

the time being in a bond of five hundred pounds, for the true and faithful execution of the said office and for delivering up the records and other writings belonging to the said office by him, his heirs, executors or administrators, to his successor in the said office safe, whole and undefaced; which said bond shall be filed in the secretary's office and there safely kept, in order to be made use of for making satisfaction to the parties that shall be damnified or aggrieved, as is or shall be directed by the laws of this province in such cases. And no master of the rolls, recorder or enroller of deeds whatsoever, hereafter to be appointed by commission from the governor, shall enter upon or shall officiate in his office before he hath given such security as aforesaid, upon pain of forfeiting the sum of one hundred pounds, to be recovered as aforesaid; the one-half thereof shall go to the governor for the use aforesaid, and the other half to him or them that shall sue for the same.

Passed January 12, 1705-6. Repealed by the Queen in Council, October 24, 1709. See Appendix II, Section III, and the Act of Assembly passed February 28, 1710-11, Chapter 170.

CHAPTER CXXXVII.

AN ACT TO ASCERTAIN THE NUMBER OF MEMBERS OF ASSEMBLY AND TO REGULATE THE ELECTION.

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That for the well-governing of this province there shall be an assembly yearly chosen, and for that end it shall and may be lawful to and for the freemen and inhabitants of the city of Philadelphia, as also for the freemen and inhabitants of the respective counties of this province, without any writ or summons to meet on the first day of October yearly, forever, at the most usual place

of elections in the said respective counties: (That is to say) for the city and county of Philadelphia at or near the market-place in the said city; and for the county of Bucks, upon the court-house ground in the town of Bristol; and for the county of Chester, at or near the court-house in the town of Chester; and then and there choose their representatives or delegates to serve them in assembly; which shall consist of not less than two persons for the said city of Philadelphia, and eight persons for each county of this province; or a greater number as the governor and assembly shall at any time hereafter agree. And that the members so to be elected, shall meet and sit in assembly on the fourteenth day of October yearly, forever, at the said city of Philadelphia, unless the governor and council for the time being shall see cause to appoint another place within this province to sit at. But when any of the said days of election or meeting of assembly shall happen to fall on the First day of the week, called Sunday, then such election and meeting shall be [held on] the next day following.

Provided always, That no inhabitant of this province shall have right of electing, or being elected as aforesaid, unless he or they be natural-born subjects of England, or be naturalized in England or in this government; and unless such person or persons be of the age of twenty-one years or upwards, and be a freeholder or freeholders in this province, and have fifty acres of land or more well seated, and twelve acres thereof or more cleared and improved; or be otherwise worth fifty pounds, lawful money of this province, clear estate, and have been resident therein for the space of two years before such election.

And to the end that elections, upon which the good of the government so much depends, may not be corruptly managed or obtained:

[Section II.] Be it enacted by the authority aforesaid, That all the elections of the said representatives shall be free and voluntary, by persons having estates and being qualified as aforesaid in the respective county or counties for which he or they shall elect or be elected.

Provided, That the electors and elected for the said city of Philadelphia shall have a freehold estate, or be worth fifty

pounds, clear personal estate within the same city, and be otherwise qualified as aforesaid. And that the elector who is not so qualified as aforesaid, or that shall receive any reward or gift for his vote, shall forfeit his right of electing for that year, and shall pay the sum of five pounds, the one-half thereof to the governor, and the other half to him or them that shall sue for the same in any court of record within this province.

And that he or they who shall give, offer or promise any reward to be elected, or shall offer to serve for nothing, or less allowance than the law prescribes, shall forfeit five pounds, the one-half thereof to the governor, and the other to him or them that will sue for the same in manner aforesaid, and be incapable to serve for that year.

[Section III.] And be it further enacted by the authority aforesaid, That every sheriff, or in his absence, his under-sheriff or such as he shall depute; or for want of such deputation, the coroner or such as he shall appoint; or for want of such appointment, any two of the freeholders who, by the major part of the electors then and there present, shall be nominated and appointed judges of the said elections in the absence of the sheriff or coroner, shall attend at the said election, and shall appoint such a number of clerks for taking the poll or votes of the electors as the inspectors hereafter mentioned shall appoint; who shall all take the said poll or names of the electors in the presence of the said sheriff, coroner or other judges so nominated as aforesaid, or such as any of them shall depute or appoint, and shall make as many distinct columns on fair paper, as there shall be candidates voted for, as is hereinafter expressed; but before they begin every clerk so appointed shall, by the said sheriff or coroner, or by some magistrate then present, be attested or charged upon his solemn affirmation, truly and indifferently to take the said poll, and set down the names of each freeholder and elector and the place of his freehold or estate, and to poll no elector who is not attested, if so required by the inspectors of such clerks: which inspectors are to be nominated by the major part of the electors as aforesaid.

