ANNO SECUNDO & TERTIO

VICTORIÆ REGINÆ.

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C A P. LXXXVIII.

An Act for improving the Police in *Birmingham* for Two Years, and from thence until the End of the then next Session of Parliament.

[26th *August* 1839.]

WHEREAS Questions are pending as to the Powers of the Mayor, Aldermen, and Burgesses of the Borough of *Birmingham* to levy Rates under the Authority of their Charter of Incorporation; and it is expedient to make Provision for the Police of the said Borough until such Questions shall be determined: Be it 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 Her Majesty to establish a Police Office in the Borough of *Birmingham*, and by Warrant under Her Sign Manual to appoint a fit Person to be Chief Commissioner of Police for the said Borough.

Her Majesty may establish a Police Office in Birmingham, and appoint a Chief Commissioner of Police.

II. And be it enacted, That it shall be lawful for Her Majesty to appoint the said Chief Commissioner so appointed to be a Justice of the Peace of the said Borough, and of the Counties of *Warwick*, *Worcester*, *Salop*, and *Stafford*, and of all Liberties therein, to execute the Duties of a Justice of the Peace at the said Office, together with

Commissioner to be a Justice.

 such

such other Duties as shall be herein-after specified, or as shall be from Time to Time directed by one of Her Majesty's Principal Secretaries of State, for the more effectual Administration of the Police within the said Borough, notwithstanding that he may not have such Qualification by Estate as is required in the Case of other Persons being Justices of the Peace for a County; and Her Majesty may remove the said Commissioner, if She shall see Occasion so to do; and upon any Vacancy in the said Office by Death, Removal, or otherwise, during the Continuance of this Act, another fit Person shall be appointed to be Commissioner of Police of the said Borough and Justice of the Peace as aforesaid, instead of the Person by whom the Vacancy was made, and by the same Authority: Provided always, that no such Commissioner shall act as a Justice of the Peace of any Court of Sessions of the Peace, or in any Manner out of Sessions, except for the Preservation of the Peace, the Prevention of Crimes, the Detection and Committal of Offenders, and in carrying into execution the Purposes of this Act.

Commissioner to take the following Oath.

III. And be it enacted, That every such Commissioner, before he shall begin to execute the Duties of his Office, shall take the following Oath before Two Justices of the Borough of *Birmingham*, or of any of the above-mentioned Counties; (that is to say,)

'I *A. B.* do swear, That I will faithfully and honestly, without Fear or Favour, according to the best of my Skill and Knowledge, execute all the Powers and Duties of the Commissioner of Police of the Borough of *Birmingham*, under an Act passed in the Third Year of the Reign of Queen *Victoria*, intituled [*here insert the Title of this Act.*]'

Salary of the Chief Commissioner.

IV. And be it enacted, That an annual Salary not exceeding Eight hundred Pounds shall be paid quarterly to the Chief Commissioner appointed by Her Majesty as aforesaid, out of the Rates herein-after mentioned.

Police Force to be appointed for the whole Borough.

V. And be it enacted, That a sufficient Number of fit and able Men shall from Time to Time, by the Directions of one of Her Majesty's Principal Secretaries of State, be appointed by the said Commissioner as a Police Force for the whole of the Borough of *Birmingham*, who shall be sworn in by the said Commissioner to act as Constables for preserving the Peace, and preventing Robberies and other Felonies, and apprehending Offenders against the Peace; and the Men so sworn shall, not only within the said Borough, but also within the Counties of *Warwick*, *Worcester*, *Salop*, and *Stafford*, and within all Liberties therein, have all such Powers, Authorities, Privileges, and Advantages, and be liable to all such Duties and Responsibilities, as any Constable duly appointed has or hereafter may have within his Constablewick by virtue of the Common Law of this Realm, or of any Statute made or to be made, and shall obey all such lawful Commands as they may from Time to Time receive from the said Commissioner for conducting themselves in the Execution of their Office.

VI. And

Appointment and Salary of Receiver.

