

said prison, in pursuance of the act for that purpose made and provided, on the first Mondays of May and November in every year, and on any other days, when vacancies shall happen in the said office by death, resignation, or otherwise.

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mode of appointment is altered.]

SECT. XVIII. *And be it further enacted by the authority aforesaid,* That the prison inspectors, appointed in pursuance of the act in such case provided, and of this act, shall have power, with the approbation of the Mayor, two Aldermen of the said city, and two of the Judges of the Supreme Court, or two of the Judges of the Court of Common Pleas of Philadelphia county, to make rules and regulations for the government of all convicts confined in the said prison, not inconsistent with the laws and constitution of this commonwealth, and to prescribe their allowance of provisions, ascertaining the quantity by weight and measure, and not by piece.†

Their power and duty.

[See the rules and regulations at the end of vol. 2.]

Passed 23d September, 1791.—Recorded in Law Book No., IV. page 216.

CHAPTER MDLXXIV.

An ACT to regulate the trials of contested elections.

WHEREAS the constitution of this commonwealth requires, that contested elections of members of the Senate and House of Representatives shall be determined by a committee of each house, respectively, selected, formed and regulated, in such manner as shall be directed by law; and that contested elections of a person to serve as governor shall be determined by a committee, to be selected from both houses of the legislature, also to be formed and regulated in such manner as shall be directed by law.

SECT. I. *Be it therefore enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same,* That whenever a petition, signed by at least fifty of the qualified electors of this state, shall be addressed to the legislature, complaining of an undue election, or a false return of a person elected governor, such petition shall be delivered to the Speaker of the Senate, who shall immediately give information thereof to both houses, the members whereof, on a day and hour to be agreed upon between them, not exceeding ten days from the delivery of such petition, shall convene in a conference room, where the petition shall be read by the Speaker of the Senate; the names of the members of each house shall then be called over by their respective clerks, and a quorum of both houses being present, the names of all the members of the Senate present shall be written on distinct pieces of paper, as nearly similar as may be, each of which shall be rolled up and put into a box by the clerk of the House of Representatives, and placed on the Speaker's table, and after being shaken and intermixed, the Clerk of the Senate shall draw them out one by one, and put them alternately into three boxes, also placed on the Speaker's table; and when the whole numbers shall be so distributed, the Clerk of the House of Representatives shall shake and intermix the papers in each box, and shall draw alternately from each box the pa-

Proceedings to ballot for a committee to try the contested election of a governor.

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pers so rolled up, and shall deliver them singly to the Speaker of the House of Representatives, who shall open and read them aloud, and then deliver them singly to the Speaker of the Senate, who shall place them open on the table, and a member of each house shall take down in writing the name so called, and shall each of them repeat aloud the name they have so written, until the number of twelve names be drawn out; the names of all the members of the House of Representatives present shall then be written on distinct pieces of paper, as nearly similar as may be, each of which shall be rolled up and put into a box, by the Clerk of the Senate, and placed on the Speaker's table, and after being shaken and intermixed, the Clerk of the House of Representatives shall draw them out one by one, and put them alternately into three boxes, also placed on the table; and when the whole number shall be so distributed, the Clerk of the Senate shall shake and intermix the papers in each box, and shall then draw alternately from each box the papers so rolled up, and shall deliver them singly to the Speaker of the Senate, who shall open them, and read them aloud, and then deliver them singly to the Speaker of the House of Representatives, who shall place them open on the table and a member of each house shall take down in writing the name so called, and shall each of them repeat aloud the name they have so written, until the number of twenty-five members of the House of Representatives be completed; but any objection made by either of the parties to any of the members so elected by lot shall be sufficient to discharge such member from the service, and another name shall be drawn in lieu thereof, and so shall continue, until the whole number of twelve members of the Senate and twenty-five members of the House of Representatives shall be completed; and in all cases, the members drawn in lieu of those objected to shall be in like manner liable to be set aside, and others drawn in their places. *Provided,* That if so many shall be set aside upon account of objections to them, that there shall not appear more than a sufficient number remaining to perform the service required by this act, then no further objections shall be admitted.