And every person coming to elect members for the city of Philadelphia, as also every person coming to elect members

for the said respective counties, shall deliver in writing the names of those persons for whom they vote to the sheriff, or some other of the said persons so as aforesaid appointed judges of the said elections; who shall open the paper if the elector be illiterate, and read the persons' names contained therein, and ask such elector whether these are [the] persons for whom he votes. Which paper, upon his affirmative, shall be received and put with the rest of the electors' papers in a box, which every sheriff is hereby required to provide for that purpose.

But if the elector brings no such paper or ticket, or if the illiterate elector will not vote for the persons contained in his paper, then and in all such cases the elector shall verbally give in the names of the persons he mostly desires should be chosen; which names shall be entered down by the said clerks.

Provided always, That every elector before he be admitted to poll (if required by any of the said inspectors) shall upon his solemn affirmation declare, that he is twenty-one years of age and a freeholder for 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 resident therein for the space of two years, and that he has not been before polled at that election.

And in case any person, taking the said affirmation, shall be lawfully convicted of willfully and corruptly making a false affirmation therein, or if any shall suborn any person to take such false affirmation, he and they shall incur the same penalties and forfeitures as by the laws and statutes of England are provided against persons convicted of willful and corrupt perjury, and subornation of perjury respectively.

And that the said poll shall not be delayed, nor the election adjourned to another place or part of the county, other than where the same begins, but shall continue from day to day till the freeholders and electors then and there present shall be polled, and no longer. And when all the electors then appearing shall have delivered in all their papers or names, the said box shall be opened by the sheriff, or some other of the persons appointed by this act to officiate as judges of the said elections,

and the said papers taken out in the presence of the said inspectors, and delivered, one by one, to the said clerk or clerks to enter the names therein expressed in fair columns or otherwise, so that they shall cast up how many times each person's name is repeated in the same, and set it down; and shall then pronounce publicly to the people him whose name is oftenest mentioned in the said papers to be first elected, and so the next highest number successively until the whole eight persons for the county be pronounced elected by majority as aforesaid. And the same method shall be used concerning the two members to be elected for the city of Philadelphia.

But if, when the said papers are opened, there appear more names in any one of them, or more than one paper deceitfully folded together, containing more names than by this act is allowed any one elector to vote for, such papers shall be rejected, and not accounted amongst the votes.

And after the said representatives are so chosen as aforesaid, their names (be they present or absent) shall be written in a pair of indentures, sealed between the said sheriff or other persons officiating as judges of the said elections, and six or more of the said choosers.

And every sheriff or other persons officiating as judges of the said elections shall, on the first day of the meeting of every assembly, in person or by deputy present one part of the said indentures to the governor for the time being, and the other part thereof to the house of representatives; which said indentures shall be deemed and taken to be the sheriff's return of the representatives or delegates of the freemen of this province, to serve and act in the legislative or general assemblies of the same province from time to time. And the representatives so as aforesaid chosen shall yield their attendance accordingly.

And if any person or persons so chosen and returned to serve as aforesaid, shall be absent from the service for which he or they shall be so elected, he or they shall forfeit any sum not exceeding ten pounds current money, the one-half thereof to the governor, and the other half to him or them that shall sue for the same in manner aforesaid; unless his or their excuse for such absence shall be allowed of by the assembly.

