



1852.

No. 15.

An Act to provide for the appointment of Constables in the Country Districts of South Australia.

[Assented to 25th November, 1852.]

WHEREAS it would tend to increase the security of persons and property if provision were made for the appointment of fit and proper persons to act as Constables in the Country Districts of South Australia : Preamble.

Be it therefore Enacted, by His Excellency the Lieutenant-Governor of South Australia, with the advice and consent of the Legislative Council thereof, That the Collector for the time being of any District Council shall, on or before the first day of July next, and in every succeeding year, on or before the first day of July in such year, make out a list in writing of every able-bodied man within the district, between the ages of twenty-one and fifty, entitled to vote in the election of the District Council, not being excepted from serving as constable under the provisions herein contained, stating his rank and calling, and place of residence, and when any person shall have served as constable under the provisions of this Act, stating the year of such service, and shall fix a true copy of such list, duly signed by him, upon the principal door of every Place of public Worship, Police Station, and Court-house, and upon such other public and conspicuous buildings and places in such district as the District Council may direct, and shall subjoin to each copy a notice, stating that all objections to such list will be heard before the District Council for the district at such time, not being less than fourteen days from the day hereinbefore fixed for making out such list and place as may be mentioned in such notice, and shall likewise keep a true copy of such list to be perused by any person whose name shall stand in the list of rate-payers at any reasonable time during the fourteen days next before the day so appointed for hearing objections thereto.

Lists to be made out of persons qualified to serve as constables.

District Councils to allow lists.

2. And be it Enacted, That the District Councils shall meet at the time and place mentioned in such notice, and shall be then attended by the Collector, and if any man not qualified and liable to serve as constable as aforesaid is inserted in such list, it shall be lawful for the said District Council, upon being satisfied either by the oath of the party objecting, or in any other way, that there is any valid objection to the insertion of the name of such party, to amend the list by striking him off such list, and shall allow the list so amended.

District Councils to nominate persons to serve as constables.

3. And be it Enacted, That when any list shall have been allowed, the District Council shall choose therefrom the names of such persons as they shall deem necessary (regard being had to the extent and population of the district) to serve as constables for the Province during the year then next ensuing, and that no person who has served the office of constable, either in person or by substitute, shall, without his consent, be liable to be again chosen until every other person upon such list shall have served or have been chosen to serve the office of constable either in person or by substitute.

Constables to take oath.

4. And be it Enacted, That the District Council shall cause the persons so chosen to be summoned to appear before them on a day to be fixed by such Court, and shall cause to be administered to every such person the following oath (that is to say):

“I (A.B.), of (C), do swear, that I will well and truly serve
“our Sovereign Lady the Queen in the office of constable for
“the Province of South Australia, for the year now next fol-
“lowing, according to the best of my skill and ability.

“SO HELP ME GOD.”

Persons chosen may provide a substitute.

5. And be it Enacted, That if any person chosen as aforesaid shall be unwilling to serve as constable in person, and shall find a substitute, to be approved by the District Council, the person so chosen and unwilling to serve shall attend with his proposed substitute, at the time and place appointed for swearing in constables, and the District Council shall cause the oath to be administered to such substitute instead of the person so chosen and unwilling to serve; but the service of any person as substitute shall not be reckoned as his own service so as to exempt him from being sooner chosen to serve in his own person than otherwise he would have been liable to; and the Clerk of the District Council, within fourteen days after the appointment and swearing in of such constables or substitutes as aforesaid, shall send to the Colonial Secretary a list containing the names of all persons so sworn in as constables within the district, and the said Colonial Secretary shall forthwith cause such list to be published in the *South Australian Government Gazette*.

In case of death, disqualification, &c., of constable, another person to be chosen.

