ANNO PRIMO & SECUNDO

GULIELMI IV. REGIS.

****

C A P. XLI.

An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace.

[15th *October* 1831.]

WHEREAS it is expedient to amend the Laws relative to the Appointment of Special Constables, and to make other Provisions for the better Preservation of the Public Peace; be it therefore enacted by the King'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 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 has taken place or may 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 shall be of opinion 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 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

Two or more Justices, upon Information on Oath that Disturbances exist or are apprehended, may appoint Special Constables.

or

or Limits, are hereby authorized to nominate and appoint, by Precept in Writing under their Hands, so many as they shall 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 shall 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 the Justices of the Peace who shall appoint any Special Constables by virtue of this Act, or any One of them, or any other Justice of the Peace acting for the same Division or Limits, are and is hereby authorized to administer to every Person so appointed the following Oath; that is to say,

Form of Oath to be taken by Special Constables.

'I *A. B.* do swear, That I will well and truly serve our Sovereign Lord the King in the Office of Special Constable for the Parish [*or* Township] of , 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 preserved, and prevent all Offences against the Persons and Properties of His Majesty's Subjects; and that while I continue to hold the said Office I will to the best of my Skill and Knowledge discharge all the Duties thereof faithfully according to Law. So help me GOD.'

Notice to be transmitted to Secretary of State and to Lieutenant of County.

Provided always, that whenever it shall be deemed necessary to nominate and appoint such Special Constables as aforesaid, Notice of such Nomination and Appointment, and of the Circumstances which have rendered such Nomination and Appointment expedient, shall be forthwith transmitted by the Justices making such Nomination and Appointment to One of His Majesty's Principal Secretaries of State and to the Lieutenant of the County.

Secretary of State, on Representation of Justices, may order Persons to be sworn in, though exempt by Law;

II. And be it enacted, That in any Case in which any Number of the Householders, or other Persons not legally exempt from serving the Office of Constable, shall have been appointed by the Justices in manner aforesaid to act as Special Constables for any such Parish, Township, or Place as aforesaid, it shall be lawful for any One of His Majesty's Principal Secretaries of State, on the Representation of any Two Justices of the Peace, to order that the Persons exempt by Law from serving as Special Constables in such Parish, Township, or Place, or the Neighbourhood thereof, shall, notwithstanding such Exemption, be appointed and sworn in to act as Special Constables as if they were not by Law exempt; and such Persons shall accordingly be appointed and sworn in manner aforesaid, and shall be liable to act for Two Calendar Months only.

and may direct any Lord Lieutenant to cause Special Constables to be sworn in, and no Exemption allowed.

III. And be it enacted, That it shall be lawful for any One of His Majesty's Principal Secretaries of State to give Direction to the Lieutenant of any County to cause Special Constables to be appointed and sworn in manner aforesaid throughout the Whole of such County or any Portion thereof, whether a Hundred or Hundreds, Parish or Parishes, or any other known Division or Divisions, of whatever Size or Denomination, and to signify, if such Secretary of State

shall see fit, that no Person shall be excused from being so appointed and sworn in by reason of any Exemption: Provided always, that the Persons so appointed and sworn in, whether having Cause of Exemption or not, shall only be called upon to act for Three Calendar Months.

Justices may make Regulations respecting Special Constables, and may remove them for Misconduct.

IV. And be it enacted, That the Justices of the Peace who shall have appointed any Special Constables under this Act, or any Two of them, or the Justices acting for the Division or Limits within which such Special Constables shall have been called out, at a Special Session of such last-mentioned Justices, or the major Part of such last-mentioned Justices at such Special Session, shall have Power to make such Orders and Regulations as may from Time to Time be necessary and expedient for rendering such Special Constables more efficient for the Preservation of the Public Peace, and shall also have Power to remove any such Special Constable from his Office for any Misconduct or Neglect of Duty therein.

Powers of Special Constables.