VI. And be it enacted, That the Treasurer of the said Borough shall receive all Sums of Money applicable to the Purposes of this Act, and shall be styled "Receiver of the Police of the Borough of *Birmingham*," or in case such Treasurer shall refuse to take on him the Duties of the Office of Receiver, or shall be removed from the said Office, it shall be lawful for Her Majesty to appoint a proper Person to be Receiver; and Her Majesty may remove any such Receiver, and upon any Vacancy in the Office may appoint another Receiver; and every such Receiver shall give Security to Her Majesty in a Bond with Two Sureties, in such Sum as the Commissioners of Her Majesty's Treasury shall direct, for the faithful Performance of his Duty as such Receiver; and a yearly Salary not exceeding Four hundred Pounds, to be payable quarterly, shall be allowed to every such Receiver out of the Monies so received by him.

Money to be placed in a Bank.

VII. And be it enacted, That the Receiver shall immediately pay all Monies, Bills, and Notes by him received under this Act into some Bank to be approved by the Commissioners of Her Majesty's Treasury, and the same shall be placed to an Account in the Books of such Banks, which shall be entitled "The Account of the Public Monies of the Receiver of Police for the Borough of *Birmingham*," inserting the Name of the Receiver for the Time being; and every Draft or Order for Money on the said Bank shall be countersigned by the Commissioner appointed under this Act; and all Drafts and Orders, so countersigned, but not otherwise, shall be a sufficient Authority to the Bank to pay the Amount to the Persons named in them, or to the Bearers thereof.

Provisions of 10 G. 4. c. 44. extended to Birmingham during the Continuance of this Act.

VIII. And be it enacted, That during the Continuance of this Act all the Powers of Rating, and of levying and recovering Rates, and all other Powers and Provisions of an Act passed in the Tenth Year of the Reign of King *George* the Fourth, intituled *An Act for improving the Police in and near the Metropolis*, shall apply to the Borough of *Birmingham*, and to the Commissioner, Receiver, and Constables appointed under this Act, and to all Things done under the Authority of this Act, except so far as is herein otherwise provided, as if the said Act had been made applicable to the Borough of *Birmingham* instead of the Metropolitan Police District or any City or Borough therein, and to the County of *Warwick* instead of the County of *Middlesex*, and to the Bank so approved of by the Commissioners of Her Majesty's Treasury instead of the Bank of *England*, and as if the said Act had authorized the Appointment of One Justice instead of Two Justices; and the Provisions in the said Act contained with respect to the Night Watch and Night Police established in any Parish, Township, Precinct, or Place within the Metropolitan Police District before the passing of the said Act shall extend and be applied to any Watch or Police, either by Night or by Day, established in any Part of the Borough of *Birmingham* before the passing of this Act, and upon the Establishment of the Police under this Act the Powers of all Constables appointed within the said Borough or any Part thereof otherwise than under this Act shall cease during the Continuance of this Act; and the Appeal given by the said Act against any Assessment made by an Assessor appointed under

under the said Act shall be made, in the Case of any Appeal against any Assessment made by an Assessor appointed under this Act, to the Court of Sessions of the Peace holden for the Borough of *Birmingham*, which shall have all the Powers for hearing and determining and giving Relief in the Matter of any such Appeal which by the said Act are given to Justices of the Peace in Quarter Sessions assembled; and in the Form of Conviction used for Offences against this Act the Title of this Act shall be inserted instead of the Title of the said Act: Provided always, that nothing in the said Act contained, or in this Act by Reference to the said Act, shall authorize the Extension of the Police District within the Provisions of this Act beyond the Borough of *Birmingham*, or to prevent any Person from voting at any Election of a Member or Members to serve in Parliament for any County, City, Borough, or Place other than the County of *Warwick*, and the Boroughs and Places therein, including the City of *Coventry*.]

Act not to affect 1 & 2 W. 4. c. 41.

IX. Provided always, and be it enacted, That nothing herein contained shall be deemed to affect an Act passed in the Second Year of the Reign of His late Majesty, intituled *An Act for amending the Laws relative to the Appointment of Special Constables, and for the better Preservation of the Peace*, or any Act passed for enlarging the Powers of Justices of the Peace under the last-recited Act, but all the Powers and Authorities given by the said Acts or either of them may be exercised in the same Manner as if this Act had not been passed.

Meaning of the Words "Treasurer of the said Borough."

X. Provided always, and be it enacted, That the Words "Treasurer of the said Borough" shall be taken to mean the Person for the Time being so called within the Borough of *Birmingham*; and that nothing in this Act contained shall extend or be construed to extend to confirm the Appointment of such Person, or to sanction the Creation of such an Officer as a Corporate Officer, or to confirm or render valid or in anywise to affect the Charter of Incorporation granted by Her Majesty in the Year One thousand eight hundred and thirty-eight, upon the Petition of certain of the Inhabitants of the Town of *Birmingham*.

10,000*l.* may be advanced for the Police of Birmingham.

XI. And be it enacted, That it shall be lawful for Three or more of the Commissioners of Her Majesty's Treasury of the United Kingdom of *Great Britain* and *Ireland*, at any Time after the passing of this Act, to advance and lend to the said Chief Commissioner of Police of the Borough of *Birmingham*, out of the Consolidated Fund of the United Kingdom of *Great Britain* and *Ireland*, any Sum or Sums of Money not exceeding in the whole the Sum of Ten thousand Pounds, upon the Credit of the Rates to be raised under this Act, and to be employed, under the Direction of the said Chief Commissioner, for the Purposes of the Police of the said Borough; and every Sum so advanced, with Interest thereon after such Rate not exceeding the Rate of Five Pounds *per Centum per Annum*, as the said Commissioners of the Treasury shall direct, shall be charged upon and repaid out of the Rates to be levied within the said Borough

under the Authority of this Act, so that the whole Sum borrowed, with the Interest due thereon, shall be repaid within such Time, not being more than Two Years, as the said Commissioners of the Treasury shall appoint.

XII. And whereas an Act was passed in the Ninth Year of the Reign of King *George* the Fourth, intituled *An Act for better paving, lighting, watching, cleaning, and otherwise improving the Town of* Birmingham *in the County of* Warwick; *and for regulating the Police and Markets of the said Town;* and another Act was passed in the Tenth Year of the same Reign, intituled *An Act for lighting, watching, cleaning, and otherwise improving and regulating the Hamlets or Liberties of* Duddeston *and* Nechells *in the Parish of* Aston near Birmingham *in the County of* Warwick; and another Act was passed in the Thirty-first Year of the Reign of King *George* the Third, intituled *An Act for cleaning, lighting, and watching, and levelling the Surface of the Streets and other public Places within the Hamlets of* Deritend *and* Bordesley *in the County of* Warwick; *and for removing and preventing Nuisances, Obstructions, and Encroachments, and regulating the driving of Carts and other Carriages used for carrying Goods, Wares, and Merchandizes, therein,* whereby certain Offences were forbidden in the Parish of *Birmingham*, the Hamlets or Liberties of *Duddeston* and *Nechells*, and the Hamlets of *Deritend* and *Bordesley*, respectively, which Parish and Hamlets form Part of the said Borough of *Birmingham;* be it enacted, That it shall be lawful for any Constable appointed under this Act, and for all Persons whom he shall call to his Assistance, to take into Custody without Warrant any Person who, within View of any such Constable, in any Thoroughfare within the said Borough, shall offend against any Provision of the said Acts or either of them, and whose Name and Residence shall be unknown to such Constable, and cannot be ascertained by such Constable.

9 G. 4. c. 54. (Local.)

10 G. 4. c. 6. (Local.)

31 G. 3. c. 17. (Local.)

Offenders whose Names and Residences are unknown may be taken into Custody.

XIII. And be it enacted, That it shall be lawful for any Constable appointed under this Act to take into Custody without Warrant any Person who within the said Borough shall be charged by any other Person with committing any aggravated Assault, in every Case in which such Constable shall have good Reason to believe that such Assault has been committed, although not within View of such Constable, and that by reason of the recent Commission of the Offence a Warrant could not have been obtained for the Apprehension of the Offender.

Persons charged with recent aggravated Assaults may be taken into Custody.

XIV. And be it enacted, That no Constable appointed by virtue of this Act shall, during the Time he shall continue to be such Constable, be capable of giving his Vote for the Election of a Member to serve in Parliament for the Borough of *Birmingham;* 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 the said Borough: 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 such Election in the Discharge of his Duty.

Police Constables not to vote at Elections for Birmingham.

Continuance of Act.

XV. And be it enacted, That this Act shall continue in force for Two Years, and from thence until the End of the then next Session of Parliament.

Act may be amended or repealed.

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

Public Act.

XVII. And be it enacted, That this Act shall be deemed and taken to be a Public Act; and shall be judicially taken notice of as such by all Judges, Justices, and others.

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