

CHAPTER DXXXIX.

AN ACT DIRECTING THE CHOICE OF INSPECTORS AND FOR HOLDING
THE GENERAL ELECTIONS IN THIS PROVINCE.

Whereas notwithstanding the several laws and prudent regulations made by the legislature of this province for the preservation of the just rights and privileges of the freemen and electors in the general elections annually appointed great mischiefs and inconveniences have arisen and many frauds been committed:

For remedy whereof:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn, and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon 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 the freeholders and others residing in each township of this province and the district of Southwark qualified to elect members of assembly shall meet on the twenty-seventh day of September yearly, but if the same shall happen upon a Sunday, then upon the day next before, at the most convenient place within their said respective townships and district aforesaid to be appointed by the constable or constables of the said places respectively, or in case of his or their absence, neglect or refusal, then at the most convenient place within such township or district as the overseers of the poor shall appoint; and the said electors having a right to vote for members of assembly shall, between the hours of twelve in the forenoon and five in the afternoon of the same day, during all which time the election shall continue in the presence of the constable or constables and two such freeholders as he or they shall call to his or their assistance, or in case of their absence, neglect or refusal, the overseers of the

poor, proceed to elect by balloting one able and discreet freeholder residing within the said township or district aforesaid, who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, the name of which person so chosen shall be taken down in writing by the constable or constables or overseers of the poor, as the case may be, with the name of the township and district aforesaid for which he is chosen, and shall be under their hands delivered to the sheriff at the place of election or to such person or persons as shall be judges of the same before the hour of nine in the forenoon of the day whereupon the election of members of assembly shall happen, who shall for that year be inspectors of the election and as such shall be declared and published by the sheriff or other judge of the election in the presence of such of the electors as shall attend.

[Section II.] And be it further enacted by the authority aforesaid, That the freeholders and others having right to vote for members of assembly residing in each ward of the city of Philadelphia shall meet on the twenty-seventh day of September yearly, but if the same shall happen on a Sunday then upon the day next before, at some convenient place within their said respective wards to be appointed by the constable or constables of the said wards respectively, or in case of his or their absence, neglect or refusal, then at such convenient place within such ward as the overseer or overseers of the poor of the said city shall appoint; and the said freeholders and others having a right to vote for members of assembly shall between the hours of ten in the forenoon and four in the afternoon of the same day, during all which time the election shall continue, in the presence of the constable or constables and two such freeholders as he or they shall call to his or their assistance, or in case of his and their absence, neglect or refusal the overseers of the poor aforesaid, proceed to elect by ballot two able and discreet freeholders residing within the said wards who may be supposed to be best acquainted with the estates and circumstances of the inhabitants, one of them to serve as inspector in the county election and the other in the city election, the names of which persons so chosen shall be taken down in writing by the constable or

constables, overseer or overseers of the poor aforesaid, as the case shall be, with the name of the ward for which they were chosen, and shall be returned under their hands to the sheriff at the place of election or to such other person or persons as shall be judges of the same, before the hour of nine in the forenoon of the day whereon the election of members of assembly for the said county shall happen, which said freeholders so chosen shall be published and declared by the sheriff in the presence of so many of the electors as shall attend to be the inspectors duly chosen for the purposes aforesaid respectively.

[Section III.] And be it further enacted by the authority aforesaid, That in receiving the tickets and votes of the electors so many of the inspectors of the townships, wards and districts aforesaid, not more than six or less than four, shall be placed together at such doors, windows or other convenient places of the house in which the election shall be held as shall be agreed on by a majority of the judges hereinafter directed to be appointed, joined with the sheriff or coroner as the case may be; and that on or near each of the places aforesaid shall be wrote or printed in large characters or letters the names of each township, ward and district, whose inspectors shall attend to receive the tickets at that place; and that the said sheriff or coroner and the judges aforesaid shall meet before the hour of nine of the clock in the forenoon and proceed with all expedition to divide the several townships, wards and district aforesaid of each respective county in manner aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That if any sheriff, coroner or inspector shall be duly convicted of any willful fraud in the discharge of the duties hereby enjoined and required of him, he shall forfeit the sum of one hundred pounds and be forever thereafter disabled from holding or exercising any office of honor, trust or profit in this province.

[Section V.] And be it further enacted by the authority aforesaid, That before the said inspectors 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 said election, 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 well, truly and faithfully assist the sheriff, coroner 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, marked off upon their respective lists and cast up, as is by this act and by an act passed in the fourth year of the late Queen Anne, entitled ‘An act to ascertain the number of members of assembly and to regulate elections’¹ directed and enjoined.”