Objections
allowed
against the
names
drawn.

Exception.

The mode of
striking the
committee
prescribed.

Their number and qualification.

SECT. II. *Be it enacted by the authority aforesaid,* That when the names of twelve members of the Senate, and twenty-five members of the House of Representatives shall have been so drawn, a list of the members so appointed shall be given to each of the parties, who shall immediately withdraw to some adjoining room, with a clerk or member appointed by the joint vote of the members present, where they shall proceed alternately to strike off the names upon the said list, until the number shall be reduced to four members of the Senate, and nine members of the House of Representatives, and, within one hour from the time of so withdrawing, shall deliver to the Speaker of the Senate, the names of the said four members of the Senate, and nine members of the House of Representatives remaining on the list, who shall then respectively take an oath or affirmation, to be administered by the Speaker of the Senate, to try the matter of the petition, and to give a true judgment thereon, according to the evidence, unless dissolved in manner hereinafter prescribed; the time and place for the meeting of the select

committee, so appointed, shall then be directed by the joint vote of the members of both houses, which time shall be within twenty-four hours of the appointment: *Provided always*, That on the parties withdrawing to form such select committee, the members of both houses shall continue convened, and the members, whose names have been drawn out of the boxes, shall not depart the conference-room without leave, until the time and place for the meeting of the select committee shall be fixed: *And provided also*, That previous to the parties withdrawing to form the select committee, the clerk of the House of Representatives shall draw out, one by one, the names of the remaining members of the Senate, and deliver them singly to the Speaker of the House of Representatives, who shall unfold, and read them aloud, and the clerk of the Senate shall in like manner draw out the names of the remaining members of the House of Representatives, and deliver them singly to the Speaker of the Senate, who shall unfold them, and read them aloud; and if any unfairness or mistake shall be discovered therein, then the whole proceedings shall be set aside, and the business shall be renewed, in manner and form as is herein before directed.

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The time of meeting of the select committee how directed. The houses to be in sessions, &c.
The names undrawn to be called, &c.

SECT. III. *Be it enacted by the authority aforesaid*, That the select committee, so chosen, shall on their first meeting elect a chairman from amongst themselves; and if in such election there shall be an equal number of voices, the member whose name was first drawn shall have a casting vote: so likewise in case there should be occasion to elect a new chairman, on the death or unavoidable absence of the chairman first appointed; the committee shall sit from day to day, Sundays excepted, at such hours as shall not interfere with their attendance in the legislature, but unless eleven of their number be present, the committee, after waiting one hour, shall adjourn to the next day; and if the number of the committee shall unavoidably be reduced to less than eleven members, and shall so continue for the space of three days, Sundays excepted, the committee shall be dissolved, and another shall be chosen in manner aforesaid.

The select committee, to elect a chairman, &c.

How dissolved, &c.

SECT. IV. *Be it enacted by the authority aforesaid*, That the select committee shall have power to send for persons, papers, and records, to examine all witnesses who may come before them, upon oath or affirmation, which the chairman or clerk of the committee may administer in their presence; and any person guilty of taking a false oath or affirmation before them, or of procuring another so to do, shall, upon conviction, be liable to the same punishment, as persons convicted of perjury are liable to by the laws of this commonwealth.

Powers of committee.

SECT. V. *Be it enacted by the authority aforesaid*, That all determinations of the said committee shall be by a majority of votes; as soon as such committee shall have determined whether the election or return referred to them is legal and valid, or the contrary, the chairman shall make two reports thereof in writing, one of which shall be delivered to the Speaker of the Senate, and the other to the Speaker of the House of Representatives, which reports shall be entered on the journals of the respective houses, and shall be final and conclusive; and in case such report shall invalidate the election, a new

The committee to decide by a majority, &c.

The reports to be entered.

1791. election shall take place on the second Tuesday of October ensuing, agreeably to the constitution, of which the Speaker of the Senate, and the Speaker of the House of Representatives shall immediately give notice, by their joint writ, directed to the Sheriffs of the respective counties; and the Sheriffs of the respective counties shall give the usual notice.

on the journals, &c.