And if any person so chosen and returned as aforesaid shall happen to die, or be willfully absent, or by vote of the house be disabled, to sit or serve in assembly, then and in every such case the secretary for the time being shall, by the Speaker's order, issue out writs to the respective sheriffs of the counties where there shall be occasion for electing such new members. But in case the secretary shall delay the making of such writs for the space of two days next after he has notice of the Speaker's order in that behalf, it shall be lawful for the Speaker of the Assembly for the time being to issue forth the said writs, which shall be made in the governor's name, under the hand and seal of the Speaker; whereupon every sheriff or other officer to whom such writ or writs are directed, shall indorse the day of his receipt thereof on the back of the writ, and with all convenient speed, after he receives such writ, shall cause public notice to be given of the time and place of election, and proceed to elect thereupon in manner aforesaid, within the space of five days after his receipt of the said writ, and give two days' notice at least of the day appointed for election; which notice shall be given in writing, and shall be proclaimed in the most public places of the capital town or place where such election is to be, and the said sheriff or other officer shall cause copies of such notice or advertisement to be posted upon some tree or house in the way leading from every township or precinct to the town or place where the said election is to be, as also upon the court-houses and public fixed meeting-houses for religious worship in the said respective counties.

And when those elections are made by virtue of the said writs in manner aforesaid, the sheriff or other officer who shall officiate as judges of such elections, shall write the names of the persons so elected in a pair of indentures, sealed, and presented [*sic*] one part thereof to the governor, and the other part to the assembly, on the day of the return of such writs; which said indentures shall be deemed and taken to be the sheriff's return of such representatives.

All which said elections shall begin between the hours of ten in the morning and two in the afternoon; and that no person or persons whatsoever, by force of arms or menacing, shall dis-

turb the freemen of this province in the free election of their said representatives, but that the same election shall be freely and indifferently made.

[Section IV.] And be it further enacted by the authority aforesaid, That if any sheriff shall refuse or neglect to give notice of the said elections by writs, [he] shall forfeit one hundred pounds, money aforesaid, one-half to the governor, and the other half to him that shall sue for the same in manner aforesaid. And upon such neglect or refusal, the coroner of the respective county where the same shall happen, is hereby required, by himself or his deputy, to officiate and perform all that the said sheriff or his deputy ought to have done and performed at the said elections, according to the tenor and directions of this act; under the penalty of fifty pounds, to be recovered as aforesaid, one-half to the governor, and the other half to him that shall sue for the same.

And every sheriff or other officer not making good and true returns of the said elections of representatives or members of assembly according to the direction of this act, or refusing or willfully neglecting to do and perform what is hereby required to be done at and after the said elections, shall forfeit, for every such offense, the sum of one hundred pounds, money aforesaid, one-half thereof to the governor, and the other moiety to him that will sue for the same in manner aforesaid.

[Section V.] And be it further enacted by the authority aforesaid, That the representatives so chosen and met according to the direction of this act, shall be the assembly of this province, and shall have power to choose a Speaker and other their officers, and shall be judges of the qualifications and elections of their own members; sit upon their own adjournments, appoint committees, prepare bills in order to pass into laws, impeach criminals and redress grievances; and shall have all other powers and privileges of an assembly according to the rights of the freeborn subjects of England, and as is usual in any of the Queen's plantations in America.

And if any county or part of this province shall refuse or neglect to choose their respective representatives as aforesaid, or if chosen, do not meet to serve in assembly, those who are so

chosen and met shall have the full power of an assembly in as ample manner as if all the representatives had been chosen and met, provided they are not less than two-thirds of the whole that ought to meet.

[Section VI.] And be it further enacted by the authority aforesaid, That no person who shall be hereafter a member of the assembly or house of representatives of this province, shall be capable to vote in the said house, or sit there during any debate after their Speaker is chosen, until he shall make and subscribe the following declarations and profession of his Christian belief, viz.,

I A. B. do sincerely promise and solemnly declare before God and the world, that I will be faithful and bear true allegiance to Queen Anne. And I do solemnly profess and declare, that I do from my heart abhor, detest and renounce as impious and heretical that damnable doctrine and position, that princes excommunicated or deprived by the Pope or any authority of the See of Rome, may be deposed or murdered by their subjects or any other whatsoever. And I do declare, that no foreign prince, person, prelate, state or potentate hath or ought to have any power, jurisdiction, superiority, pre-eminence or authority ecclesiastical or spiritual, within the realm of England or the dominions thereunto belonging.

And I A. B. do solemnly and sincerely in the presence of God profess, testify and declare, that I do believe that in the sacrament of the Lord's Supper there is not any transubstantiation of the elements of bread and wine into the body and blood of Christ, at or after the consecration thereof by any person whatsoever; and that the invocation or adoration of the Virgin Mary or any other saint, and the sacrifice of the Mass, as they are now used in the Church of Rome, are superstitious and idolatrous.