And the inspectors shall and they are hereby authorized to administer to every elector or person who presents his ticket, who shall be suspected by any of the judges not to be entitled to vote, an oath or affirmation in the words following: That is to say:

“That he is twenty-one years of age and a freeholder of the county of _____ and has fifty acres of land or more, well seated, and twelve acres thereof or more cleared; or that he is otherwise worth fifty pounds, money of this province, clear estate, and hath been a resident therein for the space of two years, and that he is (if a foreigner by birth) in due form of law naturalized, and that he has not before voted at this election;” 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 provided for that purpose.

[Section VI.] Provided always, and be it further enacted by the authority aforesaid, That the inspectors of the several townships, wards and district aforesaid within the said counties and city, if present, shall receive the votes or tickets of the electors of the townships, wards and district aforesaid for which they are chosen and no other, or in case of their absence some other inspector of the same division; and that no votes or tickets shall be taken or allowed unless such votes or tickets be so as aforesaid received and the name of every person and place in which he resides shall be called out aloud, so as to be heard by the in-

¹ Passed June 12, 1765-6, Chapter 137.

spectors and clerks of each division respectively, and shall be marked off by the inspectors aforesaid at the time of his voting by writing the word *voted*, and if qualified by adding the word *sworn* or *affirmed*, as the case may be, in the margin of the lists of the taxables of their respective townships, to be lodged in the hands of the said inspectors for the purposes aforesaid, as is hereinafter directed, and shall also be taken down in writing by two clerks to be appointed for that purpose.

[Section VII.] And be it further enacted by the authority aforesaid, That the constables of the respective townships, wards and district aforesaid within the counties aforesaid, or in case of [the] death, neglect or absence of the said constables, then the overseers of the poor of such township, ward or district aforesaid, 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, wards and district aforesaid of the place where the electors shall meet to elect a fit and substantial freeholder 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, ward or district aforesaid, being there present, who shall assist them in judging of the said election and in taking the votes, and who, together with himself, shall, as soon as the said election is closed, certify under their hands that such person or persons were elected by a majority of lawful votes by the township, ward or district aforesaid to which he belongs, whereof the said constable or other judge of the election as aforesaid shall immediately give notice to the person so elected that he may give his attendance at the ensuing election for members of assembly accordingly. And the certificates so as aforesaid taken of the person or persons elected shall be delivered by the constable to the sheriff or other judge or judges of the election of the county or city to which they belong in the manner hereinbefore directed. And if any constable or overseer of the poor, being judge of such election as aforesaid, shall neglect to do the

duties hereby enjoined them respectively or shall willfully misbehave him or themselves in the execution of his or their duty and be thereof legally convicted, such person so offending shall forfeit and pay the sum of ten pounds to any person who shall sue for the same.

[Section VIII.] And be it further enacted by the authority aforesaid, That the commissioners of the respective counties shall, at least one day before the day of election of members of assembly in every year during the continuance of this act, furnish the sheriff or other judges of election of their counties respectively with a separate alphabetical list of the names and rates of all the taxables in each township, ward and district aforesaid, and two such lists of the names and rates of all the taxables in each ward in the said city, taken from the last county or provincial assessment, to be by him delivered to the inspectors at the ensuing election, to enable the inspectors and judges of the election the better to judge of the qualifications of the electors and to comply with the directions of this act, under the penalty of fifty pounds, to be paid by the commissioners of the county who shall neglect to furnish the same, for which the said commissioners shall have and receive, out of the common stock, the sum of half a crown for each list and no more.

[Section IX.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the sheriff of the respective counties, or, in his absence, any other persons who shall be judges of the election, to appoint two or more clerks as they shall think proper, each of whom shall be of the full age of twenty-one years and shall be duly sworn or affirmed by the sheriff or coroner or some other judge of the election:

“That he will truly and impartially write down the name of each township, ward or district aforesaid where each voter shall reside at the time of voting, and also mark down the number of votes each candidate may have as their names respectively shall be read unto him by the inspectors or other judges of the election.”

And the better to enable the house of representatives to judge of the elections of their members if any disputes should hereafter arise, and to secure to the freemen of this province their just rights:

[Section X.] Be it further enacted by the authority aforesaid, That every sheriff or coroner within this province respectively at the time he is by law enjoined to make returns of the members elected to serve as representatives shall also return to the house of assembly, if required, all the lists of taxables so as aforesaid delivered by the commissioners to the sheriff and made use of by the inspectors in ascertaining the persons voting at the election, together with the lists and tallies of their clerks, under the penalty of fifty pounds, which said lists and tallies the inspectors and clerks respectively shall deliver to the said sheriff or coroner undefaced for that purpose under the penalty of ten pounds each, to be recovered by any person who will sue for the same. And if any of the persons elected and returned as inspectors in any of the townships, wards and district aforesaid within this province in the manner hereinbefore 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 forfeit and pay the sum of ten pounds to any person who will sue for the same.

