

CHAPTER CCCLXIV.

AN ACT FOR AMENDING THE SEVERAL ACTS FOR ELECTING MEMBERS OF ASSEMBLY.

Whereas notwithstanding the just and impartial method prescribed for electing of members of assembly by the charter of privileges granted by the Honorable William Penn, Esquire, late proprietor and governor-in-chief of the Province of Pennsylvania, and counties of Newcastle, Kent and Sussex upon Delaware, to the inhabitants thereof, and of the several acts of assembly of the said province, made in pursuance of the said charter, for the more free, impartial and peaceable election of members to serve in the general assembly of the said province, and of sheriffs, coroners, commissioners, assessors, and of inspectors to assist in the said election, it was nevertheless found upon experience that the method formerly prescribed by the laws of this province for choosing inspectors to assist the sheriff and for receiving the poll or votes at the said elections did not answer the good purposes for which it was intended, but great numbers of disorderly persons, many of whom, not being qualified to vote for members of assembly, mixed themselves among the electors at the time of choosing inspectors and by their rude and disorderly behavior disturbed the electors and created strifes and quarrels, to the great danger and disquiet of the peaceable people there met together and in delay of the said elections.

And whereas it often happened that the said inspectors were chosen, most or all of them, out of one part of the county, and by reason thereof could not be so well acquainted with the estates and circumstances of all the electors, which was the principal end of their first appointment.

For remedying of which inconveniences an act of the general assembly of this province was passed in the twelfth year of the present reign, entitled "A supplement to the act for electing

members of Assembly,"¹ and also one other act was passed in the sixteenth year of the same reign, entitled "An act for continuing and amending the act of assembly,"² last aforesaid; which acts, with some amendments, are thought necessary to be perpetuated:

[Section I.] Therefore be it enacted by the Honorable George Thomas, Esquire, with the King's Royal Approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and the counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of said Province in General Assembly met, and by the authority of the same, That the eight several districts into which the several counties within this province have been divided by the justices of the said counties, in pursuance of the acts of assembly aforesaid, do and shall continue, and they are hereby declared to be and shall continue unalterable; except in such cases as are here[in]-after provided, for the purposes hereinafter-mentioned. And that if any new townships, since the passing of the acts aforesaid have been or shall be erected out of several districts within any of the said counties, that it shall and may be lawful for the justices aforesaid respectively, at their quarter-sessions of the peace next after publication of this act, and at the quarter-sessions of the peace next following the erecting such townships, and they are hereby enjoined and required, to annex such township or townships to the district or districts out of which the greater part of the said townships respectively were taken, and to deliver to the sheriff of the respective counties an account to what district the same township or townships are annexed, with the names of all the new erected townships; all which the said sheriff shall make known to the respective constables of the said township with all expedition, thereby to enable them to discharge their several trusts, in pursuance of the directions of this act.

[Section II.] And be it further enacted by the authority aforesaid, That the freeholders and others qualified to elect

¹ Passed May 19, 1739, Chapter 350.

² Passed February 3, 1742, Chapter 356.

members of assembly in each township shall meet on the twenty-seventh day of September yearly; but if the same shall happen upon a first day of the week, then upon the day before, at some convenient place with[in] their said respective townships to be appointed by the constable of the said township, or in case of his absence, neglect or refusal, then at such convenient place within such township as the overseers of the poor shall appoint; and the said electors, being qualified to vote for members of assembly, shall, between the hours of nine in the forenoon and three in the afternoon the same day, during all which time the election shall continue, in the presence of the constable and such two freeholders as he shall call to his assistance, or, in case of his absence, neglect or refusal, the overseer of the poor, proceed to elect by balloting one able and discreet freeholder residing within the said township, who may be supposed to be best acquainted with the estates and circumstances of the inhabitants; the name of which person so nominated and chosen is to be taken down in writing by the constable or overseer of the poor, as the case shall happen, with the name of the township for which he is chosen, and shall be delivered to the sheriff of the county at the place of election or to such person or persons as shall happen to be judges of the election before the hour of nine in the forenoon of the day whereupon the election of members of assembly shall happen. And the sheriff or other judge of the election, having then and there received the names of all the persons chosen for the respective townships within his county, or so many of them as shall be delivered to him, in manner aforesaid, he shall call to his assistance at least four freeholders of the county, and in their presence shall put all the names of the persons returned for each district, wrote on several pieces of paper, to be cut and folded up after the usual manner of folding tickets, as near as may be of equal size and bigness, into a separate box, to be provided by him for that purpose, and shall likewise, in the presence of the said freeholders, call some indifferent person, who shall draw one name out of each box, and deliver the same to the sheriff or other judge of the election; which being done, the persons whose names shall happen to be drawn and being present shall for that year be the inspectors of the election, and as

such shall be published by the sheriff in the presence of the electors or so many of them as shall be present.

[Section III.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the inhabitants of the respective wards of the city of Philadelphia qualified to vote for members of assembly to meet together at the time hereinbefore-mentioned for the meeting of the inhabitants of the respective townships in this province, and at some convenient place within their respective wards, to be appointed by the constable of the ward to which he belongs, of which public notice shall be given in writing by affixing the same upon four of the most public places within each of the said wards of the city of Philadelphia aforesaid at least six days before the said twenty-seventh day of September, and there shall, in the presence of the constable of the ward and such two freeholders of the said ward as he shall call to his assistance, proceed to choose by balloting one substantial freeholder of ability and integrity residing within the said ward, whose name, when so chosen shall be taken in writing and certified by the constable and freeholders aforesaid to the sheriff of the county or other judge of the said election in the manner before directed for the constables of townships; and the sheriff shall put the names of all the persons so to him returned, wrote upon several pieces of paper, to be cut and folded up after the usual manner of folding tickets, as near as may be of equal size and bigness, into a box, and shall call some indifferent person, who shall draw four of the said names out of the said box and deliver the same to the sheriff, who shall read the same publicly in the presence of the electors then present; and the four persons whose names shall so happen to be drawn shall, together with the inspectors chosen out of the several districts of the said county, be the inspectors for that year for the election, and as such shall be qualified in the manner before directed for other inspectors; and the other six persons who names shall remain in the box or any four of them shall be the inspectors for that year at the election of burgesses and assessors for the city of Philadelphia, and shall be qualified in manner aforesaid. But before they proceed to act in assisting the sheriff to receive the poll or votes of the said electors, they shall be qualified by oath or affirmation by the sheriff of the

proper county or other judges of the elections, who are hereby required and empowered to administer the same, that they the said inspectors will duly attend the ensuing election during the continuance thereof, and will truly and faithfully assist the sheriff, coroners or other judges of the said election to prevent all frauds and deceits whatsoever of electors or others in carrying on the same and in causing the poll or votes at such election to be taken and cast up according to the direction of the before-recited act. And the said inspectors shall and are hereby authorized to administer to every elector or person who presents his ticket an oath or affirmation in the words directed by the aforesaid act of assembly, unless the qualification of such elector be generally well known or some one or more of the said inspectors shall and will openly declare to the rest that they know such elector to be qualified as in the aforesaid act of assembly is required; and the votes or tickets of such as offer to poll and refuse to take the said oath or affirmation shall be openly rejected, and the votes or tickets of every person who takes the said oath or affirmation shall, with the other lawful tickets or votes, be put into the box, and no ticket so received shall be suppressed.

And to the end this act may be duly executed and the peace preserved:

[Section IV.] Be it therefore enacted by the authority aforesaid, That the constables of the respective townships [within the several counties] of this province, or, in case of the death, neglect or absence of the said constables, then the overseers of the poor of such township or one of them, shall at least six days before the said twenty-seventh day of September in every year give public notice in writing by affixing the same at the most public places in the respective townships of the place, where the inhabitants of the township in which they live shall meet, to elect a fit person according to the direction of this act; and that the said constable, or, in his absence, the overseer of the poor as aforesaid, shall there attend at the time appointed in this act; and such constable or overseer of the poor shall call to his assistance two substantial freeholders of the said township, being there present, who shall assist him in judging of the said election and in taking the votes, and who, together with himself,

shall certify to the sheriff of the county or other judge of the election under their hands that such person was elected by a majority of lawful votes by the township to which he belongs; the name of which person so elected as aforesaid shall be delivered to the sheriff or other judge or judges of the election of the county to which they belong in the manner hereinbefore directed.

And if any sheriff or coroner, constable or overseer of the poor, being the judge of such election as aforesaid, shall neglect to do the duty hereby enjoined them respectively or shall willfully misbehave himself or themselves in the execution of his or their duty and be thereof legally convict, such person so offending, if sheriff or coroner, shall forfeit the sum of one hundred pounds, and if a constable or overseer of the poor, [shall forfeit] five pounds, to any person who will sue for the same.

And if any of the persons elected as aforesaid and returned for any township within this province or for any of the wards of the city of Philadelphia, in the manner before directed, shall neglect or refuse to give his attendance at the time and place of electing members of assembly, every such person so offending shall likewise forfeit the sum of five pounds to any person who will sue for the same, the said several forfeitures to be recovered by action of debt in any court of record within this province with costs of suit.

And if the person whose name shall happen to be drawn, being called, shall not appear, then the name of another person belonging to the same district shall be drawn, and [he] shall be qualified and proceed to officiate as an inspector in the manner before directed in this act for inspectors.

[Section V.] And be it enacted by the authority aforesaid, That an act of the general assembly of this province, entitled "A supplementary act to the act for ascertaining the number of members of assembly and to regulate elections,"¹ passed in the thirteenth year of the reign of King George the First, and every article and clause therein, shall be and is hereby repealed.

Provided always, That nothing herein contained shall be deemed or taken to alter or make void the act of general as-

¹ Passed August 18, 1727, Chapter 296.

sembly, made in the fourth year of the reign of the late Queen Anne, or anything therein contained, but that every clause, article and sentence therein, except what is hereby altered or supplied, shall be and remain in full force and virtue as the same was before the making of this act or the aforesaid supplementary act hereby repealed.

Passed March 7, 1745-46. Confirmed by the King in Council, October 29, 1748. See Appendix XVI, Section I, and the Acts of Assembly passed March 11, 1752, Chapter 396; September 27, 1755, Chapter 404; September 29, 1759, Chapter 451; March 4, 1763, Chapter 489; February 8, 1766, Chapter 539; February 26, 1773, Chapter 683; March 23, 1776, Chapter 717; June 14, 1777, Chapter 757; March 23, 1778, Chapter 790. Repealed by the Act of Assembly passed September 13, 1785, Chapter 1175.

CHAPTER CCCLXV.

AN ACT FOR THE MORE EASY AND SPEEDY RECOVERY OF SMALL DEBTS.

Whereas it is found by experience that a great number of the lawsuits which are commenced in this province are brought against the poorer sort of people for small sums of money, who are unable to bear the expenses arising by the common method of prosecution:

Therefore, for remedying thereof,

[Section I.] Be it enacted by the Honorable George Thomas, Esquire, with the King's royal approbation, Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and of the counties of Newcastle, Kent and Sussex on Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That all actions for debt or other demand for the value of forty shillings and upwards and not exceeding five pounds (except such actions as are hereinafter excepted) shall immediately after the publication of this act be and are hereby made cognizable before any justice of the peace of any of the counties in this province