V. And be it enacted, That every Special Constable appointed under this Act shall, not only within the Parish, Township, or Place for which he shall have been appointed, but also throughout the entire Jurisdiction of the Justices so appointing him, have, exercise, and enjoy all such Powers, Authorities, Advantages, and Immunities, and be liable to all such Duties and Responsibilities, as any Constable duly appointed now has within his Constablewick by virtue of the Common Law of this Realm, or of any Statute or Statutes.

Special Constables may act in the adjoining County in certain Cases.

VI. And be it enacted, That where any Special Constables appointed under this Act shall be serving within any County, and Two or more Justices of the Peace of any adjoining County shall make it appear to the Satisfaction of any Two or more Justices of the Peace acting for the Division or Limits wherein such Special Constables are serving, that any extraordinary Circumstances exist which would render it expedient that the said Special Constables should act in such adjoining County, then and in every such Case the said last-mentioned Justices are hereby authorized (if they shall think fit) to order all or any of the said Special Constables to act in such adjoining County in such Manner as to the said last-mentioned Justices shall seem meet; and every such Special Constable, during the Time that he shall so act in such adjoining County, shall have, exercise, and enjoy all such Powers, Authorities, Advantages, and Immunities, and be liable to all such Duties and Responsibilities, as if he were acting within the Parish, Township, or Place for which he was originally appointed.

Penalty for refusing to take the Oath of Office, &c.

VII. And be it enacted, That if any Person, being appointed a Special Constable as aforesaid, shall refuse to take the Oath herein-before mentioned, when thereunto required by the Justices of the Peace so appointing him, or by any Two of them, or by any other Two Justices of the Peace acting for the same Division or Limits, he shall be liable to be convicted thereof forthwith before the said Justices so requiring him, and to forfeit and pay such Sum of Money, not exceeding Five Pounds, as to the said Justices so requiring him shall

shall seem meet; and if any Person, being appointed a Special Constable as aforesaid, shall neglect or refuse to appear at the Time and Place for which he shall be summoned, for the Purpose of taking the said Oath, he shall be liable to be convicted thereof forthwith before the Justices so appointing him, or any Two of them, or before any other Two Justices of the Peace acting for the same Division or Limits, and to forfeit and pay such Sum of Money, not exceeding Five Pounds, as to the convicting Justices shall seem meet, unless such Person shall prove to the Satisfaction of the said Justices that he was prevented by Sickness or such other unavoidable Accident as shall in the Judgment of the said Justices be a sufficient Excuse.

Penalty for refusing to serve, or for Disobedience of Orders.

VIII. And be it enacted, That if any Person, being appointed a Special Constable as aforesaid, and being called upon to serve, shall neglect or refuse to serve as such Special Constable, or to obey such lawful Orders and Directions as may be given to him for the Performance of the Duties of his Office, every Person so offending shall, on Conviction thereof before any Two Justices of the Peace, forfeit and pay for every such Neglect or Refusal such Sum of Money, not exceeding Five Pounds, as to the said Justices shall seem meet, unless such Person shall prove to the Satisfaction of the said Justices that he was prevented by Sickness or such other unavoidable Accident as shall in the Judgment of the said Justices be a sufficient Excuse.

Power to discontinue the Services of Constables called out;

IX. And be it enacted, That the Justices who shall have appointed any Special Constables under this Act are hereby empowered, or the Justices acting for the Division or Limits within which such Special Constables shall have been called out, at a Special Session to be held for that Purpose, or the major Part of such last-mentioned Justices at such Special Session, are hereby empowered to suspend or determine the Services of any or all of the Special Constables so called out, as to the said Justices respectively shall seem meet; and Notice of such Suspension or Determination of the Services of any or all of the said Special Constables shall be forthwith transmitted by such respective Justices to One of His Majesty's Principal Secretaries of State, and also to the Lieutenant of the County.

notifying the same to the Secretary of State, &c.

Special Constables to deliver Staves, &c. to Successors.