6. And be it Enacted, That in case of the death or disqualification of any constable during his year of office, or in case of the neglect or refusal of any person who shall have been chosen constable to attend

attend and be sworn, or to find a substitute as aforesaid, and after such person so refusing or neglecting shall have been fined for such refusal or neglect, the District Council shall, at their next meeting, choose from the said list another person to serve as constable in the place of the person so refusing or neglecting and fined as aforesaid, for the remainder of the year: Provided, that if the constable causing the vacancy was serving as substitute for some other person, the District Council shall summon the person originally chosen to attend and be sworn, or to find another substitute duly qualified to serve for the remainder of the year, and the person so originally chosen shall be bound in like manner and subject to the same penalty as herein provided in respect of such original choice, to attend and be sworn, or to find a substitute to be sworn in his stead, to serve for the remainder of the year; and if less than two hundred days shall have elapsed since the first appointment of constables for that year, but not otherwise, the service of the person appointed to act for the remainder of the year shall be reckoned to him as service for that year.

7. And be it Enacted, That every person qualified and liable to serve, and who shall be chosen by such District Council to serve the office of constable, and shall be duly summoned to be sworn and to take upon him the said office, and who shall refuse, or without reasonable cause to be allowed by the said District Council neglect to attend and to be sworn as constable, or to find a qualified substitute to be sworn in his stead, shall, upon conviction thereof before two Justices, forfeit and pay a sum not exceeding Ten Pounds; and every person who after being sworn as constable shall refuse or wilfully neglect to act in the execution of his office shall upon the conviction thereof before two Justices, forfeit and pay for every such offence any sum not exceeding Five Pounds: Provided, that the payment of such sum of Ten Pounds shall for all the purposes of this Act, be equivalent to the service of the office of constable by the person paying the same.

Persons refusing to serve liable to penalty.

8. And be it Enacted, That all Members of the Legislative Council, all officers in service of Her Majesty on full pay, or of the Colonial Government, all Justices of the Peace, all Ministers of Religion authorized to solemnize marriages, all Schoolmasters, all Practitioners of the Supreme Court actually practising, all officers of the Supreme Court or of any Local Courts actually exercising the duties of their respective offices, all Governors of Gaols, Gaolers, and Keepers of Houses of Correction, all legally qualified Medical Practitioners, all Sheriffs and Sheriff's Officers, and all Police Constables shall be freed and exempt from serving the office of constable under this Act.

Who exempted from serving as constables.

9. And be it Enacted, That in case any person shall assault, disturb, or hinder any constable appointed under this Act while engaged in the discharge of his duties as such constable, or shall be aiding, abetting, or assisting therein, and shall be thereof convicted upon

Penalty upon persons obstructing constables

upon the oath of one or more credible witness or witnesses before one or more Justices of the Peace, every such offender shall for every such offence forfeit and pay any sum not exceeding Ten Pounds to be levied by distress and sale of the goods of such offender, or in default, imprisoned for any period not greater than three months with or without hard labor.

Penalty on constables
for disobedience of
orders.

10. And be it Enacted, That any constable being convicted on oath before two or more Justices of the Peace at the instance of the District Council for the District in which such constable has been appointed, of any neglect of duty or of any disobedience of any lawful warrant, or order of any Justice or Justices of the Peace to be executed within such District, shall be liable to a penalty of not more than Five Pounds and costs to be recovered by distress and sale of the goods of such constable, or in default by imprisonment with or without hard labor for a period not greater than one month.

11. And be it Enacted, That every constable when employed in the service of any summons or other process shall receive, as a remuneration for the same, the fee payable in respect of such service, and which fee the Justice issuing such summons or process, or the Clerk of any Local Court, or Justices, shall, and he is hereby authorized to pay to the constable serving the same, upon being satisfied that the same has been duly served.

JOHN MORPHETT, Speaker.

*Passed the Legislative Council this sixteenth day
of November, one thousand eight hundred
and fifty-two.*

F. C. SINGLETON,
Clerk of Legislative Council.

In the name and on the behalf of Her Majesty I assent to this Act.

H. E. F. YOUNG,
Lieutenant-Governor.

Government House, Adelaide,
25th November, 1852.