And I do solemnly in the presence of God profess, testify and declare, that I do make this declaration and every part thereof in the plain and ordinary sense of the words read unto me, as they are commonly understood by English Protestants, without any evasion, equivocation or mental reservation whatsoever, and without any dispensation already granted me for this purpose by the Pope or any other authority or person whatsoever, or without any hope of any such dispensation from any person or authority whatsoever; or without thinking I am or may be acquitted before God or man, or absolved of this declaration or

any part thereof, although the Pope or any other person or persons or power whatsoever should dispense with or annul the same, or declare that it was null or void from the beginning.

And I A. B. profess faith in God the Father, and in Jesus Christ, His Eternal Son, the true God, and in the Holy Spirit, one God blessed for evermore; and do acknowledge the Holy Scriptures of the Old and New Testament to be given by divine inspiration.

Which said declarations and profession of faith shall be, in the next and every succeeding assembly to be held in this province, solemnly and publicly made and subscribed betwixt the hours of nine in the morning and four in the afternoon by every such member of the house of representatives at the table, in the middle of their house, and while a full house of representatives is there sitting with their Speaker in his chair; and during the making and subscribing thereof, all business and debates in the said house shall cease.

And the clerk of the assembly is hereby required to record the same in rolls or books prepared for that purpose; and every member of assembly shall pay the clerk for recording thereof five pence, and no more. And that the manner and method of making the said declarations shall be as followeth, to wit: the Speaker shall first read and subscribe the same, and after him every member, as he is called over, shall either read and subscribe the said declarations, or else subscribe them as they shall be read unto him by the clerk of the assembly.

[Section VII.] And be it enacted by the authority aforesaid, That no person whatsoever, who at any time shall be elected member of assembly in this province, and who shall make, and be willing and offer to make and subscribe the said declarations in manner and form aforesaid, shall be rejected or denied to sit, debate and act in the house of representatives or general assembly of this province.

Provided nevertheless, That nothing herein contained shall extend to, debar or hinder the house of representatives to reject such persons as are or shall be unduly elected members to serve in assembly, or such as the assembly or [the] major part of them shall see cause from time to time, by vote, to expel or disable to sit or serve there, by reason of ill practice in elections or misbehavior in the house.

[Section VIII.] And be it further enacted by the authority aforesaid, That every member chosen, or to be chosen, to serve in assembly as aforesaid, shall be allowed the sum of six shillings per day, and the Speaker ten shillings per day, during his and their attendance in the service thereof; and that every member of assembly shall be allowed towards his traveling charges after the rate of three pence a mile coming to and going from the place where the assembly is or shall be held.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed August 24, 1717, Chapter 222; March 30, 1723, Chapter 266; August 18, 1727, Chapter 296; August 13, 1732, Chapter 329; (the two Acts of) May 19, 1739, Chapters 350 and 356; February 3, 1742-43, Chapter 356; March 1, 1745-46, Chapter 364; 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; March 9, 1771, Chapter 619; February 26, 1773, Chapter 683; January 22, 1774, Chapter 696; March 3, 1776, Chapter 717; the Constitution of 1776; the Acts of Assembly passed January 21, 1777, Chapter 736; March 19, 1777, Chapter 751; June 14, 1777, Chapter 757; October 11, 1777, Chapter 764; December 27, 1777, Chapter 774; March 23, 1778, Chapter 790; September 24, 1779, Chapter 847; September 20, 1780, Chapter 914; September 20, 1782, Chapter 987, and March 27, 1784, Chapter 1086. Repealed by the Act of Assembly passed September 13, 1785, Chapter 1175.

CHAPTER CXXXVIII.

AN ACT FOR SELLING BEER AND ALE BY WINE MEASURE.

Whereas by a law of this province for regulating the dimensions of casks, &c., it is enacted (amongst other things) that a barrel shall contain thirty-one gallons wine measure; and whereas, by another law of this province for regulating of weights and measures it is (amongst other things) enacted that none shall sell beer or ale by retail, but by beer measure, according to the standard of England; by reason whereof the retailers of beer and ale are obliged to sell the same by far greater measure than they buy it: for remedy whereof: