

Wm. G. Smith, Jun. July 22, 1841

L A W S
OF THE
STATE
OF
DELAWARE,

FROM THE SEVENTH DAY OF JANUARY, ONE THOUSAND
EIGHT HUNDRED AND SIX, TO THE THIRD DAY
OF FEBRUARY, ONE THOUSAND EIGHT
HUNDRED AND THIRTEEN.

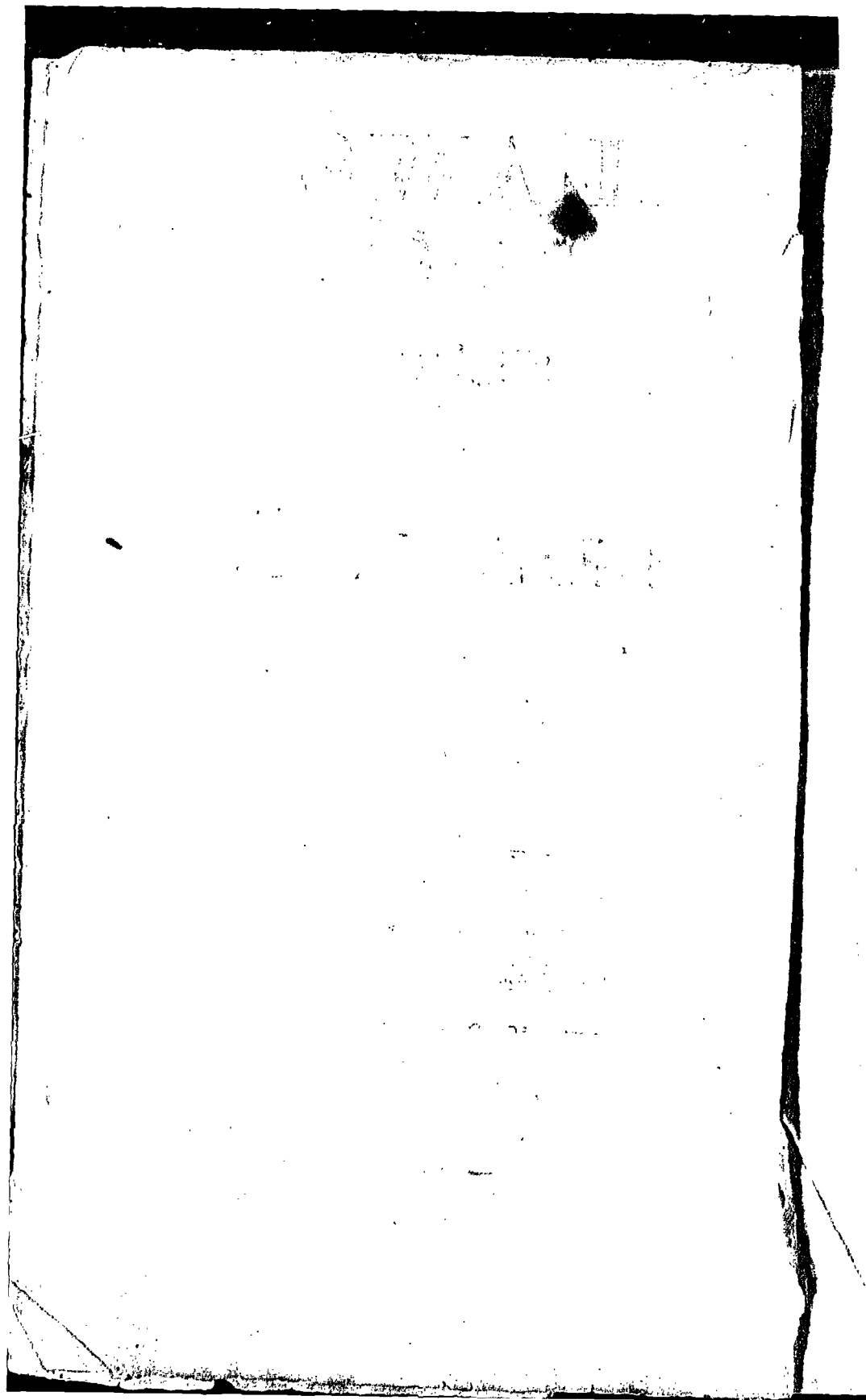
VOLUME IV.

Published by Authority.

WILMINGTON:

PRINTED BY M. BRADFORD AND R. PORTER.

1816.



L A W S

OF THE

STATE OF DELAWARE.

C H A P. I.

C H A P.

I.

1806

An ACT to change the name of Duck-Creek Cross-Roads, to Smyrna.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the village, situate in Duck-Creek hundred, in Kent county, now called and known by the name of Duck-Creek Cross-Roads, shall from and after the passing of this act, be called, taken and known by the name of Smyrna; and that all acts of the General Assembly of this State, deeds and other instruments of writing, in which Duck-Creek Cross-Roads aforesaid is named, shall be construed and taken to relate to the said village, hereby called Smyrna; and that in all legal proceedings, which may have any relation to the said village, or in which it may hereafter be necessary to use the name of the same, it shall be called Smyrna, instead of Duck-Creek Cross-Roads.

The name of Duck-Creek Cross-Roads changed to Smyrna.

Passed at Dover, Jan. 16, 1806.

CHAP.

II.

1806

CHAPTER II.

An ACT for enabling Joshua Jones to remove his mill and erect a dam on Swan-Creek, at a place one hundred and seventeen perches on the several water courses from said Jones' old mill, down said Creek, in Indian-River hundred, and county of Sussex ; and for the condemnation of two acres of land on the south-west side of said creek, at the place aforesaid.

Passed at Dover, Jan. 22, 1806.—Private act.

CHAPTER III.

Chap. 135, 3 vol.
p. 298.

A Supplement to an act, entitled, "An act, authorizing the distribution of certain public papers relating to lands in this State."

Certain public
papers from
Pennsylvania,
to be recorded.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the public papers, relating to lands in this State, which have been deposited, or hereafter shall be deposited in the several offices for recording of deeds for the counties of this State, respectively, under the authority, and according to the directions of the act, to which this is a supplement, which in any wise relate to or make the title or part of the title to any lands, tenements or hereditaments in the respective counties of this State, or which shall be deemed necessary or useful by such person or persons as shall be appointed in each of the counties of this State, to view and examine the said papers, which now remain upon the files in the several

offices for recording of deeds for the counties of this State respectively, shall within twelve months be recorded by the recorder of deeds for the respective counties of this State, in one or more well bound book or books in folio, by the said recorder of each county for that purpose to be provided; and the book or books wherein the said papers shall be so recorded, shall be deemed and taken as public records; and it shall be lawful for the recorders respectively to make out and grant exemplifications thereof, which shall be taken and received as evidence, in the same manner as exemplifications from the originals heretofore have been taken and received, and for each and every exemplification made from said record, the recorders respectively may ask and receive the same fees as they are entitled to receive for similar services by the act, entitled, "An act for regulating and establishing fees."

