

Cited in *Noles v. State*, 24 Ala. 672 (1854); *Herrmann v. Robinson*, 43 Ala. App. 442, 192 So. 2d 251 (1966); *In re Ingram*, 356 So. 2d 618 (Ala. 1978).

Collateral references. — 80 C.J.S., *Sheriffs & Constables*, §§ 13, 16.

Liability of constable or his bond for defaults and misfeasance of his clerks, assistants, or deputies. 102 ALR 182, 116 ALR 1070, 71 ALR2d 1140.

Leave of court as prerequisite to action on bond. 2 ALR 572.

Constable as a person in authority within

rule excluding confessions made under promise of immunity by person in authority. 7 ALR 427.

Liability for damage to persons or goods during execution of eviction process. 56 ALR 1039.

Court's power to remove constable from office. 118 ALR 173.

Duty of constable as to property levied upon by him. 138 ALR 710.

Personal liability of constable, or his bond, for negligently causing personal injury or death. 60 ALR2d 873.

§ 36-23-2. Filling of vacancies generally.

Vacancies in the office of constable shall be filled by appointment of the governor, and the person appointed shall hold office for the unexpired term and until his successor is elected and qualified. (Code 1852, § 716; Code 1867, § 847; Code 1876, § 763; Code 1886, § 844; Code 1896, § 972; Code 1907, § 3325; Code 1923, § 6795; Code 1940, T. 54, § 29.)

Cross references. — As to resignation of constables, see § 36-9-13.

Words "until his successor is elected and qualified" were never intended to prolong the term of office beyond a reasonable time, after

the election, to enable the newly elected officer to qualify. *State v. Cottle*, 254 Ala. 520, 49 So. 2d 224 (1950).

Collateral references. — 80 C.J.S., *Sheriffs & Constables*, § 16.

§ 36-23-3. Notice of vacancy.

When a vacancy in any election precinct is occasioned by the death or removal from such precinct of the constable thereof, the judge of probate must notify the governor. (Code 1852, § 271; Code 1867, § 316; Code 1876, § 301; Code 1886, § 845; Code 1896, § 973; Code 1907, § 3326; Code 1923, § 6796; Code 1940, T. 54, § 30.)

§ 36-23-4. Bond.

Before entering upon the duties of his office, the constable must give bond as prescribed by law.

The official bonds of constables shall be \$1,000.00, the premiums on said bonds to be paid by the persons making such bonds without expense to the county. (Code 1852, § 717; Code 1867, § 848; Code 1876, § 764; Code 1886, § 846; Code 1896, § 974; Code 1907, § 3327; Code 1923, § 6797; Acts 1933, Ex. Sess., No. 191, p. 203; Code 1940, T. 41, § 94; Code 1940, T. 54, § 31.)

Approval of constable's bond need not be entered of record in open court. The judge's certificate is sufficient evidence of approval. *Seaman v. Duffhey*, 4 Stew. & P. 159 (1833).

Transcript of bond admissible in evi-

dence. — After recording a bond as formerly required by this section a transcript was admissible in evidence. *Burton v. Dangerfield*, 141 Ala. 285, 37 So. 350 (1904).

Where bond is greater in amount than is required by statute it is not void as a statu-