Members how excused.

SECT. VI. *Be it enacted by the authority aforesaid,* That if any person, so appointed a member of a select committee, shall, at the time of such appointment, swear or affirm, that he cannot, without great inconvenience, serve on such committee, he shall be excused, and another shall be substituted in his place; but if any members of such committee shall neglect to attend upon the committee, their names shall be reported in writing to the house of which they are members, and, unless satisfactory reasons are given for their non-attendance, they shall be liable to be reprimanded by the Speaker: the doors of the room in which the committee shall meet shall remain open during the examination of witnesses, but may be shut at any other time; when the two houses shall stand adjourned for more than three days, the committee may adjourn to the same time.

The doors of the committee room shall be open &c.

Proceedings to try a contested election of a senator.

SECT. VII. *Be it enacted by the authority aforesaid,* That when a petition, signed by at least twenty of the qualified electors of the proper district, shall be presented to the Senate, complaining of an undue election or false return of a senator or senators, the like proceeding shall be thereon had in the Senate, in selecting a committee by lot, and the like powers and authorities shall be vested in the Senate in relation to such committee; and such committee shall have the like powers and authorities, and be subject to the like rules and regulations, as are herein before directed in cases of contested elections of a governor, except that the several duties which are herein before directed to be performed by the Speaker of the Senate, and the Speaker of the House of Representatives, shall be performed by the Speaker of the Senate, and the several duties which are herein before directed to be performed by the clerk of the Senate, and the clerk of the House of Representatives, shall be performed by the clerk of the Senate; and that the number of members of the Senate first taken out by lot shall be thirteen, and that such select committee shall consist of seven members, and shall not be dissolved, unless reduced to less than five members.

Proceedings on petitions complaining of undue election of representatives.

SECT. VIII. *Be it enacted by the authority aforesaid,* That when a petition, signed by at least twenty of the qualified electors of the proper city or county, shall be presented to the House of Representatives, complaining of an undue election or a false return of a member or members of the House of Representatives, the like proceedings shall be thereupon had in the House of Representatives, in selecting a committee by lot, and the like powers and authorities shall be vested in the House of Representatives, with relation to such committee: and such committee shall have the like powers and authorities, and be subject to the like rules and regulations, as is herein before directed in cases of contested elections of a governor, except that the several duties which are herein before directed to be performed in such cases by the Speaker of the Senate, and the Speaker of the House of Representatives, shall be performed by

the Speaker of the House of Representatives, and the several duties which are herein before directed to be performed in such cases by the clerk of the Senate, and the clerk of the House of Representatives, shall be performed by the clerk of the House of Representatives, and that the number of members of the House of Representatives first taken out by lot shall be seventeen, and that the select committee shall consist of nine members, and shall not be dissolved, unless reduced to less than seven members.

SECT. IX. *Be it enacted by the authority aforesaid*, That no petition, complaining of an undue election or false return of any person elected Governor, Senator, or member of the House of Representatives, shall be received, unless the same shall be presented within twenty days after the meeting of the Legislature; and all such petitions, when received, shall be read and laid upon the table, without any question being thereupon taken, until the two houses jointly, or each house respectively, as the case may require, shall proceed upon it according to the directions of this act.

Time of petitioning in contested elections, limited.

SECT. X. Whereas inconveniences may arise by the neglect of transmitting the returns of the election of governor, for one or more counties, until after the publication of such election by the Legislature: Therefore, *Be it enacted by the authority aforesaid*, That in all cases where such neglect of duty shall happen, and the returns of election aforesaid are not delivered to the Speaker of the Senate before the election of Governor shall be published, every such return, so neglected to be delivered, shall be considered as void, unless the election aforesaid be contested, in which case such return shall be allowed to be of the same validity, and liable to the same exceptions, as other returns, duly delivered. (a)

Returns of election when void.

Passed 29th September, 1791.—Recorded in Law Book No. IV. page 227.