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III.
1806.

The books to be
deemed public
records.

Exemplifica-
tions thereof,
evidence.

SECT. 2. *And be it enacted*, That the governor be, and he is hereby authorized and required to appoint three persons in each of the counties of this State, whose duty it shall be carefully and diligently to examine the said papers, and report in writing to the recorder of the county, where they shall be appointed, all such papers as they, or a majority of them, shall deem useful and necessary to be recorded; and the said persons, to be appointed as aforesaid, or a majority of them in each county, are hereby authorized and required, when the recorder of the county, where they are appointed, shall have entered of record the papers by them to be selected as aforesaid, carefully and diligently to compare the said record with the originals, in their respective counties, and certify the same under their hands and seals in the said book or books, and make such allowance as they shall deem a reasonable compensation for the recording said papers, and the cost of procuring a book or books for that purpose; and the said persons, so to be appointed as aforesaid, shall draw, in their respective counties,

Governor to ap-
point persons to
examine and re-
port the papers
to be recorded,
&c.

Allowance for
recording.

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an order or orders on the treasurer of their respective counties for the payment thereof, which shall by him be paid and discharged out of the monies in his hands.

Compensation
to the persons
so appointed.

Their qualifica-
tion.

SECT. 3. *And be it enacted*, That the persons who shall be appointed as aforesaid, shall have and receive for their services, such sum or sums of money, as the Levy court of each county shall deem reasonable, not exceeding two dollars each; for each and every day they shall be engaged in the performance of the duties herein required of them; and they and each of them shall, before they enter upon the duties required of them by this act, take an oath or affirmation before some person lawfully qualified to administer the same; that they and each of them, will faithfully and diligently discharge the trust reposed in them.

Passed at Dover, January 23, 1806.

C H A P. IV.

A supplement to an act, entitled. "An act to authorize the owners and possessors of Hudson's Branch, and low grounds adjacent, situate in the forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same."

Passed at Dover, Jan. 23, 1806---Private act.

C H A P. IV.

C H A P.

V.

1806

An ACT to authorize the commissioners of the land office for the county of Sussex, to appoint a person to transcribe the caveat docket, in the county of Sussex.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the commissioners of the land office for the county of Sussex, and they are hereby authorized and required to cause the caveat docket, in the said county of Sussex, to be carefully copied and transcribed, under their care and direction, in one or more well bound books, in folio, to be provided for that purpose, by such person as they shall appoint, who shall have and receive such compensation therefor, as shall by the said commissioners of the land office be deemed reasonable; and the said commissioners of the land office are hereby authorized and required to draw an order on the treasurer of the said county of Sussex, in favour of the person by them appointed, for the payment of the sum by them allowed, which order the said treasurer is hereby required to pay and discharge; and the said caveat docket, when so transcribed and copied, shall be deposited in the recorder's office for the said county of Sussex, and shall be deemed and taken as a public record; and the recorder of the said county shall, after the said book or books is or are deposited in his office, enter therein, in a fair and legible hand, all proceedings of the commissioners of the land office for the said county, touching or concerning any caveat that may thereafter be entered before the recorder of the said county.

Commissioners of the land-office in Sussex, to cause the caveat docket to be copied.

Compensation.

How paid.

Copy to be a public record.

Proceedings of the commissioners to be entered, &c.

Passed at Dover, Jan. 23, 1806.

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VI.
1806

CHAP. VI.

Ante. chap. 70,
3 vol. p. 160.

An ACT to repeal part of an act, entitled, "An act to vacate and discontinue the street called Water-street, in the borough of Wilmington, from Market-street, westwardly, to the line of the said borough, and for other purposes."

Repeal of the
law vacating
part of Water-
street in the
borough of
Wilmington.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of the act, entitled, "An act to vacate and discontinue the street called Water-street, in the borough of Wilmington, from Market-street, westwardly, to the line of the said borough, and for other purposes," as renders it lawful for the burgess and assistants of the said borough, to shut up and cause to be vacated and discontinued, the said Water-street, eastwardly from Orange-street to Market-street, be, and the same is hereby repealed, made null and void.

Passed at Dover, Jan. 23, 1806.

CHAP. VII.

An ACT to enable Martha Noxon, administratrix of Benjamin Noxon, late of New-Castle county, deceased, to convey and assure unto Thomas Clayton, a certain lot of ground therein described.

Passed at Dover, Jun. 24, 1806---Private act.

C H A P. VIII.

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VIII.
1806

An ACT authorizing the administrators of James McClyment, deceased, to convey a certain piece of ground, therein recited, unto Benjamin Brady.

Passed at Dover, Jan. 24, 1806—Private act.

C H A P. IX.

An ACT to authorize Mary Kean, Matthew Kean and John Stockton, administrators of Thomas Kean, deceased, to convey a certain lot of ground to William Miller.

Passed at Dover, Jan. 24, 1806—Private act.

C H A P. X.

An ACT for raising the sum of one thousand dollars, by a Lottery, for the purpose of repairing the causeways near Frederica, on the State road from Dover to Milford.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the managers, herein after appointed, to institute, carry on and draw a lottery

Lottery to repair the causeways at Frederica.

B

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For raising the sum of one thousand dollars, clear of all expenses; and the said sum, when so raised, shall be applied to the raising and repairing the causeways over the marsh or cripple of Murderkill creek, near Frederica.

Managers appointed.

SECT. 2. *And be it enacted*, That Andrew Barratt, Peter Lowber, Samuel White, M'Kimmey Smack and Perry Boon, or the survivors of them, shall be, and they are hereby appointed managers of said lottery, who and each of whom, before they enter upon the duties required by this act, shall give bond to the treasurer of this State in the sum of two thousand dollars, conditioned for the faithful discharge of the trust reposed in them by this act.

To give bond.

Their duty.

SECT. 3. *And be it enacted*, That the said managers shall publish, in at least one newspaper in this State, for the space of six weeks, and if they deem it necessary, in newspapers out of this State, the scheme of said lottery, as soon after the same is agreed on as may be convenient; and on or before the second Tuesday in October next, if at that time a sufficient number of tickets shall have been sold, and if not, as soon thereafter as conveniently may be, proceed to the drawing and finishing the said lottery, and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within one year after the drawing of said lottery; but if not demanded within the time aforesaid, the said prizes shall remain in the hands of said managers, to be applied by them to the repair and support of the causeways, as aforesaid.

Forfeited prizes, how applied.

Managers to direct the expenditures,

And report

SECT. 4. *And be it enacted*, That the managers aforesaid, shall superintend and direct the expenditure of the said sum raised by said lottery, or so much thereof as they may find necessary for the raising and repairing said causeways as aforesaid, and shall make report of their expenditure on said

causeways, according to the direction of this act, as soon thereafter as reasonably may be, to the Levy court of Kent county, whose duty it shall be to examine and adjust said accounts, and see that the money is rightfully expended according to the direction of this act, allowing the said managers on said settlement to be made with them seven and an half per cent. commissions for the actual sum raised by said lottery, and expended on the causeways as aforesaid.

thereof to the
Levy court,

and by them to
be allowed com-
missions.

SECT. 5. *And be it enacted,* That if after two years from the drawing said lottery, there shall remain in the hands of said managers, any sum or sums of money raised as aforesaid, unexpended on said causeways as aforesaid, it shall be their duty, and they are hereby directed and required to pay the same to the treasurer of Kent county, to be appropriated by the Levy court aforesaid, as the public necessities may require.

Unexpended
sum to be paid
over to the
county treasur-
er, &c.

SECT. 6. *And be it enacted,* That if the tickets shall not be sold within two years after the publication of the scheme of said lottery, the managers aforesaid shall return and pay over to every person or persons, on demand, the respective sums that may have been received for tickets sold in said lottery.

If the lottery be
not drawn, ad-
venturers to be
repaid.

Passed at Dover, January 27, 1806.

CHAP.
XI.
1806

C H A P. XI.

An ACT to incorporate a company for the purpose of erecting a stone arched bridge over the Brandywine creek.

Preamble.

WHEREAS, a number of the inhabitants of the county of New-Castle have petitioned the General assembly of this State, to incorporate a company for the purpose of erecting a stone arched bridge over the Brandywine creek, at the end of Market-street, in the borough of Wilmington, to unite with the main post-road through the hundred of Brandywine; and it appearing to this General assembly, that the completion of such a work will be of public utility,...

Commissioners appointed,

To open books for subscriptions.

Conditions thereof.

SECTION 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Thomas Lea, William Poole, Joshua Wollaston, Moses Rea and James Canby, or any three of them, be, and they are hereby appointed commissioners to do and perform the several duties herein after mentioned: that is to say, they shall and may, on or before the first day of May next, procure one or more books, as they shall think necessary, for the purpose of receiving subscriptions to defray the expense of building the said bridge, and shall therein enter a promise or engagement to the following effect, viz.* We, whose names are hereunto subscribed, do promise to pay to the president, directors and company of Brandywine bridge, in addition to the sum of ten dollars, paid at the time of subscribing, for every share of stock in the said company set opposite to our names, the further sum of forty dollars, making in the whole fifty dollars, for each share, in such manner and proportions, and at such times and places as shall be determined by the president and directors, chosen in pursuance of an act of the

General assembly, entitled, "An act to incorporate a company for erecting a stone arched bridge over the Brandywine-creek;" and shall thereupon proceed to receive subscriptions for the stock of the said company, the capital whereof is hereby declared and intended to be twenty thousand dollars, divided into four hundred shares; and the said commissioners shall cause the said books to be opened, for the purpose of receiving subscriptions, and shall appoint a certain day and place for that end, of which public notice shall be given, by printed advertisements, at least twenty days before the day so appointed, when and where the said books will be opened to receive subscriptions to the stock of the said company, at which time and place two or more of the said commissioners shall attend, and shall permit and suffer all persons who shall offer to subscribe in the said books, (which shall be kept open for the purpose at least six hours in every juridical day,) for the space of three days successively, if three days shall be necessary; and on the first of the said three days any person, of the age of twenty-one years, shall be at liberty to subscribe in his own name or any other name or names, by whom he shall be authorized by a power of attorney in writing, for one share; on the second day, for one or two shares; on the third day, for one, two or three shares; and on any succeeding day, while the books shall remain open, for any number of shares in the said stock: *Provided always*, That every person, offering to subscribe in his own name, or any other name, shall previously pay to the attending commissioners ten dollars, for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges properly incurred anterior to the first meeting of the stockholders, and the remainder shall be by the said commissioners forthwith paid over to the Bank of Delaware, for the use of the president, directors and company aforesaid, as soon as the said company shall be organized.

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Capital and No.
of shares.

Time and place
for receiving
subscriptions to
be notified

Books how long
to be kept open.

Manner of sub-
scribing.

Proviso.

Incorporation of
the company.

Style & powers.

SECT. 2. *Be it enacted*, That when two hundred shares of the said capital, or any greater number of shares, shall be subscribed as aforesaid, the said subscribers, and those who may thereafter subscribe, and their successors, at and from their first meeting shall be, and they are hereby declared to be one body politic and corporate in deed and in law, by the name, style and title of the president, directors and company of Brandywine bridge; and by the said name, the said subscribers shall have perpetual succession, and have power to make and use a common seal, and to alter and renew the same at their pleasure, and shall have all privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time by new subscriptions in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the interest of this act, and of taking, purchasing and holding to them and their successors, in fee simple, or for any less estate, all such lands, tenements, hereditaments and estates, real and personal, as shall be necessary and convenient to them in the prosecution of their works, and the same to sell and dispose of at their pleasure, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

President and
directors to be
elected.

SECT. 3. *Be it enacted*, That the commissioners aforesaid shall within ten days after receiving subscriptions for two hundred shares as aforesaid, give public notice, by printed advertisements, of a time and place of meeting of the subscribers, by them to be appointed, not less than twenty days from the time of issuing the said notice, and at which time and place the said subscribers shall meet, and proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers present at the said meeting, by ballot, to be delivered in person or by proxy, duly au-

thorized, one president and six directors, to conduct the business of the said company for one year, and until others shall be chosen, and may make such bye laws, rules, orders, and regulations, not inconsistent with the laws of this State, as shall be necessary for the well ordering the affairs of the said company : *Provided always*, That no person shall have more than ten votes at any election, or in determining any question arising at such meetings, whatever number of shares he or she may be entitled to, and that each person shall be entitled to one vote for every share by him or her held under the said number.