X. And be it enacted, That every such Special Constable shall, within One Week after the Expiration of his Office, or after he shall cease to hold and exercise the same pursuant to this Act, deliver over to his Successor (if any such shall have been appointed), or otherwise to such Person and at such Time and Place as may be directed by any Justice of the Peace acting for the Division or Limits within which such Special Constable may have been called out, every Staff, Weapon, and other Article which shall have been provided for such Special Constable under this Act; and if any such Special Constable shall omit or refuse so to do, he shall, on Conviction thereof before Two Justices of the Peace, forfeit and pay for such Offence such Sum of Money not exceeding Two Pounds as to the convicting Justices shall seem meet.

XI. And

Punishment for assaulting or resisting Constables.

XI. And be it enacted, That if any Person shall assault or resist any Constable appointed by virtue of this Act, whilst in the Execution of his Office, or shall promote or encourage any other Person so to do, every such Person shall, on Conviction thereof before Two Justices of the Peace, forfeit and pay for such Offence any Sum not exceeding Twenty Pounds, or shall be liable to such other Punishment, upon Conviction on any Indictment or Information for such Offence, as any Persons are by Law liable to for assaulting any Constable in the Execution of the Duties of his Office.

Special Constables not to gain a Settlement, nor be exempt from the Militia.

XII. And be it enacted, That no Person who shall be appointed a Special Constable, or who shall act as such under the Provisions of this Act, shall by reason thereof acquire a legal Settlement in any Parish, Township, or Place, any Law or Statute to the contrary notwithstanding; and that no such Person shall by reason thereof be exempt from the Ballot for or from serving in the Militia.

Justices in Special Session may order Allowances to the Special Constables, such Allowances to be paid out of the County Rate.

XIII. And be it enacted, That the Justices of the Peace acting for the Division or Limits within which any such Special Constables shall have been called out to serve at a Special Session to be held for that Purpose, or the major Part of the Justices at such Special Session, are hereby empowered to order from Time to Time such reasonable Allowances for their Trouble, Loss of Time, and Expences, to be paid to such Special Constables who shall have so served or be then serving, as to the said Justices or such major Part of them shall seem proper; and the said Justices or such major Part of them may also order the Payment of such Expences as may have been incurred in providing Staves or other necessary Articles for such Special Constables; and the said Justices so ordering, if Justices for any County, Riding, or Division having a separate Commission of the Peace, or if Justices for any Liberty, Franchise, City, or Town which shall be contributory to the Public Rate for any County, Riding, or Division, shall make every Order for the Payment of such Allowances and Expences upon the Treasurer of such County, Riding, or Division, who is hereby required to pay the same out of any Public Money which shall then be in his Hands, and the said Treasurer shall be allowed all such Payments in his Accounts; and where the Justices of the Peace assembled at such Special Session are Justices for any Liberty, Franchise, City, or Town which is not contributory to the Public Rate for any County, Riding, or Division, but which raises a Rate or other similar Fund in the Nature of a County Rate, in every such Case the said last-mentioned Justices shall make every Order for the Payment of such Allowances and Expences as aforesaid upon the Treasurer or other Officer having the Collection or Disbursement of such last-mentioned Rate or Fund, who shall forthwith pay every such Order out of such Rate or Fund, and shall be allowed all such Payments in his Accounts.

Mode of Payment in Places not contributing to the County Rate.

Power to adjourn any Special Session, &c.

XIV. And be it enacted, That the Justices of the Peace assembled at any Special Session for any of the Purposes mentioned in this Act shall have Power to adjourn the same from Time to Time, as they shall think proper; and that every Special Session

which shall have been actually holden for any of the Purposes mentioned in this Act shall be deemed and taken to have been legally holden, until the contrary shall be proved.

Time for Proceedings under this Act.

Application of Penalties.

