Government of the Force.

Chief Constable empowered to appoint a Deputy under certain Restrictions.

VII. And be it enacted, That the Chief Constable shall, subject to the Approval of the Justices in General or Quarter Sessions assembled, or at any Adjournment thereof, appoint one of the Superintendents to act as his Deputy in case of his being incapable, from Illness or necessary Absence from the County, to perform the Duties of Chief Constable of the County; and the Deputy so appointed shall in such Case as aforesaid, and also in case of any Vacancy of the Office of Chief Constable by Death or otherwise, have all the Powers, Privileges, and Duties of the Chief Constable: Provided always, that no Deputy Chief Constable shall be capable of continuing to act with the Powers of Chief Constable during any Vacancy of the Office for more than Three Calendar Months after the Vacancy has been occasioned.

Constables to have the Authority of Special Constables under 1 & 2 W. 4. c. 41.

VIII. And be it enacted, That the Chief Constable and other Persons so appointed shall be sworn as Constables before a Justice of the County, and shall have all the Powers, Privileges, and Duties throughout the County, and also in all Liberties and Franchises and detached Parts of other Counties locally situated within such County, and also in any County adjoining to the County for which they are appointed, which any Constable duly appointed has within his Constablewick by virtue of the Common Law, or of any Statute made or to be made; and every Provision of the first-recited Act shall be deemed to extend to the Constables appointed under this Act, except as to the Manner of their Appointment and Dismissal, the Time for which they shall serve, and the Manner in which their Allowances shall be paid, or as to any Matter herein expressly otherwise provided.

Constables disqualified from voting at certain Elections.

IX. And be it enacted, That no Chief Constable or other Constable appointed by virtue of this Act shall, during the Time he shall continue to be such Constable, or within Six Calendar Months after he shall have ceased to be such Constable, be capable of giving his Vote for the Election of a Member to serve in Parliament for the County in which he is so appointed, or for any County adjoining thereunto, or for any City or Borough within any of the said Counties; nor shall any such Constable, by Word, Message, Writing, or in any other Manner, endeavour to persuade any Elector to give, or dissuade any Elector from giving, his Vote for the Choice of any Person to be a Member to serve in Parliament for any such County, City, or Borough; and if any such Constable shall offend therein he shall forfeit the Sum of Twenty Pounds, to be recovered by any Person who will sue for the same by

by Action of Debt, to be commenced within Six Calendar Months after the Commission of the Offence; and one Moiety of the Sum so recovered shall be paid to the Informer, and the other Moiety thereof to the Treasurer of the County, to be by him applied for the Purposes of the Police under this Act: Provided always, that nothing in this Enactment contained shall subject any Constable to any Penalty for any Act done by him at or concerning any of the said Elections in the Discharge of his Duty.

Constables appointed under this Act not to exercise any other Employment, &c.

X. And be it enacted, That all Chief or other Constables appointed under this Act shall be restrained from employing themselves in any Office or Employment for Hire or Gain other than in the Execution of their Duties under this Act, and shall be exempt from being returned and from serving upon any Juries or Inquests whatsoever, or in the Militia, nor shall they be inserted in any Jury Lists while they shall continue to be such Constables.

Not to prevent Constables from receiving Half Pay.

XI. And be it enacted, That no Office or Employment as a Chief Constable or Constable under this Act shall prevent the Holder thereof from receiving any Half Pay to which, if he did not hold or have such Office or Employment, he might be or become entitled.

Penalty on Constables for Neglect of Duty.

XII. And be it enacted, That every Constable appointed under this Act who shall be guilty of any Neglect or Violation of Duty in his Office of Constable, and shall be convicted thereof before any Two Justices of the Peace for the County, shall be liable to a Penalty not more than Ten Pounds, the Amount of which Penalty may be deducted from any Salary then due to such Offender, or, in the Discretion of the Justices by whom he shall be convicted, may be imprisoned, with or without hard Labour, for any Time not more than One Calendar Month.