To continue for one year, &c.

powers, &c.

proviso.

SECT. 4. *Be it enacted*, That after the first meeting, the said stockholders shall meet on the first Tuesday in May, anno domini, one thousand eight hundred and seven, and on the first Tuesday in May in every succeeding year, at such place as shall be fixed by the rules and orders of the said company, to be made as aforesaid, for the purpose of choosing such officers as aforesaid, for the ensuing year.

Stockholders to meet annually.

SECT. 5. *Be it enacted*, That the president and directors, first to be chosen as aforesaid, shall procure written or printed certificates for all the shares of the said company, and shall deliver one such certificate, signed by the president and countersigned by the secretary, and sealed with the seal of the said corporation, to each person for every share by him or her subscribed or held; which certificate shall be transferable at such person's pleasure, in person or by attorney, in the presence of the president or of the secretary, subject however to the instalments due, and that may grow due thereon, and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for that purpose, shall be a member of the corporation, and for every certificate so held shall be entitled to one share of the capital stock, and of all the estates and emoluments

Certificates of shares to be made.

By whom to be signed.

In what manner transferable.

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of the company, and to vote as aforesaid at the meetings thereof.

Meeting of the
president and
directors.

Quorum, &c.

Elective officers

General powers
and duties pre-
scribed.

Plan of the
bridge, &c.

SECT. 6. *Be it enacted*, That the president and directors shall meet at such times and places, and be convened in such manner for transacting their business, as shall be agreed on at such meetings; three members with the president (or in his absence a director appointed by him to act as president) shall be a quorum; they shall keep minutes of all their transactions, fairly entered in a book, and shall have full power and authority to appoint a secretary and such other officers as they shall think necessary to carry on the work of the said bridge, and to fix their salaries and other wages, to ascertain the times, manner and proportions, in which the stockholders shall pay the money due on their respective shares, in order to carry on the said work; to draw orders for all money to pay the salaries or wages of persons by them employed, and for the materials procured and labour done; provided that all such orders shall be signed by the president or in his absence by a majority of a quorum of the directors, and to do and to transact all other matters and things as by the bye laws, orders and regulations of the company shall be committed to them; and the said president, directors and company shall within five years erect or cause to be erected, in a permanent and workman-like manner, a good and substantial stone-arched bridge across the Brandywine creek, as to them shall seem adequate and proper, extending from the end of Market-street in Wilmington, which said street shall be opened and established according to the plan or ground plot of the borough, to ground most suitable and convenient on the opposite side of the creek to communicate with the State road leading to Philadelphia... The said bridge to consist of one or more arch or arches with stone abutments, and one or more pier or piers, if necessary; the width of the bridge to be, at least, thirty feet

SECT. 7. *And be it further enacted,* That if the said president and directors shall have occasion for any lands for the scite or for any permanent use of the said bridge, or for a road to communicate with the State road leading to Philadelphia, it shall and may be lawful for the said president and directors to apply by petition to the Court of Quarter Sessions of the peace for New-Castle county, to appoint five freeholders to go to or upon the ground and view the same, and to determine whether the land described is necessary for the purpose mentioned in the petition; and the said court is hereby authorized to make such appointment, and the freeholders so appointed shall forthwith after their appointment go to or upon the land described in the petition, being first sworn or affirmed, to the faithful and impartial execution of the duty committed to them; and if, upon viewing the land, they or a majority of them should be of opinion that the same is necessary for the scite of the said bridge, or any permanent use of the bridge, or for a road to communicate with the State road leading from Wilmington to Philadelphia, they shall assess the true value thereof, and make return of their proceedings to the said court, and the same being approved of by the court, and the money assessed as the value of the land being paid or tendered to the party entitled to receive the same, the said proceedings shall be confirmed, and from thenceforth the said land shall be held by the said corporation, in fee simple, for the use or uses for which it shall be so judged necessary.

How lands for any permanent use of the bridge may be obtained.

SECT. 8. *Be it enacted,* That if any stockholder, after twenty days public notice given in printed advertisements of the time and place appointed for the payment of any portion or instalment of the said capital stock, shall neglect to pay such proportion at the time so appointed, and for the space of thirty days thereafter, then and in such case each and every share, the proprietor whereof shall

Shares when the payment of any instalment is neglected, to be forfeited;

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May be sold,
and subscribers
shall be liable
for deficiencies.

Accounts of re-
ceipts and ex-
penditures to be
kept;

And submitted
annually to a
meeting of the
stockholders.

Capital, not suf-
ficient, may be
increased.

In what way.

neglect to pay any instalment due as aforesaid, shall be forfeited to the use of the company, and may be sold by the president and directors, at public auction, for such sum as the same will bring, and the purchaser shall be entitled to a certificate and all other rights as in case of an assignee; and moreover, in case any share should sell for less than sufficient to pay the sum due thereon, the subscriber shall be liable to pay the amount deficient, to be recovered as other debts of the same amount.

SECT. 9. *Be it enacted*, That the president and directors of the said company, shall keep fair and just accounts of all monies received by them from the said commissioners, and from the subscribers to the said undertaking, and of all voluntary contributions and other monies received for account of the erecting or redeeming the said bridge; and also of all monies by them expended in the prosecution of the said work; and shall, at least once in every year, submit such accounts to a general meeting of the stockholders, until the said bridge be completed, and until all the costs, charges and expenses for effecting the same shall be fully paid and discharged, and the aggregate amount of all such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the company shall be nearly expended, it shall be found that the said capital is not sufficient to complete the said bridge according to the true intent and meaning of this act, it shall and may be lawful for the said president, directors and company, at a stated or special meeting, to be convened according to the provisions of this act, or their own bye laws, to increase the said capital stock, either by increasing the number of shares or by such per centum on each original share as shall be deemed sufficient to accomplish the work, and to demand and receive the amount of such new shares or additional per centum on each share in like manner and under the like penalties as herein before provided for the original subscriptions; and if after the said bridge is

completed, it shall be found that more monies shall remain than are necessary for the payment of all charges and expenses incurred in and about the erecting the said bridge, the surplus shall be returned as part of the dividend due and payable to the stockholders respectively.

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Surplus, how-
disposed of.

SECT. 10. *Be it enacted,* That the property of the said bridge, to be erected as aforesaid, over the said Brandywine-creek, at the place herein before mentioned, shall be vested in the said president, directors and company, and their successors, subject to redemption as herein after provided, and the said president, directors and company, and their successors, may demand and receive toll from travellers and others, agreeably to the following rates, which shall be written or printed, and published and placed in or near the said bridge, for the information of passengers, viz:—For every coach, landau, phaeton, or other pleasurable carriage with four wheels, drawn by four horses, the sum of twenty cents, and so in proportion if more horses are added, and for the same carriages with two horses, the sum of twelve and an half cents, and with one horse, ten cents; for every waggon with four or more horses, the sum of seventeen cents, and for every carriage of the same description, drawn by two horses, the sum of twelve and an half cents; for every chaise, riding-chair, sulkey, cart, or other two wheel carriage, or a sleigh or sled, with two horses, the sum of ten cents, and so in proportion if more horses are added to the number herein mentioned, and for the same with one horse, the sum of six cents; for a single horse and rider, the sum of two cents; for every horse or mule, without a rider, the sum of one cent; for every foot passenger, the sum of one cent; for every head of horned cattle, the sum of one cent; for every living sheep and swine, the sum of half a cent: *Provided* always, That any of the inhabitants of the State of Delaware (excepting as to public stages and hacks,) shall have the privilege of agreeing with the said

Property vested
in the president,
&c.Who may de-
mand toll.

Rates thereof.

Provido.

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Tolls exceeding
twelve per cent.
the excess to
compose a fund
for the redemp-
tion of the
bridge.

The fund being
inadequate, the
State may sup-
ply the deficien-
cy.

president and directors for a free passage in commutation of their toll at any sum not exceeding eight dollars per annum ; and when the tolls shall exceed twelve per cent. nett annual profit, the excess shall compose a fund for the redemption of the bridge, so as to render it a State bridge.... This excess shall be laid out in bridge-stock, or in other productive funds, or on private securities, and the annual product of this surplus fund shall be added to the fund, and all private donations for redeeming the bridge, shall also be received and invested in like manner for the benefit of the surplus fund, and if by the operation of the said surplus fund there shall be a sufficient sum to redeem the bridge at a period less than twenty-five years, then it shall be redeemed and become the property of the State, by the application of the said fund to the discharge of the capital of the said company, by paying to the stockholders the amount of money paid on the respective shares to the company, and if the said fund shall not be adequate to the purpose last mentioned, the State may at the expiration of the said twenty-five years from the time the bridge was completed, make it a State bridge, by supplying any deficiency in the said surplus fund and rendering it adequate to the discharge of the capital of the said company in manner aforesaid ; but if the said bridge shall not be redeemed and paid for, and so made a State bridge as aforesaid, before or at the expiration of the said term of twenty-five years, the said corporation may and shall continue to hold the same on the terms of this act beyond the said term, and until the same shall be redeemed and paid for in manner herein directed.

SECT. 11. *Be it enacted*, That in fixing the tolls of all carriages drawn wholly or in part by oxen, two oxen shall be estimated equal to one horse.

Commutation
for a free pas-
sage, &c.

SECT. 12. *And be it enacted*, That from and after the said bridge shall be redeemed and become the property of the State, as aforesaid, any of the inha-

bitants of this State (excepting as to public stages and hacks) shall have the privilege of agreeing for a free passage over the said bridge, in commutation of their toll, at any sum not exceeding two dollars per annum.

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SECT. 13. *Be it enacted*, That if the said president, directors; and company, or their successors, or any person by their authority, shall collect or demand any greater rates or prices for passing over said bridge, than what are herein before prescribed and specified, or shall neglect to keep the said bridge in good repair, on ten days notice given by or from any two justices of the peace of the county of Newcastle, the person or persons so offending, shall for every such offence forfeit and pay the sum of thirty dollars, one moiety thereof for the use of the poor of the said county, and the other moiety for the use of the person who may sue for the same : *Provided always*, That no suit or action shall be brought, unless within thirty days after such offence shall be committed.

Penalty for demanding greater tolls than prescribed ;

Or neglecting to keep the bridge in repair :

Appropriation thereof.

Proviso.

SECT. 14. *Be it enacted*, That the said president, directors and company, shall also keep a just and true account of all money received by their several respective collectors of tolls for crossing the said bridge, and shall make an half yearly dividend of the profits and income thereof among all the stockholders, (not exceeding for one year twelve per cent. on the capital stock,) deducting first therefrom all contingent costs and charges, and shall on every first Monday in the month of April and October of every year publish the dividend to be made of the said clear profits thereof among the stockholders, and of the time, not exceeding ten days, and the place when and where the same shall be paid, and shall cause the same to be paid accordingly.

Accounts to be kept of all monies received by collectors ;

Dividends to be made, and notice given thereof, &c.

SECT. 15. *Be it enacted*, That the president and directors shall within every year from the completion of the said bridge lay before the General as-

President, &c. to lay accounts before the Assembly.

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sembly an abstract of their accounts, shewing the whole of the capital expended in the prosecution of the said work, and of the income and profits arising from the said bridge for and during the said respective periods, with the statement of the fund for redeeming the bridge, together with an exact account of the costs and charges of keeping the said bridge in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained.

In what case the rights, &c. hereby granted, may be resumed.

SECT. 16. *Be it enacted*, That if the said company shall not proceed to carry on the said work, within the space of two years after they have been incorporated, or shall not within the space of five years from the passing of this act complete the said bridge, it shall and may be lawful for the Legislature of this State to resume all and singular the rights, liberties and privileges hereby granted to the said company.

Penalty for injuring the bridge;

SECT. 17. *Be it enacted*, That if any person or persons shall wilfully or without the orders of the said president and directors pull down, break or destroy with intent to injure any part or parts of the said bridge, or of any abutment, pier or piers, of any of the toll houses, gates, bars or other property of the said corporation appurtenant to or erected or made for the use and convenience of the said bridge, or the persons employed in conducting the business thereof, or shall wilfully, without the orders and consent of the corporation, or any person or persons authorized by them, obliterate, deface or destroy the letters, figures or other characters in any written or printed list of the rates or tolls affixed or to be affixed in any place or places for the information of passengers and others, or who shall wilfully and maliciously obstruct or impede the passage on or over the said bridge, or any part or parts thereof, he, she or they so offending, and each of them, shall forfeit and pay to the said president, directors and company the sum of thirty dollars, to

For defacing the list of tolls;

Or obstructing the passage over said bridge.

be sued for and recovered before any justice of the peace in like manner and subject to the same rules and regulations as debts under twelve pounds may be sued for and recovered, and he, she or they so offending, may and shall remain liable to actions at the suit of the president, directors and company for further damages for such torts, if the said sum or sums herein mentioned be not sufficient to repair and satisfy such damages.

How to be recovered.

SECT. 18. *Be it enacted*, That so soon as the bridge aforesaid shall be completed, and the road extended from the eastern end thereof to unite with the present State road passing through the hundred of Brandywine to the city of Philadelphia, that then it shall be the duty of the said president and directors, and they are hereby required to certify the same to one of the commissioners of the roads for the hundred of Brandywine, or of Christiana, who shall immediately give notice thereof to the other commissioners of roads of the said hundreds, and thereupon three or more of the said commissioners shall forthwith proceed to view and examine the said bridge, and if after such examination the said commissioners, or any three of them, should be of opinion that the bridge is in a condition suitable for the safe passage of horses and carriages, they shall certify the same accordingly under their hands, and deliver the certificate to the president of the said company, and a duplicate of the said certificate shall be delivered to the Levy court of New-Castle county, and thereupon the said president and directors, or the said Levy court, shall have power to cause to be taken down and wholly removed the wood work, and piers of the bridge at present erected over the said creek, at the Brandywine mills; and from thenceforward the said bridge shall not be repaired or set up, nor shall any other bridge or bridges be erected over or across the said creek at or near the State road before mentioned.

Bridge when completed to be examined, &c.

Old bridge to be removed.

Passed at Dover, January 28, 1806.

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C H A P. XII.

An ACT to vacate part of a public street in the village of Milford.

Passed at Dover, Jan. 28, 1806---Private act.

C H A P. XIII.

An ACT to establish the name of a village in the Western part of Duck-creek hundred, heretofore by some called Grog-Town, and by others Lewis' Cross-Roads.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after passing this act, the village, heretofore called by some Grog-town, and by others Lewis' cross-roads, shall be known and called Kenton; any law, usage or custom to the contrary notwithstanding.

The name of
Grog-town
changed to
Kenton.

Passed at Dover, Jan. 28, 1806.

C H A P. XIV.

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A further supplement to an act, entitled, "An act to enable the owners and possessors of the several tracts of meadow, marsh and cripple, on Augustine Creek and Silver Run, in New-Castle county, to make and keep the banks, dams and sluices in repair; and to raise a fund to defray the yearly expenses accruing thereon.

Passed at Dover, Jan. 29, 1806---Private act.

C H A P. XV.

A supplement to an act for establishing a market in the town of New-Castle; for appointing a clerk of the market, and directing the assize of bread.

Chap. 71. a.
1st vol. p. 183.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, Tuesday and Friday of each week, and no other days, shall be deemed the regular market days in the town of New-Castle.

Market days
established.

SECT. 2. *Be it enacted, That the clerk of the market, hereafter to be elected for the town of New-Castle, shall before he enters upon the execution of the duties of his office, give a bond to the commissioners, with such security as shall be approved by a majority of the commissioners of the town of New-Castle for the faithful performance of the duty required of him, and for the paying over to the*

Clerk to give
bond.

D

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treasurer of the said town one moiety of the rents of the stalls in the said market.

Parts of chap.
71, a. repealed.

SECT. 3. *Be it enacted*, That so much of the act, entitled, "An act for establishing a market in the town of New-Castle, for appointing a clerk of the market, and directing the assize of bread," as is hereby altered, supplied or amended, shall be and the same is hereby repealed, made null and void; any thing in the said act to the contrary notwithstanding.

Passed at Dover, Jan. 30, 1806.

CHAP. XVI.

An ACT to authorize Sarah Maxwell, administratrix of Bethwell Maxwell, deceased, to convey and assure a quantity of land, therein mentioned, to William Smith.

Passed at Dover, Jan. 30, 1806---Private act.

CHAP. XVII.

An ACT to authorize the administrators of James M^c Clyment, to convey a certain house and lot of ground, in the Village of Camden, in Kent county, unto Thomas Paine.

Passed at Dover, Jan. 30, 1806---Private act.

C H A P. XVIII.

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A supplement to the act, entitled, "An act authorizing certain commissioners therein named to view the road leading over Appoquinimink bridge and causeway, and to alter and change the same."

Chap. 170, 3d.
vol. p. 371.

WHEREAS, it hath been represented to this General assembly, that the road proposed to be established by the return of the commissioners appointed by the act, entitled, "An act authorizing certain commissioners therein named, to view the road leading over Appoquinimink bridge and causeway, and to alter and change the same," will if finally established be of great injury to private property through which the same will run, and be of considerable disadvantage to the public; therefore—

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That on application to the judges of the court of general quarter sessions of the peace for the county of New-Castle, by any person or persons, the said judges are hereby empowered and required to nominate and appoint five good and substantial freeholders to review the said road proposed by the commissioners aforesaid, and to ascertain and determine whether the same shall be finally confirmed and established; and if the said freeholders, or a majority of them, upon reviewing the premises, shall not think that the same ought to be finally confirmed and established, then they, or a majority of them, are hereby authorized and empowered to make such alterations and changes in the road leading from Drawyer's bridge to Blackbird, over Appoquinimink bridge and causeway, and to ascertain and determine where a new bridge and causeway shall be erected as they may think proper and necessary, so as to

Freeholders
to be appointed
to review the
road, &c.

Their powers,
&c.

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Return to be
made ;

What it shall
contain ;

If confirmed,
shall be conclu-
sive.

Freeholders to
assess dama-
ges, &c.

Road, when
established, un-
alterable.

Expense and da-
mage, how paid.

be most advantageous to the public, and least injurious to individuals, and to employ such surveyor or surveyors, labourers and workmen as they shall think necessary in plotting and laying out the same ; and that the said freeholders, or a majority of them, shall make a return of their proceedings into the office of the clerk of the peace for the county of New-Castle, describing the said road in writing, under their hands, with courses and distances, and the place where the said public bridge shall be erected as aforesaid, with a fair map or plan thereof, which said return when received and confirmed, the said clerk shall enter on record in his office without delay, and the same shall from thenceforth be deemed, taken and allowed to be a State road, and the proceedings of the said freeholders shall be final and conclusive.

SECT. 2. *And be it enacted*, That if the said road, so as aforesaid to be laid out and established, shall pass through the improved lands of any person or persons, then and in such case the said freeholders or a majority of them, shall truly and faithfully assess the damages sustained by the owner or owners of such improved land, by reason of the said road being laid out through the same, and report the said damages so to be assessed in their return to be made as aforesaid.

SECT. 3. *And be it further enacted*, That the said road, when so as aforesaid recorded and established, shall remain unalterable as other parts of the said State road within the said county ; that the expense of laying out, returning and recording the same, shall be paid by the person or persons applying for the said review, and the damages aforesaid, if any, shall be defrayed by the said county, and shall be adjusted by the Levy court and paid as other public debts ; and that the same road shall afterwards be opened, cleared, made and supported in the same manner that other State roads within the said county are by the laws of this State ; and that from

and after the said road, so to be laid out, shall be opened and put in good order, that part of the present road, in lieu of which the said road shall be so laid out by the said commissioners, shall be vacated.

Old road to be vacated.

SECT. 4. *And be it enacted*, That the Levy court of the county of New-Castle, at their meeting next after the laying out of the said road, or as soon thereafter as may be, shall provide for the making and erecting, without delay, a good and sufficient bridge over Appoquinimink creek, aforesaid, at the place designated by the freeholders in their return, which shall be deemed to be a public bridge, and shall be of the same breadth and sufficiently railed in as other public bridges within the same county are directed to be by the laws of this State, and in like manner shall be afterwards supported and maintained, and the expenses thereof shall be raised as other county rates and levies are by law : *Provided nevertheless*, That if the said commissioners shall deem it necessary, the bridge, so to be made and erected, shall be constructed with a draw of sufficient width for the free passage of all vessels.

Levy-court to provide for erecting a bridge.

Dimensions thereof.

How to be supported.

Proviso.

SECT. 5 *And be it enacted*, That if the said freeholders or a majority of them, be of opinion upon the said review, that it will be best and most to the public advantage that the old road should remain as it now runs over the present bridge and causeway, they are also hereby required to make return thereof to the office of the said clerk, which said return the said clerk shall enter on record in his said office without delay ; and that the same road shall afterwards be repaired and supported in the same manner as other State roads within the said county of New-Castle are by the laws of this State ; and that the said bridge shall also be deemed and taken to be a public bridge, free from toll, and shall be repaired and supported as other public bridges within the said county are by the laws of this State.

Old road to remain, if most to the public advantage.

And to be supported.

Bridge to be free.

Penalty for obstructing the road,

Or for injuring bridge.

SECT. 6. *And be it enacted,* That if any person or persons shall obstruct the aforesaid State road, to be laid out and returned as aforesaid, or shall turn or commit any nuisance therein, and do not remove the same forthwith, such person or persons so offending and being duly convicted thereof, shall be fined in any sum not exceeding five dollars, to be applied to the removing such nuisances and repairing the public roads within the hundred where the offence shall be committed; and if any person or persons shall wickedly and maliciously cut down, break or injure the aforesaid public bridge, and shall be duly convicted thereof in the court of General quarter sessions of the peace for the said county, every such person so offending shall be fined in any sum not exceeding five dollars, and shall moreover be compelled to pay such further sum or sums of money as may be sufficient to repair the damage done to the said bridge.

Compensation to reviewers ;

To surveyor, &c.

SECT. 7. *And be it enacted,* That each of the freeholders, appointed by the court as aforesaid, for the services herein and hereby required of him, shall receive for his trouble and services in attending to the said business, one dollar per day ; the surveyor, two dollars while attending on the freeholders, and eight dollars for his plot and return ; and the chain-carriers and other necessary workmen, each sixty-seven cents per day, to be allowed and taxed by the court of quarter sessions aforesaid.

Freeholders to be qualified ;

And to give notice of their meeting.

SECT. 8. *And be it enacted,* That the freeholders appointed as aforesaid, shall before they enter upon the duties by this act enjoined them, respectively, take an oath or affirmation before some judge of this State, or justice of the peace of the county, for the true and faithful performance of the same ; and shall also cause ten days notice to be given of the time they shall meet and proceed in the discharge of the said duties, by affixing three or more advertisements in the most public places in the hundreds

of St. George's and Appoquinimink, in the said county of New-Castle.

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Passed at Dover, Jan. 31, 1806.

CHAP. XIX.

An ACT to authorize the owners and possessors of Ingraham's branch, and low grounds adjacent, situate in the forest of Mispillion hundred, in Kent county, to cut a ditch or drain through the same.

Passed at Dover, Jan. 31, 1806.—Private act.

CHAP. XX.

An ACT to separate Elizabeth O'Neil, the wife of Henry O'Neil, from the bed and board of the said Henry O'Neil; and for other purposes.

Passed at Dover, Jan. 28, 1806.—Private act.

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C H A P. XXI.

An ACT to regulate certain proceedings in the court of Chancery; in the Orphans' court, and in the Register's court; and to compel justices of the peace to furnish copies of their records.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That after bill filed, and the appearance of the defendant or defendants, entered in any suit commenced in the court of Chancery, all the subsequent pleadings and proceedings in every such suit, to the making the decree, shall be regulated and enforced by rules laid, or such process as the chancellor may award and order, and for the non-compliance with any such rules, decrees may be made, bills may be dismissed, or be taken pro-confesso according to the circumstances of the case; and the return of all process shall be enforced by rules, and by such subsequent process and proceedings as may ensure a compliance with such rules, and the execution and return of such process. And it shall and may be lawful for the chancellor to make all such rules and orders as may be necessary for the better regulating the practice of the court of Chancery, and of the Orphans' court, for the return of all writs, commissions and other proceedings in said courts, respectively, entering rules thereon, and on the sheriff's, register's, and clerk's filing all pleadings subsequent to the bill, and all other regulations necessary for the bringing forward and expediting the hearing of causes, and for compelling a compliance with the decrees and sentences of said courts.

Pleadings, &c. to be regulated by rules.

Manner of proceeding if non-complied with.

Chancellor may make rules, &c.

No writ of proclamation or commission of rebellion to issue.

SECT. 2. *And be it enacted by the authority aforesaid, That no writ of proclamation or commission of rebellion shall be issued; but that after one or more writs of attachment or distringas, and return*

thereto, the court may, on motion, award a sequestration according to the nature and circumstances of the case.

