

taken without them or in their absence; and such written deposition or affirmation shall be good and sufficient evidence to the court and jury.

Passed January 12, 1705-6. Repealed by the Queen in Council, January 8, 1707-8 and October 24, 1709. See Appendix II, Sections II, III, VIII, IX, &c. See the Act of Assembly passed February 28, 1710-11, Chapter 171.

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## CHAPTER CLXI.

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AN ACT FOR REGULATING ELECTING OF SHERIFFS AND CORONERS.

[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 the freemen and inhabitants of the city and county of Philadelphia, as also of the other counties of this province, at the time and place of meeting for electing their representatives to serve in assembly, shall or may yearly choose a double number of persons to present to the governor for sheriffs and coroners, in manner following: (That is to say) the coroner of every county of this province, or, in his absence, the persons appointed by the electors of the said representatives as judges of their said elections, without any other warrant or precept, as soon as the election of the members of the assembly is ended, shall, by the consent of the said freemen and electors or the greatest part of them, cause a double number of persons to be chosen for sheriff by majority of votes; who shall be returned by indentures between the coroners or some other of the said persons so officiating as judges of the said other elections, and six or more of the electors: which persons so elected for sheriffs shall present themselves to the governor within two days next after such elections; and if the governor will not, on or before the third [day] after such presentment, commissionate one of them so

chosen and presented to him, the first person named in the return shall, by virtue of this act, stand and serve in the office of sheriff for one year next after such election, if he so long behave himself well, without any further or other commission.

But in case the persons elected for sheriff shall refuse to accept of the office, or if, after any sheriff doth accept, he shall be convicted for misbehavior in his office, or shall depart this life before the end of the term for which he is or shall be chosen, then another sufficient person shall be commissioned by the governor from time to time to supply the place of such as shall so refuse, misbehave himself, or be deceased as aforesaid; who shall act and continue in the office of sheriff to the end of the said term of one year from the time he was commissioned, or until another be as aforesaid chosen in his stead.

And that the sheriff of every county of this province, or such other person as shall be concerned to officiate as judges of the said election of representatives, as soon as the elections of the said representatives and sheriffs are ended, shall in manner aforesaid cause a double number of persons to be chosen for coroners, who shall be returned and presented to the governor within two days after such elections; and if the governor will not commissionate one of them so presented, the first named in the return shall by virtue of this act stand and serve in the office of coroner for one year next after such election, if he so long behave himself well, without any further or other commission: but in case the person so elected for coroner shall refuse to accept of the office, or if the coroner accepting shall be convicted of official misbehavior, or be deceased before the end of the term for which he is or shall be chosen, then another sufficient person shall be commissioned by the governor from time to time, to supply those defects in manner aforesaid.

But if the freemen or electors aforesaid shall at any time neglect or decline to choose persons for either or both the said offices, then the persons that are or shall be in the respective offices of sheriff and coroner at the time of the said elections shall remain therein until they shall be respectively removed by another election, to be made in manner aforesaid.

Provided always, That before any sheriff shall receive his

commission, or exercise any part of his said office, he shall by himself or his deputy put in sufficient sureties into the office of the master of the rolls of this province, and there shall enter into bond or obligation, to wit, The sheriff of the city and county of Philadelphia, in the sum of six hundred pounds, current money of Pennsylvania; the sheriff of the county of Bucks, in the sum of two hundred pounds, money aforesaid; and the sheriff of the county of Chester, in the sum of two hundred pounds, of like money; upon condition, That he will well and faithfully perform his duty and trust in the said office of sheriff, according to the tenor of the affirmation which he shall make for the due execution of his office. And that all the bonds so to be given for security as aforesaid shall be taken in the Queen's name, and entered of record in the master of the rolls office aforesaid; but are hereby declared to be only in trust to and for the use of the person or persons concerned; and that when any of the said bonds shall be put in suit, and judgment thereon obtained, the judgment shall remain in the same nature the bonds were; and that no execution shall issue out thereupon before the person or persons grieved shall, by *scire facias* or other process, summon the person or persons against whom the judgment aforesaid is obtained, to appear and show cause why execution should not issue upon the said judgment. And if the plaintiff in the *scire facias* shall prove what damage he hath sustained, and thereupon a verdict be found for him, the justices in such cases shall award execution for so much as the jury shall then find, and no more; and the former judgment is hereby declared still to remain cautionary, for the satisfaction of such other person or persons as shall legally prove themselves damnified, and recover their damages as aforesaid by due course of law.

And moreover no sheriff or coroner whatsoever shall enter upon or exercise any part of their said respective offices until they shall respectively make and subscribe the declarations and profession of their Christian belief, in the act, entitled "An act to ascertain the number of members of assembly, and to regulate the elections,"<sup>1</sup> mentioned and required to be taken

<sup>1</sup> January 12, 1705-6, Chapter 137.

by members of assembly, and the solemn affirmations and declarations for the due execution of their respective offices, in manner and form as sheriffs and coroners, by a law of this province, entitled "An act directing the attests of officers,"<sup>1</sup> are respectively required to take. All which declarations, tests and affirmations shall be made, subscribed and taken before the governor-in-chief, or his deputy for the time being, or in open quarter-sessions, or before any two justices of the peace out of sessions in the respective counties, where there may be occasion to take the same. And the same declarations, tests and affirmations so made and taken out of sessions shall be by the justices delivered into court; and the clerk of such sessions is hereby required to record the same, as also those taken in court, in rolls or books prepared for that purpose.

[Section II.] And be it further enacted by the authority aforesaid, That the sheriff and coroner of the county of Philadelphia shall be sheriff and coroner of the said city; and the sheriff of the city and county of Philadelphia for the time being shall be water-bailiff, and may execute and perform all things belonging to the office of water-bailiff upon Delaware River and all other navigable rivers and creeks within this province; and shall reside in the city of Philadelphia.

Provided also, and it is hereby declared, That no elections shall be made for any sheriff or coroner before the time limited for those who are at present in those offices respectively shall be expired.

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; February 14, 1729-30, Chapter 315; March 11, 1752, Chapter 397, and September 26, 1767, Chapter 568. Repealed by the Act of Assembly passed September 13, 1785, Chapter 1175.

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<sup>1</sup> 1700 Chapter 33.