

sioner so offending and being thereof convicted in any court of oyer and terminer to be holden for the proper county shall forfeit and pay the sum of five hundred pounds to the commonwealth. Provided that no prosecution for any delinquency or offense against this act shall be brought after twelve months from and after the cause thereof shall have happened.

Passed March 3, 1786. Recorded L. B. No. 3, p. 80.

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## CHAPTER MCCV

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AN ACT TO ALTER AND AMEND AN ACT, ENTITLED "AN ACT TO REMEDY THE DEFECTS OF THE SEVERAL ACTS OF ASSEMBLY HERETOFORE MADE FOR REGULATING THE ELECTIONS OF JUSTICES OF THE PEACE THROUGHOUT THIS STATE AND TO ESTABLISH A PERMANENT MODE OF HOLDING SUCH ELECTIONS; AND TO AUTHORIZE THE JUSTICES OF THE PEACE OF THE CITY OF PHILADELPHIA TO HOLD THE COURTS OF RECORD OF THE SAID CITY," AND TO MAKE FURTHER PROVISION FOR THE DUE ELECTION AND RETURN OF JUSTICES OF THE PEACE ELECT.

(Section I. P. L.) Whereas the act of Assembly of this commonwealth, entitled "An act to remedy the defects of the several acts of assembly heretofore made for regulating the elections of the justices of the peace throughout this state, and to establish a permanent mode of holding such election, and to authorize the justices of the peace of the city of Philadelphia to hold the courts of record of the said city,"<sup>1</sup> passed on the thirty-first day of March, one thousand seven hundred and eighty-four, requireth some alterations, amendments and new provisions in order to regulate the elections of justices of the peace elect, and the return of such elections:

And whereas in and by the said act the president and council in case of disputed elections under the same act before them depending concerning any district for the purposes of the said act not more than thirty miles from the seat of government or place where the president and council shall then assemble were empowered to authorize three of the justices of the peace of the

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<sup>1</sup> Chapter 1093.

proper county, dwelling near the place where such dispute should arise to examine or two of the said justices to examine upon oath or affirmation according to law any person who may be named to the president and council as well on the part of the complainants as on the adverse part and to take such examination in writing and to certify the same under their hands and seals [or under the hands and seals] of any two of them to the president and council:

And whereas the president and council may see cause to direct and authorize the examination of other witnesses (instead of compelling their actual attendance to testify in their presence) concerning the elections aforesaid to be taken in the like manner as they are empowered by the act aforesaid to authorize the examination of witnesses named by the complainants or the adverse part:

[Section I.] (Section II. P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met and by the authority of the same, That in every case of disputed election wherein the president or vice president and council are by the said act empowered to authorize the examination of a distant witness or distant witness named to them by the parties disputing the same they may in like manner at their discretion, authorize and direct the examination and certifying to them of the testimony of such other witness or witnesses as they may deem material to the dispute depending before them or which may be produced as such, to the justices who shall be authorized to take examination touching the dispute then depending which testimony shall be admitted in case previous notice of the taking of such examination be given to the parties as in and by the same act is directed, and that the president or vice president and council shall deem it to be proper evidence.

(Section III. P. L.) And whereas no particular penalty is by the act aforesaid imposed on freeholders, who being duly chosen to act as assistant judges of the election of justices of the peace elect, shall refuse or neglect to take upon themselves the same office or having taken upon themselves the said office, neglect or

refuse to perform the duties required by the said act, and it is proper that such penalty should be declared:

And whereas no mode of supplying the delinquency, absence or death of such freeholders is in and by the act aforesaid: Provided for remedy whereof:

[Section II.] (Section IV. P. L.) Be it enacted by the authority aforesaid, That if any freeholder who shall be duly chosen to act as assistant judge of any election of justices of the peace elect conformably to the act aforesaid, shall refuse or neglect to take upon him the same office or having taken the same office upon him shall refuse or neglect to perform any of the duties thereof, that such offender shall forfeit and pay five pounds for every such refusal or neglect, and in case of the absence of any such assistant judge or judges of election from the place and at the time appointed for holding of any election as aforesaid on the precept of the president or vice president in council, the freeholders, who shall be assembled at such time and place shall by a majority of votes choose one or more freeholder or freeholders qualified according to law in the room and stead of such absent judge or judges to assist in the holding of such election, who shall perform the duties of assistant judge or judges required by this act and the act aforesaid on pain of forfeiting five pounds as aforesaid and the doings of the freeholder and freeholders so chosen in the room and stead of the person or persons so absent as aforesaid shall be deemed sufficient and available to all intents and purposes as if they were done by the freeholder or freeholders who was or were first chosen to the said office.

(Section V. P. L.) And whereas impositions and other inconveniences have taken place from the inaccurate form in which the justices of the peace have issued their precept to the constable or constables of the district wherein vacancies in the office of justice of the peace have happened or have been supposed to happen.

(Section VI. P. L.) And whereas the returns of the elections, which have been holden in pursuance of such precepts are often defective and the same ought to be made in so special a manner that the president or vice president in council may determine

upon the face thereof whenever it will be proper to summon witnesses or to authorize the taking of the examination of witnesses touching the same.

[Section III.] (Section VII. P. L.) Be it therefore enacted by the authority aforesaid, That in every precept to be issued by any justice of the peace for the holding of an election of justices of the peace elect in pursuance of the act aforesaid or of this act, the justice issuing the same shall therein set forth the names, surnames and additions of two at least of the freeholders who shall have applied to him for the same, and shall in such precept specify the ward, district, town, township or the townships included within the district wherein the election is to be holden, and also shall therein specify the name of the last justice who was commissioned for the same district, and the cause how the vacancy happened, whether the same shall be by his death, removal of abode, removal from office, resignation or otherwise, and upon every return of any such precept, and of what hath been done in pursuance thereof the constables or constables of the proper district and the assistant judges of the election shall specify the number of votes given for each candidate and the name of the ward, district, town, township or of the townships whereof such district consisteth, and that no other is or are comprehended within such district, and the clerk of the peace of the proper county, to whom the same return shall be delivered as directed by the act aforesaid, shall upon transmitting the same to the office of the secretary of the supreme executive council certify what townships, if more than one shall be included within the district to which the said return shall relate and whether the same district be vacant.

(Section VIII. P. L.) And whereas doubts have arisen concerning the number of justices to which boroughs and county and other towns are entitled:

Wherefore:

[Section IV.] Be it enacted by the authority aforesaid, That the justices of the peace of the county and no more shall be allowed to the borough of Lancaster upon the election of the freeholders of the same borough, and that two justices of the peace of the proper county and no more be allowed to the bor-

oughs of Bristol, Reading and Carlisle, and to the towns of Chester, York, Easton, Bedford, Sunbury and Chambersburg upon the election of the freeholders of the same boroughs and towns respectively, and that every other county town within this state shall be entitled in like manner to the two justices of the peace upon the election of the freeholders of the same respectively or of the district wherein such town is situate, as soon as the president or vice president in council shall think proper to grant the same, and the freeholders of the several districts aforesaid shall as in other cases elect and return a double number of justices of the peace elect accordingly.

(Section IX. P. L.) Provided, That nothing herein before contained shall be construed to affect any commission that may hath been legally issued or any election of justices elect legally holden to fill any vacancy which has happened before the publication of this act.

(Section X. P. L.) And whereas it hath happened that upon the setting off and declaring of a new county one or more districts for the electing of justices of the peace elect, hath or have been divided, and parts thereof fallen into the new county, and other parts thereof have remained in the other county and it is proper that provision be made for the erecting in such cases the same parts of districts into new districts for the purposes aforesaid or for annexing the same parts of districts to other districts of the like nature.

[Section V.] (Section XI. P. L.) Be it therefore enacted by the authority aforesaid, That the president or vice president and council shall be and they hereby are empowered and authorized in every such case as aforesaid, which hath happened or which shall happen hereafter to erect the parts of districts for the purpose of electing justices of the peace elect herein before described into new districts of the like nature or to annex the same parts or divisions of districts to the adjoining district or districts within the proper county as they shall see meet.

(Section XII. P. L.) And whereas in and by the act aforesaid the president or vice president and council are enabled upon the certificate of the court of quarter sessions of any of the western or northern frontier counties or of the counties of

Lancaster, Cumberland or Berks that it is become proper and will be useful that other and new districts for the purposes of the said acts to make orders for such new and additional districts aforesaid to be formed.

And whereas from the unequal and improper distribution and division that hath heretofore been made of the county of Chester and of other counties in this state into districts for the purposes aforesaid, it is reasonable and it will be useful if the president or vice president and council were enabled to order and direct new and more equal and proper division of the counties generally into such districts as aforesaid.