Constables not to resign without Leave or Notice.

XIII. And be it enacted, That no Constable appointed under this Act shall be at liberty to resign his Office, or to withdraw himself from the Duties thereof, unless expressly allowed so to do, in Writing, by the Chief Constable or Superintendent under whom he may be placed, or unless he shall give to such Chief Constable or Superintendent One Calendar Month's Notice of his Intention; and every Constable who shall so resign or withdraw himself without such Leave or Notice shall be liable, on being convicted thereof before any Two Justices of the Peace for the County, to forfeit all Arrears of Pay then due to him, or to a Penalty not more than Five Pounds.

Constables dismissed to deliver up Accoutrements, &c.

XIV. And be it enacted, That every Constable appointed under this Act who shall be dismissed from or shall cease to hold and exercise his Office, and who shall not forthwith deliver over all the Clothing, Accoutrements, Appointments, and other Necessaries which may have been supplied to him for the Execution of his Duty to the Chief

Constable or Superintendent, or to such Person and at such Time and Place as shall be directed by the said Chief Constable or Superintendent, shall be liable, on being convicted thereof before any Two Justices of the Peace for the County, to Imprisonment, 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 the County Police all the Clothing, Accoutrements, Appointments, and other Necessaries which shall not be so delivered over, wherever the same may be found.

Penalty on unlawful Possession of Accoutrements, and assuming Dress of Constables.

XV. And be it enacted, That every Person, not being a Constable appointed under this Act, who shall have in his Possession any Article being Part of the Clothing, Accoutrements, or Appointments supplied to any such Constable, and who shall not be able satisfactorily to account for his Possession thereof, or who shall put on the Dress, or take the Name, Designation, or Character of any Person appointed as such Constable, for the Purpose of thereby obtaining Admission into any House or other Place, or of doing or procuring to be done any Act which such Person would not be entitled to do or procure to be done of his own Authority, or for any other unlawful Purpose, shall, in addition to any other Punishment to which he may be liable for such Offence, be liable, on being convicted thereof before any Two Justices of the Peace for the County, to a Penalty not more than Ten Pounds.

Penalty on Publicans harbouring Constables during the Hours of Duty.

XVI. And be it enacted, That if any Victualler, or Keeper of any House, Shop, Room, or other Place for the Sale of any Liquors, whether Spirituous or otherwise, shall knowingly harbour or entertain any Constable belonging to the said Force, or permit such Constable to abide or remain in his House, Shop, Room, or other Place, during any Part of the Time appointed for his being on Duty, every such Victualler or Keeper as aforesaid, being convicted thereof before any Two Justices of the Peace for the County, shall for every such Offence forfeit and pay such Sum, not exceeding Five Pounds, as they shall think meet.

Chief Constable to attend at Quarter Sessions.

XVII. And be it enacted, That every Chief Constable, unless prevented by sufficient Cause, shall attend every General and Quarter Session of the Justices of the County, and at every Adjournment thereof, and shall make quarterly Reports to the Justices of all Matters which they shall require of him concerning the Police of the County, and shall obey all lawful Orders and Warrants of the said Justices in the Execution of his Duty; and that the Superintendents of Divisions shall in like Manner attend every Session of the Justices holden for their respective Divisions, and shall make the like Reports to the Justices of such Divisions.

Allowances for necessary Expences.

XVIII. And be it enacted, That, in addition to the Salary to be paid to the Chief Constable of the County, reasonable Allowances shall

be

be made to him for extraordinary Expences necessarily incurred by him, and by the Constables under his Orders, in the Apprehension of Offenders, and in the Execution of his and their Duty under this Act; which Allowances shall be examined and audited by the Justices of the County in Quarter Sessions assembled.

Constables may be appointed for separate Divisions.

XIX. And be it enacted, That it shall be lawful for the Justices of any County in General or Quarter Session assembled, in case they shall not resolve on appointing Constables under this Act for the whole of their County, to resolve, with the Approval of the Secretary of State, on appointing Constables under this Act for any Division of the County for which Special or Petty Sessions of the Peace are holden, or for any Number of such Divisions of the County; and for that Purpose they, or the greater Number of them there assembled, not being less than Two, shall have all the Powers with regard to such Division or Divisions which they have with respect to the whole County under the Provisions herein-before contained; and all the Provisions herein-before contained with respect to the whole County shall be deemed to apply to such Division or Divisions as if it or they were the whole County; and the Provisions relating to the Chief Constable shall be deemed to apply to the Superintendent of each Division: Provided always, that if Constables shall be appointed under this Act in any Number of adjoining Divisions, a separate Police Establishment shall not be formed for each Division, but the whole shall be consolidated into One Police Establishment for the whole of such adjoining Divisions, and that if this Act shall be afterwards adopted for the whole County the several divisional Establishments of Police shall be consolidated and form Part of the general County Police Establishment.

Expences to be defrayed out of the County Rate.

XX. And be it enacted, That the Salaries and Allowances of the Chief Constable and other Constables, and all other Expences incurred in providing them with such Clothing, Accoutrements, and Necessaries as are allowed by the Rules, and in putting this Act in execution, shall be paid by the Treasurer of the County out of the County Rate.

The Rates to be made on each Division where there are Constables may be increased.

XXI. And be it enacted, That where this Act shall be adopted for any Division or Divisions, and not for the whole County, it shall be lawful for the Justices of the Peace for the said County assembled at any Quarter Sessions of the Peace, or any Adjournment thereof, from Time to Time to order the County Rates made upon the said Division or Divisions to be increased, and for that Purpose to rate every Parish, Township, and other Place, whether Parochial or Extra-parochial, within such Division or Divisions, in the same Manner as now authorized and practised by Law for County Rates, at such additional Sum over and above the Sum needed for the other Purposes of the County Rates as shall be needed for raising from such Division or Divisions

Divisions respectively the Sums needed for the Purposes of this Act within such Division or Divisions respectively, and the total Amount of County Rate, increased as aforesaid, to be levied upon every Parish, Township, and Place within any such Division, shall be specified in the Warrants issued for the Purposes of the County Rates by the Justices to the High Constables of every Hundred or other such District within the County comprising any Part of the said Division, and the High Constables shall issue their Warrants accordingly to the Overseers of the Poor and others authorized in that Behalf, in every Parish, Township, and Place within the said Division or Divisions.

Regulations as to County Rate to apply to the increased Rates levied hereby. 55 G. 3. c. 51.

XXII. And be it enacted, That all the Provisions of an Act passed in the Fifty-fifth Year of the Reign of His late Majesty King *George* the Third, intituled *An Act to amend an Act of His late Majesty King* George *the Second, for the more easy assessing, collecting, and levying of County Rates*, or any other Act in force touching the making, collecting, or recovering County Rates, shall extend and apply to the making, collecting, and recovering the several increased Rates hereby authorized to be made, as fully as if the same increased Rates were made equally throughout the whole County.

Treasurer to keep separate Accounts of the Rates levied under this Act.

XXIII. And be it enacted, That the Treasurer of the said County shall keep a separate Account of the several Sums by him received and paid under this Act, and if the Act is not adopted for the whole County, separate Accounts for every Division, or Set of adjoining Divisions, having a separate Establishment of Constables under this Act, and shall produce the same to the Justices assembled at every Quarter Sessions of the Peace for the said County, and the same shall be examined and audited by the said Justices, and, being allowed and passed by them, shall be deposited with the Clerk of the Peace for the said County, to be kept among the Records thereof, and that such Allowance of the said Justices shall be a sufficient Release and Discharge to such Treasurer; and the said Justices so assembled as aforesaid may from Time to Time order such Allowance as they shall think reasonable to be paid out of the general Stock of the said County to the said Treasurer for his Trouble in the Execution of this Act.

Exemption of Borough Towns.

