

ELECTIONS - MUNICIPAL AND OTHERS - RELATING TO

Act of May. 3, 1850, P.L. 666, No. 390

Cl. 11

AN ACT

Regulating the municipal and other elections in the city of Philadelphia, and to establish an uniform system of police for the city of Philadelphia and the districts of Southwark, Moyamensing, Spring Garden, Penn Township, the incorporated Northern Liberties and Kensington.

Section 22. Riotous assemblies; proclamation to disperse; penalty for failure to disperse; possession of firearms or deadly weapons

If any persons shall be unlawfully, riotously and tumultuously assembled together, to the number of twelve or more, so as to endanger the public peace of said police district, it shall be the duty of said marshal (the marshal of police.) in person, or in case of his absence or inability to command, of the officer then in command of said police, to go among the said rioters, or as near to them as he can safely go, and then and there with a loud voice make proclamation in the name of the Commonwealth, requiring and commanding all persons there so unlawfully, riotously or tumultuously assembled, and all other persons not being there on duty as police, immediately to disperse themselves and peaceably to depart to their habitations, or to their lawful business; and if such persons, notwithstanding such proclamation made, unlawfully, riotously or tumultuously remain or continue together, to the number of twelve or more after such proclamation made, then such continuing together shall be adjudged a misdemeanor, and the said offenders upon conviction thereof shall be sentenced to undergo a solitary confinement at labor in the county prison, for a period of not less than one month nor more than two years, and any person arrested upon whose person, or in whose possession shall be found firearms, or any other deadly weapon, shall be deemed guilty of an intention to riot, whether said fire-arms or deadly weapon shall be used or not, unless the contrary can be satisfactorily established, and punished accordingly. 1850, May 3, P.L. 666, Sec. 22.

Section 23. Officer may require assistance; may disperse, seize or apprehend rioters; use of necessary force

If after proclamation made as aforesaid, or if the said marshal or other officer of police so authorized as aforesaid, shall attempt to make such proclamation, and shall be prevented by force from making the same, then after such attempt made, if such persons so unlawfully, riotously or tumultuously assembled, shall continue together and not disperse forthwith, then it shall be lawful for the said marshal and police, and such other person or persons as shall be commanded to assist under said marshal, who is hereby authorized to command all ward constables, and citizens of age and ability to assist him therein to disperse, seize or apprehend such persons so unlawfully, riotously or tumultuously continuing together, after proclamation made or attempted to be made as aforesaid, and they are hereby required so to do, and to use all necessary force and means whatsoever for said purpose. 1850, May 3, P.L. 666, Sec. 23.

Section 24. Payment of persons assisting in suppression of riot

Every person not belonging to the police force or the military force, hereafter mentioned, who may be summoned, and aid and assist the said marshal in the suppression of any riot as aforesaid, in pursuance of the provisions of this act, shall

be paid by the commissioners of said County of Philadelphia, the sum of one dollar for each day or part of a day that he shall be so employed, upon presenting the certificate of said marshal that he was so summoned, and that he did so aid the officer as aforesaid. 1850, May 3, P.L. 666 Sec. 24.

Section 25. Suppression of riot by military force

If in any case the said marshal or other officer of police authorized as aforesaid, shall certify in writing to the major general or other commanding officer of the military division composed of said city and county, that there is an existing riot, tumult or unlawful assemblage within said police district or said county, which the said police force under his command is not in his opinion competent to suppress without further aid, and shall require the said major general or commanding officer to assist him with the military force under his command, and the said major general or commanding officer shall give the necessary orders to the effect, that such military force or such part thereof as he shall deem necessary, shall be mustered immediately into the service of the Commonwealth, and be subject to the laws applicable to such service, and shall proceed to any part of said city or county to restore the public peace, by suppressing such riot, tumult or unlawful assemblage, and by seizing and securing the offenders therein for trial and punishment according to law; and it shall be lawful for said military force to proceed in suppression of such riot, tumult or unlawful assemblage, as aforesaid, by such military force, and in like manner as in case of war or public insurrection, and the said military force shall continue and remain in service, and upon duty under military command and subordination until the said marshal shall certify in writing to the said major general or commanding officer, that said riot, tumult or unlawful assemblage is entirely suppressed; and the military body so called into service, shall be entitled to be paid while on actual duty as follows, to wit: Two dollars a day to the privates, non-commissioned officers and musicians, and four dollars a day to the commissioned officers, and two dollars a day for each horse employed, which sum shall include all expenses of subsistence; the amount thereof, together with the expense of their ammunition and artillery used on such duty, shall be paid out of the treasury of said county; but such military body shall not be required to march to the place of any such riot, tumult or unlawful assemblage, until after the said marshal or other person authorized by this act to make proclamation as aforesaid, in an audible voice, and as near to the rioters or persons unlawfully assembled as he can safely and with convenience go, shall have commanded such rioters or persons unlawfully assembled, and all other persons not being then and there on duty as police or a part of his posse, civil or military, to return to their lawful homes and business.

1850, May 3, P.L. 666, Sec. 25.

Section 26. Non-liability for killing or injuring rioters

After proclamation made or attempted to be made as aforesaid, and the continuance of the said unlawful, riotous or tumultuous assemblage, notwithstanding the same, the said marshal and police, and all and every person or persons so aiding and assisting them, and the said military force, shall be wholly discharged, held harmless and indemnified, as well against the Commonwealth as against all and every other person or persons for or concerning the killing, maiming or hurting of any such person or persons so unlawfully, riotously or tumultuously continuing together as aforesaid, that shall happen to be

killed, maimed or hurt in carrying out the provisions of this act. 1850, May 3, P.L. 666, Sec. 26.

Section 27. Requisition as evidence of necessity of military assistance

The requisition of the marshal made as aforesaid, or other officer of police authorized as aforesaid, upon the commanding officer of any division, brigade, regiment battalion or company, shall be conclusive evidence that the service of the military were necessary for the suppression of such riot, tumult or unlawful assemblage. 1850, May 3, P.L. 666, Sec. 27.

Section 28. Authority of other civil officers not impaired

Nothing in this act contained shall be construed in any way to impair, diminish or restrain the duty or authority of any sheriff, coroner, mayor, alderman, justice of the peace, or other officer in this commonwealth, to suppress riots and preserve the public peace; but on the contrary it is hereby expressly declared that the said power and duty, and all others, the powers and duties of the sheriffs, coroners, mayors and aldermen, justices of the peace and other officers, shall continue and remain in as full force as they now are at common law, or by virtue of any act of Assembly. Provided always however, that the police force and establishment hereby constituted shall be at all times subject to the order and control of said marshal or his officers, and any of them alone. 1850, May 3, P.L. 666, Sec. 28.

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 29. Neglect of duties or abuse of powers

The said marshal of police, lieutenants of police, and policemen hereby organized, for any neglect of their duties, or abuse of the powers hereby granted, shall, upon complaint duly made to the judges of the court of quarter sessions for the County of Philadelphia, by any citizen or other person aggrieved, be examined as to the justness of said complaint; and if upon examination said judges, or any one of them, shall be satisfied that there is sufficient cause to bind over, the said party or parties shall thereupon be bound over to take his or their trial for a misdemeanor in office; and upon conviction thereof, shall be punished as misdemeanors are now by law punishable. 1850, May 3, P.L. 666, Sec. 29.