XV. And be it enacted, That the Prosecution for every Offence punishable upon summary Conviction by virtue of this Act shall be commenced within Two Calendar Months after the Commission of the Offence; and that every Penalty and Forfeiture for any Offence against this Act shall be paid to some one of the Overseers of the Poor, or to some other Officer, (as the convicting Justices may direct,) of the Parish, Township, or Place in which the Offence shall have been committed, to be by such Overseer or Officer paid over to the Use of the Public Rate for the County, Riding, or Division to which such Parish, Township, or Place is contributory; or if such Parish, Township, or Place is situate within any Liberty, Franchise, City, or Town which is not contributory to the Public Rate for any County, Riding, or Division, but which raises a Rate or other similar Fund in the Nature of a County Rate, then every such Penalty or Forfeiture shall be paid over in the Manner aforesaid to the Use of the said last-mentioned Fund or Rate; and no Inhabitant of any County, Riding, Division, Liberty, Franchise, City, or Town shall by reason thereof, or by reason of the Application of any such Penalty or Forfeiture as aforesaid, be deemed an incompetent Witness in proof of any Offence against this Act.

Payment of Penalties, and Mode of levying the same, &c.

XVI. And be it enacted, That the Justices of the Peace by whom any Person shall be summarily convicted and adjudged to pay any Sum of Money for any Offence against this Act may adjudge that such Person shall pay the same either immediately or within such Period as the said Justices shall think fit; and in case such Sum of Money shall not be paid at the Time so appointed, the same shall be levied by Distress and Sale of the Goods and Chattels of the Offender, together with the reasonable Charges of such Distress; and for Want of sufficient Distress such Offender shall be imprisoned, with or without hard Labour, in the Common Gaol or House of Correction, as to the convicting Justices shall seem meet, for any Term not exceeding One Calendar Month where the Sum to be paid shall not exceed Five Pounds, and for any Term not exceeding Two Calendar Months in any other Case; the Imprisonment to cease in each of the Cases aforesaid upon Payment of the Sum due.

Form of Conviction.

XVII. And be it enacted, That the Justices of the Peace before whom any Person shall be summarily convicted of any Offence against this Act may cause the Conviction to be drawn up in the following Form of Words, or to the like Effect; that is to say,

'
' to wit. } BE it remembered, That on the Day of
' in the Year of our Lord
' at in the County of [*or* Riding
' *et cetera*], *A.O.* is convicted before us, *J.P.* and *J.J.P.*, Two
' of His Majesty's Justices of the Peace for the said County [*or* Riding,
' *et cetera, or otherwise, as the Case may require*], for that he the said
' *A.O.* did [*here specify the Offence, and the Time and Place when and*
' *where*

A

'*where the same was committed, as the Case may be*]; and we do 'adjudge that the said *A. O.* 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.*, being One 'of the Overseers of the Poor of, *et cetera*, 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.*'

No Certiorari, &c.

XVIII. 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 His 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 *ab initio*, 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 in Actions for any thing done in pursuance of this Act.

Notice of Action.

General Issue, &c.

XIX. 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 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 Nonsuit, 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 shall be shall certify his Approbation of the Action and of the Verdict obtained thereupon.

XX. And

Repeal of 1 G. 4. c. 37.

XX. And be it enacted, That an Act passed in the First Year of the Reign of King *George* the Fourth, intituled *An Act to increase the Power of Magistrates in the Appointment of Special Constables*, shall be and the same is hereby repealed as to all Parts of *England* and *Wales*.

Not to extend to Scotland or Ireland.

XXI. And be it enacted, That nothing in this Act contained shall extend to *Scotland* or *Ireland*.

Nothing herein to abridge the Powers of Justices.

XXII. Provided always, and be it enacted, That nothing in this Act contained shall be construed to abridge any Powers for preserving the Public Peace, whether by appointing Constables or otherwise, which any Justice or Justices of the Peace had, by Law, or by virtue of any Statute or Statutes, before the passing of the said Act of the First Year of the Reign of King *George* the Fourth.

LONDON: Printed by GEORGE EYRE and ANDREW SPOTTISWOODE, Printers to the King's most Excellent Majesty. 1831.