

CHAPTER CCCCLXXXIX.

AN ACT DIRECTING THE CHOICE OF INSPECTORS AND FOR HOLDING THE GENERAL ELECTIONS IN THE COUNTIES OF LANCASTER, YORK, CUMBERLAND, BERKS AND NORTHAMPTON.

Whereas notwithstanding the just, fair and impartial method prescribed for electing members of assembly by the charter of privileges granted by the Honorable William Penn, Esquire, late Proprietary 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 and [*sic*] 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 election did not answer the good purpose 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 in the said counties 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 forasmuch as it often happened that the 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 one of the principal ends of their appointment, for remedy of which inconveniences divers acts of general assembly of this province have been passed for amending the several acts for electing members of assembly, and it being found by experience that the manner of electing inspectors in the said counties

of Lancaster, York, Cumberland, Berks and Northampton in and by the aforesaid acts directed and enjoined did not altogether remove the difficulties or answer the good ends proposed, for remedy whereof one other act of general assembly of this province, entitled "An act for directing the choice of inspectors in the counties of Chester, Lancaster, York, Cumberland, Berks and Northampton,"¹ was made and passed in the twenty-fifth year of His late Majesty's reign, which, by experience, hath been found to be of great use in the said counties of Lancaster, York, Cumberland, Berks and Northampton, but as the said act with the supplements for continuing and reviving the same were temporary, they are now near expiring by their own limitation.

And whereas also some doubts have arisen concerning the duty of the inspectors at the general elections for choosing members of assembly, in receiving the tickets or votes from the freemen, electors in their several townships, and keeping the same in separate boxes until the freemen have finished voting; and it being represented that some of the inspectors at the said general elections in some of the counties aforesaid after receiving many votes or tickets from the freemen of their said townships and lodged the same in a small box by them kept for that purpose and before closing the polls or receiving all the tickets from the freemen and voters at the said general election attending to vote have, contrary to their duty, departed from the courthouse or other place where the said general elections have been held and carried with them the box by them kept as aforesaid with the tickets or votes of the freemen therein to places to the sheriff or other judges of the said election unknown, whereby great frauds might have been and should the like practice continue may be committed.

For preventing whereof for the future and for the better settling and establishing a free, impartial, fair 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 elections for the said counties of Lancaster, York, Cumberland, Berks and Northampton:

[Section I.] Be it enacted by the Honorable James Hamilton,

¹ Passed May 10, 1753, Chapter 396.

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 qualified to elect members of assembly in each township in the respective counties of Lancaster, York, Cumberland, Berks and Northampton 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 some convenient place within 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 townships 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 of the same day, during all which time the election shall continue, in the presence of the constable and two such 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 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, who shall, for that year, be inspectors of the election and as such shall be declared and published by the sheriff, in the presence of the electors or so many of them as shall be present.

[Section II.] 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,’ directed and enjoined.”¹

And the inspectors shall and they 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 last-mentioned 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 of the inspector who receives the same for that purpose now or hereafter to be provided, and no tickets so received shall be suppressed.

[Section III.] Provided always, and be it further enacted by the authority aforesaid, That the inspectors of the several townships within the said counties, if present, shall receive the votes or tickets of the electors of the townships for which they are chosen, and no other, or in case of their absence, the inspector of one of the adjoining townships, 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 shall be marked off by the inspectors aforesaid at the time of his voting, by writing the word (voted) in the margin of the lists of the taxables of their respective townships, to be lodged in the hands

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

of the said inspectors for the purposes aforesaid as is hereinafter directed.

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

[Section IV.] Be it enacted by the authority aforesaid, That the constables of the respective townships 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, 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 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 and seals, that such person was elected by a majority of lawful votes, by the township 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 said constable or other judge of the election shall likewise at the same time furnish the inspector so chosen with an alphabetical list of the names of all the taxables within the said township to enable him the better to judge of the qualifications of the electors at the ensuing election for members of assembly, which said lists the collectors of the respective townships are hereby required and enjoined to furnish when demanded for the purposes aforesaid under the penalty of two pounds ten shillings, to be recovered by any person who will sue for the same. And the certificate so as aforesaid taken of the person elected by a majority of lawful votes in the township to which he belongs shall be delivered by the constable to the

sheriff or other judge or judges of the election of the county to which they belong, in the manner hereinbefore directed; for all which said services the said constable shall receive five shillings, to be paid by the county treasurer; and if any sheriff or coroner, 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, if sheriff or coroner, shall forfeit and pay the sum of one hundred pounds, and if a constable or overseer of the poor, shall forfeit and pay the sum of five pounds to any person who shall sue for the same.

