

as any other person or persons born within this province may lawfully in anywise do, any law, custom or usage to the contrary thereof in anywise notwithstanding.

Passed May 19, 1739. See Appendix XIV, Section I, and the Acts of Assembly passed February 3, 1742-43, Chapter 359; June 20, 1759, Chapter 445; (the Constitution of 1776, Plan of Government, Section 42;) June 13, 1777, Chapter 756; August 31, 1778, Chapter 803; March 4, 1786, Chapter 1206; February 11, 1789, Chapter 1387.

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## CHAPTER CCCL.

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### A SUPPLEMENT TO THE ACT FOR ELECTING MEMBERS OF ASSEMBLY.

Whereas notwithstanding the just and impartial method prescribed for electing of members of assembly by the charter of privileges granted by the Honorable William Penn, Esquire, late proprietor and governor-in-chief of the province of Pennsylvania and counties of Newcastle, Kent and Sussex on Delaware, to the inhabitants thereof, and of the several acts of general 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 of sheriffs, coroners, commissioners, assessors and of inspectors to assist in the said election, it hath nevertheless been found upon experience that the present method prescribed by the laws of this province for choosing inspectors to assist the sheriff and for receiving the poll or votes at the said elections hath not answered the good purposes for which it was intended, but great numbers of disorderly persons, many of whom not being qualified to vote for members of assembly, &c., have mixed themselves among the electors at the time of choosing inspectors, and have by their rude and disorderly behavior disturbed the electors 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 whereas it often happens that the said inspectors are chosen most or all of them out of one part of the county, and by reason thereof cannot be so well acquainted with the estates and circumstances of all the electors, which was the principal end of their first appointment.

For remedying of which inconveniencies for the future:

[Section I.] Be it enacted by George Thomas, Esquire, with the King's approbation Lieutenant-Governor under the Honorable John Penn, Thomas Penn and Richard Penn, Esquires, true and absolute Proprietors of the Province of Pennsylvania and [the] 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 justices of the respective counties within this province shall at their next general quarter-sessions of the peace to be held for the county to which they belong next after the publication of this act proceed to divide their counties into eight districts or hundreds, allotting as near as may be an equal number of the adjacent townships to each district, and shall cause the clerk of the peace to enroll or preserve the same among the records or proceedings of the said court and to deliver to the sheriff of the respective counties an account of the several districts or hundreds within the county as divided by the justices aforesaid, with the names of the several townships in each of the said districts, all of which the said sheriff shall make known to the respective constables within his county with all expedition, that they may thereby be the better enabled to discharge their several trusts in pursuance of the directions of this act.

[Section II.] And be it further enacted, That the freeholders and others qualified to elect members of assembly in each township shall meet on the twenty-fifth day of September yearly, but if the same happen upon a first day of the week, then upon the next day following, 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 town-

ship 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 two in the afternoon the same day in the presence of the constable and such two freeholders as he shall call to his assistance, or in his absence the overseers of the poor, proceed by a majority of voices to nominate one able and discreet freeholder of 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 of the county 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. And the sheriff or other judge of the election, having then and there received the names of all the persons chosen for the respective townships within his county or so many of them as shall be delivered to him in manner aforesaid, he shall call to his assistance at least four freeholders of the county, and in their presence shall put all the names of the persons returned for each district into a separate box to be provided by him for that purpose; and shall likewise in the presence of the said freeholders call some indifferent person, who shall draw one name out of each box and deliver the same to the sheriff or other judge of the election, which being done the persons whose names shall happen to be drawn and being present shall for that year be the inspectors of the election and as such shall be published by the sheriff in the presence of the electors or so many of them as shall be present.

[Section III.] And be it enacted by the authority aforesaid, That it shall and may be lawful for the inhabitants of the respective wards of the city of Philadelphia qualified to vote for members of assembly to meet together at the time hereinbefore mentioned for the meeting of the inhabitants of the respective townships in this province, and at some convenient place within their respective wards to be appointed by the

constable of the ward to which he belongs, of which public notice shall be given in writing by affixing the same upon the court-house door in Philadelphia at least six days before the said twenty-fifth of September, and there shall in the presence of the constable of the ward and such two freeholders of the said ward as he shall call to his assistance proceed by a majority of voices to nominate one substantial freeholder of ability and integrity residing within the said ward, whose name when so chosen shall be taken in writing and certified by the constable and freeholders aforesaid to the sheriff of the county or other judge of the said election in the manner before directed for the constables of townships; and the sheriff shall put the names of all the persons so to him returned into a box and shall call some indifferent person, who shall draw four of the said names out of the said box and deliver the same to the sheriff, who shall read the same publicly in the presence of the electors then present. And the four persons whose names shall so happen to be drawn shall, together with the inspectors chosen out of the several districts of the said county, be the inspectors for that year for the election, and as such shall be qualified in the manner before directed for other inspectors, and the other six persons whose names shall remain in the box shall be the inspectors for that year for the city of Philadelphia and shall be qualified in manner aforesaid.

But before they 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 elections, 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 will truly and faithfully assist the sheriff, coroners 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 and cast up according to the direction of the before-recited act.

And the said inspectors shall and 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 act of assembly, unless the qualification of such elector be generally well known and 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, and no ticket so received shall be suppressed.

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

[Section IV.] Be it therefore enacted by the authority aforesaid, That the constables of the respective townships within the several counties of this province, 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 ten days before the said twenty-fifth 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 nominate 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 him in judging of the said nomination or in taking the poll if need be, and who together with himself shall certify to the sheriff of the county or other judge of the election under their hands that such person was nominated by a majority of lawful voices by the township to which he belongs, which nomination so made as aforesaid shall be delivered to the sheriff, &c., of the county to which they belong in the manner hereinbefore directed.

And if any constable or overseer of the poor, being the judge of such nomination as aforesaid, shall neglect to do the duty

hereby enjoined him or shall willfully misbehave himself in the execution of his duty, and being thereof legally convict, or if any of the persons so nominated and returned for any township within this province in the manner before directed shall neglect or refuse to give his attendance at the time and place of electing members of assembly, every such person so offending in any of the premises shall forfeit the sum of five pounds to any person who will sue for the same, to be recovered by action of debt in any court of record within this province [with costs of suit]; and if the person whose name shall happen to be drawn being called shall not appear, then the name of another person belonging to the same district shall be drawn and [he] shall be qualified and proceed to officiate as an inspector in the manner before directed in this act for inspectors.

[Section V.] And be it enacted by the authority aforesaid, That an act of assembly of this province, entitled "A supplementary act to the act for ascertaining the number of members of assembly and to regulate elections,"<sup>1</sup> and every article and clause therein shall be and is hereby repealed.

Provided always, That nothing herein contained shall be deemed or taken to alter or make void the said-recited act of general assembly made in the fourth year of the reign of the late Queen Anne or anything therein contained, but that every clause, article and sentence therein except what is hereby altered or supplied shall be and remain in full force and virtue as the same was before the making of this act or the aforesaid supplementary act hereby repealed.

This act to continue for the space of three years, and from thence to the end of the next session of assembly and no longer.

Passed May 19, 1739. See Appendix XIV, Section I, and the Act of Assembly passed February 3, 1742-43, Chapter 356.

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<sup>1</sup> Passed August 18, 1727, Chapter 296.