[Section XI.] And be it further enacted by the authority aforesaid, That the inspectors of each division shall and they are hereby enjoined and required, after the freemen of their respective townships, wards and district aforesaid have finished voting, to deliver, bound with tape and sealed up, their box with the votes or tickets therein to the sheriff, coroner or other judges of the said election, by them safely to be kept until the whole election be over, the polls closed and the sheriff, coroner, inspectors and other judges of the said election proceed to read, count and cast up the votes.

[Section XII.] And be it further enacted by the authority aforesaid, That every sheriff, coroner or other judge of the election, with the inspectors chosen and returned as aforesaid, or a majority of them, shall and they are hereby required, in the morning of the day of [the] election, either for the said city or counties respectively, and before they open or begin the same, to call to their assistance at least four reputable freeholders to be their assistant judges at the same election, and administer to the said freeholders the following oath or affirmation:

“That they, the said assistant judges, shall and will duly attend the ensuing election during the continuance thereof and truly and faithfully assist the sheriff, coroner, inspectors or other judges of the said election to prevent all frauds and deceits whatsoever of electors or others in carrying on the same.”

And after the representatives to serve in the general assembly of this province are chosen, their names shall be written in a pair of indentures, sealed between the said sheriffs and the freeholders, his assistant judges of the said election, and at least six of the inspectors then present.

And whereas the place appointed by law for holding the annual elections for the county and city of Philadelphia has been found, on experience, inconvenient and improper for those purposes:

[Section XIII.] Be it therefore enacted by the authority aforesaid, That from and after the publication of this act and during the continuance thereof, the said elections for the said county shall be held on the days by law appointed for the same in the State House, in the city of Philadelphia, and in no other place whatsoever, any law, usage or custom to the contrary notwithstanding; and that the election for the city of Philadelphia shall be held on the day next following the day on which the county election shall be opened, unless the same shall happen to be upon a Sunday, then upon the day next following, at the said State House, or in or near the court-house, as the sheriff and other judges of the election shall think most convenient; and that the said city shall be divided into two districts by the sheriff or coroner and the other judges aforesaid so called to his assistance, and the inspectors of the several wards in each district shall receive the votes of their respective wards in manner aforesaid.

Provided always, That nothing herein contained shall be deemed or taken to alter or make void the act of general assembly made in the fourth year of the late Queen Anne¹ nor the act passed in the nineteenth year of His late Majesty's reign,² nor anything therein or in either of them, but that every clause, article and sentence in the said acts, or either of them con-

¹ Passed January 12, 1705-6, Chapter 137.

² Passed March 7, 1745-46, Chapter 364.

tained, except what is hereby expressed, altered or supplied, shall be and remain in full force and virtue.

[Section XIV.] And be it further enacted by the authority aforesaid, That the act of general assembly of this province, entitled "An act directing the choice of inspectors and for holding the general elections in the counties of Lancaster, York, Cumberland, Berks and Northampton,"¹ shall be and is hereby declared to be repealed, null and void to all intents and purposes.

[Section XV.] And be it further enacted by the authority aforesaid, That this act shall continue in force for the term of seven years and from thence to the end of the next sitting of assembly and no longer.

Passed February 8, 1766. Referred for consideration by the King in Council, February 11, 1767, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXV, Section I, and the Acts of Assembly passed February 26, 1773, Chapter 683; June 14, 1777, Chapter 757. Repealed by the Act of Assembly passed September 13, 1785, Chapter 1175.

CHAPTER DXL.

A SUPPLEMENT TO THE ACT, ENTITLED "A SUPPLEMENT TO THE ACT, ENTITLED 'AN ACT FOR ERECTING A LIGHT-HOUSE AT THE MOUTH OF THE BAY OF DELAWARE, AT OR NEAR CAPE HENLOPEN, FOR PLACING AND FIXING BUOYS IN THE SAID BAY AND RIVER DELAWARE,'" &c.²

Whereas the commissioners appointed by the act, entitled "An act for erecting a light-house at the mouth of the bay of Delaware, at or near Cape Henlopen, for placing and fixing buoys in the said bay and river Delaware," &c.,³ have represented that the sums of money heretofore raised by way of lottery and borrowed by the said commissioners in pursuance of the directions of the act to which this act is a supplement are greatly

¹ Passed March 4, 1763, Chapter 489.

² Passed September 22, 1764, Chapter 515.

³ Passed September 30, 1763, Chapter 502.