And the better to enable the House of Representatives to judge of the elections of their own members, if any dispute should hereafter arise, and to secure to the freemen of this province their just rights:

[Section V.] 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 or delegates of the freemen thereof, shall also return to the House of Representatives the lists taken by the clerks of the names of electors and places of their abode in the counties of Philadelphia, Chester and Bucks respectively, and all the lists of the taxables as laid before the inspectors in the respective counties of Lancaster, York, Cumberland, Berks and Northampton, or attested copies thereof, 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 within the said counties of Lancaster, York, Cumberland, Berks and Northampton, 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 five pounds to any person who will sue for the same.

[Section VI.] And be it further enacted by the authority aforesaid, That it shall and may be lawful for the inspectors chosen for the said counties of Lancaster, York, Cumberland,

Berks and Northampton, and qualified in manner and form aforesaid, and they are hereby enjoined and required from and after the freemen of their respective townships have finished voting to deliver his and their box with the votes or tickets therein to the sheriff, coroner, inspectors and other judges of the said election, by him and 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. And if any inspector chosen and qualified as aforesaid in any of the said counties of Lancaster, York, Cumberland, Berks and Northampton shall presume on any pretence whatsoever to carry and bear away out of and from the court-house or other place for holding the election for members of assembly his separate box, with the votes or tickets therein, every such inspector so offending shall forfeit and pay the sum of five pounds, one-half thereof to be paid to the overseers of the poor for the use of the poor of the township for which such inspector is chosen to serve, and the other half to him or them that will sue for the same.

[Section VII.] And be it further enacted by the authority aforesaid, That in case any inspector chosen and qualified as aforesaid from necessity be obliged to leave the court-house or other place for holding the election aforesaid in any of the said counties of Lancaster, York, Cumberland, Berks and Northampton during the time of such election, every such inspector, before his departure from and leaving the court-house or other place for holding the said election, shall deliver his separate box, with all the votes or tickets then by him received and lodged therein to the sheriff or coroner and other judges of the said election by him and them safely and securely to be kept in a chest or trunk by the sheriff or coroner for that purpose to be provided until such inspector can or may be able to return to his station and duty under the like penalty and forfeiture above mentioned, to be paid and recovered in manner aforesaid. And in case of sickness or other inability of such inspector returning and performing the residue of his duty then and in such case the sheriff, coroner and other judges of the said election shall and may deliver the said box, with the votes and tickets therein, to the in-

spector of any one of the adjacent townships, who shall receive and take in the residue of the votes and tickets from the freemen of the township whose inspector became sick or otherwise disabled from performing his duty therein.

[Section VIII.] And be it further enacted by the authority aforesaid, That the sheriff of the respective counties of Lancaster, York, Cumberland, Berks and Northampton, shall, at the expense of the county, provide and keep a good, substantial strong chest or trunk, with a lock and key thereto, and cause the same, in the morning of the day of every election for choosing members of assembly, to be brought into the court-house or other place for holding the said elections, and in the same chest or trunk deposit and lodge the boxes of the several inspectors, with the tickets and votes therein, when and so often as any of the inspectors may have occasion to leave the court-house or other place of election, or when any of the inspectors shall declare they have received and taken all the votes belonging to their respective townships.

[Section IX.] And be it further enacted by the authority aforesaid, That every sheriff, coroner or other judges of the said 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 said election, and before they open or begin the same election, to call to their assistance at least four reputable freeholders of the county 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 shall be 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.

[Section X.] 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 Anne nor the act passed in the nineteenth year of his late Majesty's reign nor anything therein or in either of them, but that every clause, article and sentence in the said acts or either of them contained, except what is hereby expressly altered or supplied, shall be and remain in full force and virtue as the same were before the making of this act.

[Section XI.] Provided also, 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 sessions of assembly and no longer.

Passed March 4, 1763. Referred for consideration by the King in Council, December 9, 1763, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section II, and the note to the Act of Assembly passed March 11, 1752, Chapter 396. Repealed by the Act of Assembly passed February 8, 1766, Chapter 539.

CHAPTER CCCCXC.

AN ACT CONCERNING CATTLE, HORSES AND SHEEP TRESPASSING WITHIN THIS PROVINCE.

Whereas the laws of this province heretofore made to prevent horses, cattle and sheep from trespassing and breaking into lawful inclosures have proved ineffectual.

For remedy whereof:

[Section I.] Be it enacted by the Honorable James Hamilton, 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 if any horse, mare, colt, cattle or sheep after the publication of this act shall trespass by breaking into the inclosure of any person or persons within this province, the same