XXIV. Provided always, and be it enacted, That nothing in this Act contained shall extend to authorize the Justices of the Peace of any County to appoint any Constable within any Borough incorporated under the Provisions of an Act passed in the Sixth Year of the Reign of His late Majesty, intituled *An Act to provide for the Regulation of Municipal Corporations in* England *and* Wales, or under the Provisions of any Charter granted in pursuance of the said Act; nor shall any such Borough, for which a separate Court of Quarter Sessions of the Peace shall be holden, be liable to contribute to the Expences of this Act, or to be charged with any Part thereof in their Account with the Treasurer of such County.

5 & 6 W. 4. c. 76.

XXV. And

Discontinuance of Constables under local and other Acts where this Act is in operation.

XXV. And be it enacted, That upon the Appointment of Constables under this Act in any County, or in any Division or Divisions of a County, the Power to appoint and pay, and to make Rates for paying, any Constables, in any Hundred, Parish, Township, or Place within such County, Division or Divisions, except such Boroughs as aforesaid, other than High Constables, or other than Special Constables appointed under the Provisions of the first-recited Act, or of any Act made for enlarging the Powers of Magistrates under the said Act, or otherwise than under this Act, and also all the Powers and Duties of all such Constables, shall cease and determine; and all Sums of Money then already levied for the Purpose of such other Constables shall be applied, after defraying all Charges to which the same are then liable, in and towards Payment of the County Rates levied upon such Hundred, Parish, Township, or Place: Provided always, that all Arrears of Rates made for the Purposes aforesaid shall be levied and collected as if this Act had not been made: Provided also, that nothing herein contained shall prevent or invalidate the Appointment of Parochial Constables: Provided also, that nothing herein contained shall prevent the Appointment of any Constable to act as Returning Officer in any Election, whenever such Appointment may be necessary.

Not to affect for Two Years, any Places where the Population is more than 10,000.

XXVI. Provided always, and be it enacted, That, notwithstanding any thing herein contained, the Power to appoint and pay, and to make and levy Rates for paying, Constables, under any Act of Parliament made for watching any Town, Parish, or Place, which by the last Parliamentary Enumeration of the Population contained more than Ten thousand Inhabitants, and the Powers and Duties of all Constables appointed by the Commissioners for the Execution of any such Act, shall continue, as if this Act had not been made, for Two Years after the passing of this Act, and thence until the End of the then next Session of Parliament.

Certain Liberties, &c. considered as forming Parts of Counties for Purposes of this Act.

XXVII. And be it enacted, That for the Purposes of this Act all detached Parts of Counties, and also all Liberties and Franchises, (other than such incorporated Boroughs as aforesaid,) shall be considered as forming Part of that County by which they are surrounded, or if partly surrounded by Two or more Counties then as forming Part of that County with which they have the longest common Boundary; and so much of every such detached Part of any County, or of any Liberty and Franchise, which is not of itself an entire Hundred, Wapentake, Ward, Rape, Lathe, or such other Division of a County, shall be considered as forming Part of that Hundred, Ward, Wapentake, Rape, Lathe, or such other Division whereby it shall be surrounded in the County of which it shall be considered a Part for the Purposes of this Act, or if partly surrounded by Two or more Hundreds, Wapentakes, Wards, Rapes, Lathes, or such other Divisions, then as forming Part of that one with which it shall have the longest common Boundary.

XXVIII. And

Meaning of "County."

XXVIII. And be it enacted, That in construing this Act the Word "County" shall be construed to mean County, Riding, or Division having a separate Court of Quarter Sessions of the Peace, or in which separate County Rates are made; and that all Things herein-before authorized to be done at Quarter Sessions may be done by the Justices in General Sessions assembled in those Counties in which County Rates are made in General Sessions; and that nothing herein contained shall extend to any Part of the Metropolitan Police District.

Act may be amended.

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

LONDON: Printed by GEORGE E. EYRE and ANDREW SPOTTISWOODE, Printers to the Queen's most Excellent Majesty. 1839.