[Section VI.] (Section XIII. P. L.) Be it therefore enacted by the authority aforesaid, That the president or vice president in council be and they are hereby enabled at their discretion to order and direct that a new and equal distribution of the townships within any county of this state into districts for the purpose of choosing justices of the peace elect be made, and to establish the same in like manner and upon like certificates as they are by the act aforesaid enabled within the counties first above enumerated, to make orders for erecting new and additional districts for the purposes aforesaid.

(Section XIV. P. L.) Provided, That the authority hereby given shall not extend to the city of Philadelphia, the boroughs of Lancaster, Bristol, Reading nor Carlisle, nor the towns of Chester, York, Easton or any other county town, nor to the townships of the Northern Liberties of the city of Philadelphia, nor to the district of Southwark in the county of Philadelphia.

(Section XV. P. L.) And whereas various opinions and practices have prevailed in the different parts of this state concerning the persons who are freeholders of the district to whom the right of electing justices of the peace elect under the thirtieth section of the frame of government belongeth, and it is proper that the same should be settled and declared in order that one uniform course at such elections may hereafter take place throughout this commonwealth.

[Section VII.] (Section XVI. P. L.) Be it therefore declared by the authority aforesaid, That the male inhabitants of this state duly qualified to vote for representatives in the general

assembly by whom the lands within any district for the purposes of the act aforesaid and of this act respectively are holden and who are seized of the same land for life or have a greater estate therein in whatever place within this commonwealth such persons do severally dwell and none other persons are electors of the same justices within the said district, and that all such elections within this commonwealth shall be holden and made accordingly.

[Section VIII.] (Section XVII.) And be it further enacted by the authority aforesaid, That every person who shall be summoned as a witness to testify concerning any election of justices of the peace elect which shall be controverted before the president or vice president in council and who attend accordingly shall be allowed like wages as are allowed by law in the courts of quarter sessions of the peace, and like fees and mileage shall be allowed for serving of summonses or attachments which may be issued under the act aforesaid, and this act as are usual in the same courts, and the justices who shall take the examinations of witnesses, and shall certify and transmit the same to the secretary of the supreme executive council shall be allowed two shillings for each examination so taken and certified, all which wages and other allowances shall be adjusted by the president or vice president in council and upon their order or orders paid to the overseers of the poor of the district or if there be more than one township within the same by the overseers of the poor of the several townships therein in due proportion to the respective ability of the same townships to be adjusted by the president or vice president in council, but if the disputed election relate to any of the wards in the city of Philadelphia, then the said wages and allowances shall be paid by the wardens of the city.

(Section XVIII. P. L.) Provided nevertheless, That if the difficulties or doubts which shall arise concerning any such election shall proceed from the illegal practice or fraud of the judges of the said election or any of them and the president or vice president and council shall so adjudge, that in such case, the persons entitled to the said fees and other allowances respectively (if the same be not lodged with their secretary within

twenty-four hours) shall have remedy for the same with costs in a summary way against such judge or judges of election as small debts are recoverable before any justice of the peace of the county where such judge or judges shall be found and the president or vice president in council shall ascertain the proportion of such fees and other allowances to be borne and defrayed by each offender.

Section IX. (Section XIX. P. L.) And be it further enacted by the authority aforesaid, That all forfeitures by virtue of the act aforesaid or of this act, shall be recovered one-half to the use of the prosecutor, and the other half to the use of the commonwealth in the proper county by indictment, unless the same be a specified sum of money not exceeding ten pounds, in which case the same shall be recovered in a summary way as debts and demands not exceeding ten pounds are or shall be recoverable, and every prosecution for the same shall be commenced within six months after the offense shall have been committed and not afterwards.

Passed March 4, 1786. Recorded L. B. No. 3, p. 81.

See the Act of Assembly passed February 27, 1788. Chapter 1329.

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## CHAPTER MCCVI.

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AN ACT FOR SECURING TO THIS COMMONWEALTH THE FIDELITY AND ALLEGIANCE OF THE INHABITANTS THEREOF AND FOR ADMITTING CERTAIN PERSONS TO THE RIGHTS OF CITIZENSHIP.

(Section I. P. L.) Whereas during the continuance of the war lately waged by his Britannic Majesty against the United States of America, the legislature of Pennsylvania for the better securing the liberty and independence thereof wisely enacted divers laws requiring certain tests of allegiance and fidelity from the citizens of said commonwealth.

And whereas many of the inhabitants of the said commonwealth have omitted or neglected to take and subscribe the oaths or affirmations by the said laws required in the manner and