(a) By a supplement to this act, (chap. 1645,) passed 6th of March, 1793, sect. 1, in all contested elections of a governor, or member of either branch of the legislature, the person returned, and the candidate next highest in votes, shall be the parties in the trial thereof; and in case of the absence or neglect of such person next highest in votes, any one of the petitioners, duly qualified, who have signed the petition against such election, taking precedence according to the order in which they have signed the same, shall be considered as one of the parties.

Sect. 2. If either, or both of the parties shall neglect to attend, for the purpose of objecting to and striking from the names drawn in pursuance of the provisions of the first and second sections of the act in the text, the members of the Senate and House of Representatives jointly, or the members of either House separately, as the case may require, shall appoint one of their own number, in the place of either, or both of the parties so neglecting to attend, which number or members, so as

aforesaid appointed, shall have full power and authority, to do and perform every act and thing touching the same, in as valid and effectual a manner, as if the party, or parties, were personally present.

Sect. 3. No order shall be taken on any petition, unless the same is accompanied by a certificate from the treasurer, prothonotary, or any of the commissioners of the county or counties, in which the petitioners reside, setting forth that the said petitioners, or as many of them as are required by the act in the text, were, at the time of signing such petition, duly qualified electors.

Sect. 4. Provides for the payment of the attendance and travelling expenses of witnesses, to be paid by the proper county.

Sect. 5. The committees appointed in pursuance of the provisions of the act in the text, shall in all cases have power not only to determine on the validity of contested elections, but also to decide, which of the candidates has the greatest number of legal votes,

1791. which candidate shall thereupon be entitled to the seat or office, which he had been voted for at such election.

The 19th section of the general election law, passed 15th of February, 1799, (chap. 2009,) enacted that the

governor should judge of the election of sheriffs and coroners, and prescribed his powers therein. But this section was repealed by an act passed 23d of March, 1807, (chap. 2780.)

CHAPTER MDLXXIX.

An ACT erecting new election districts in the counties of Westmoreland, Allegheny, Berks and Northumberland, and altering the place of holding the election in the second district in Cumberland county.

WHEREAS the freemen of Turbutt, Derry and Washington townships, and that part of Munsey township which is eastward of Wallace's run, in the county of Northumberland, and the freemen of the upper part of the fourth election district in the county of Northumberland aforesaid, have, by their petitions, set forth, that they labour under very great inconveniences on account of the distance many of them live from the place of holding the annual election, and by means of the troublesome streams of water which they have been obliged to pass over, in their way to the said election: For remedy whereof,

SECT. I. *Be it enacted by the Senate and House of Representatives of the commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted, by the authority of the same, That* the townships of Turbutt, Derry and Washington, and that part of Munsey which lies eastward of Wallace's run, in the county of Northumberland aforesaid, shall, from and after the passing of this act, be struck off and separated from the second and fourth election districts in the said county, and be established and erected into a separate district, called the eighth election district in said county; and that the freemen of the said eighth district, hereby erected, shall hold their elections at the house now occupied by David Shannon, in Turbutt township aforesaid; any thing in any former law or laws to the contrary notwithstanding.

SECT. II. *And be it further enacted by the authority aforesaid, That* all the freemen living within the following bounds, viz. beginning at a point on the Allegheny mountain, north from the head of Manning's run; thence down Manning's run; thence, by a south line to the head of the said run, to the west branch of the river Susquehanna; thence across the same by a south line, until said line intersects the line of the fifth election district in the county aforesaid; thence by the line of the said fifth district, to the line of Mifflin county, to include all those parts that are west and north of the said lines in the county of Northumberland aforesaid; shall be struck off and separated from the fourth election district, and established and erected into a separate district, called the ninth election district in the county of Northumberland aforesaid; and that the freemen of the said ninth district, hereby erected, shall hold their annual election at the house now occupied by Hugh Andrew, in

The eighth election district in Northumberland county erected.

The ninth election district in Northumberland county erected.

(Now in Lycoming county.)