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SECT. 3. *And be it enacted by the authority aforesaid,* That if in any suit which shall hereafter be commenced in the court of Chancery, any defendant or defendants against whom any subpoena or other process shall issue, which shall have been delivered to the sheriff thirty days before the return thereof, shall not cause his, her or their appearance to be entered upon such process within such time, and in such manner as, according to the rules of the court, the same ought to have been entered in case such process had been duly served; and an affidavit or affidavits shall be made to the satisfaction of the court, that such defendant or defendants is or are out of the State, or that upon inquiry at his, her or their usual place of abode, he, she or they could not be found, so as to be served with such process, and that there is just ground to believe that such defendant or defendants is or are gone out of the State, or has absconded to avoid being served with the process of such court; then and in such case, the said court may make an order directing such defendant or defendants to appear at a certain day therein to be named; and a copy of such order shall, within thirty days after such order made, be inserted in such newspaper or newspapers, published in this State, and in such other newspapers as the chancellor may direct, and shall be continued in such newspapers for the space of three months next after its first publication: and a copy of such order shall within the said thirty days be posted up in the office of the register of the court of Chancery, and at the court house door of the county in which the order was made. And if the said defendant or defendants shall not appear within the time limited by such order, or within such further time as the court shall appoint, then on proof made of such publication of such order as

Defendant not appearing to process, &c. the court may order his appearance.

Order to be published.

After such notice, defendant not appearing, the court may order plaintiff's bill to be taken pro confesso,

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And make decree and compel performance, &c

Court may order plaintiff paid out of property sequestered, on his giving security, &c.

Refusing to give security, court may appoint a receiver, &c.

Defendant brought into court, and neglecting to enter appearance, &c. the court may appoint a

aforesaid, the court being satisfied of the truth thereof, may order the plaintiff's bill to be taken pro confesso, and to make such decree thereon as shall be thought just ; and may thereupon issue process to compel the performance either by immediate sequestration of the real and personal estate and effects of the party so absenting, if any such can be found, or such part thereof as may be sufficient to satisfy the demands of the plaintiff or plaintiffs in the said suit, or by causing possession of the estate or effects demanded by the bill to be delivered to the plaintiff or plaintiffs, or otherwise, as the nature of the case shall require ; and the court may likewise order such plaintiff or plaintiffs to be paid or satisfied his, her or their demands out of the estate or effects so sequestered according to the true intent and meaning of such decree, the plaintiff or plaintiffs first giving security in such sum as the court shall think proper, to abide such order touching the restitution of such estate or effects as the court shall think proper to make concerning the same, upon the defendant or defendants appearance to defend such suit, and paying such costs to the plaintiff or plaintiffs as the court shall order ; but in case such plaintiff or plaintiffs shall refuse or neglect to give such security as aforesaid, the court shall order the estate or effects so sequestered, or whereof possession shall be decreed to be delivered, to remain under the direction of the court, either by appointing a receiver thereof, or otherwise, as to the court shall seem meet, until the appearance of the defendant or defendants to defend such suit, and his, her or their paying such costs to the plaintiff or plaintiffs as the court shall think reasonable, or until such order shall be made therein as the court shall think just.

SECT. 4. *And be it enacted by the authority aforesaid,* That from and after the first day of winter-term, in this present year, if any defendant or defendants, by virtue of any process issuing out of the court of Chancery, shall be brought into court,

and shall refuse or neglect to enter his, her or their appearance according to the rules or method required by the said court, or to appoint a solicitor of such court to act on his, her or their behalf respectively, such court may appoint a solicitor of the court to enter an appearance for such defendant or defendants respectively, and such proceedings may thereupon be had in the cause as if the party had actually appeared.

point a solicitor
for him,

and proceedings
may be had.

SECT. 5. *Provided always, and be it enacted by the authority aforesaid,* That if any person against whom any such decree shall be made, upon refusal or neglect to enter his, her or their appearance, or to appoint a solicitor to act on his, her or their behalf, shall be in custody or forth coming, so that he, she or they may be served with a copy of such decree; then he, she or they shall be served with a copy thereof before any process shall be taken out to compel the performance thereof.

Defendant being
in custody, shall
be served with
the decree.

SECT. 6. *Provided also, and be it enacted by the authority aforesaid,* That if any decree shall be made in pursuance of this act, against any person or persons, being out of this State, or absconding in manner aforesaid; at the time such decree is pronounced; and such person or persons shall within five years after the making such decree, return or become publicly visible, then and in such case, he, she or they shall likewise be served with a copy of such decree, within a reasonable time after his, her or their return or public appearance shall be known to the plaintiff or plaintiffs; and in case any defendant or defendants against whom such decree shall be made, shall within five years after the making such decree, happen to die before his or her return into this State, or appearing openly as aforesaid, or shall die within the time last before mentioned in custody, before his or her being served with a copy of such decree, then his or her heirs and executors or administrators, if such defendant shall have any real estate sequestered, or whereof

Defendant re-
turning to the
state, shall be
served with the
decree.

On whom it
shall be served
in case of defen-
dant's death.

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possession shall have been delivered to the plaintiff or plaintiffs, and such heir may be found, and if there be such executor or administrator; or if such heir be a *feme covert*, *infant*, *non-compos mentis*, the husband, guardian or trustee of such heir respectively; or if the personal estate of such defendant be sequestered, or possession thereof delivered to the plaintiff or plaintiffs, then his or her executor or administrator, if any such there be, shall be served with a copy of such decree within a reasonable time after it shall be known to the plaintiff or plaintiffs that the defendant is dead, and who is his or her heir, executor or administrator, or where he, she or they respectively may be served therewith.

Persons not appearing, &c. the decree shall stand confirmed.

SECT. 7. *Provided always, and be it enacted by the authority aforesaid.* That if any person or persons, so served with a copy of such decree, shall not within one year after such service appear and petition to have the said cause re-heard, such decree so made as aforesaid shall stand absolutely confirmed against the person and persons so served with a copy thereof, his, her and their respective heirs, executors and administrators, and all persons claiming or to claim by, through, from or under him, her or them, or any of them, by virtue of any act done, or to be done, subsequent to the commencement of such suit.

Persons served as aforesaid, appearing and petitioning, may answer, be heard, &c.

SECT. 8. *Provided nevertheless, and be it enacted by the authority aforesaid.* That if any person so served with a copy of such decree, shall within one year next after such service, or if any person not being so served shall within five years next after the making such decree, appear in court and petition to be heard with respect to the matter of such decree, and shall pay down or give security for the payment of such costs as the court shall think reasonable in that behalf; the person or persons so petitioning, his, her or their respective representatives, or any person or persons claiming under him, her or them respectively, by virtue of any act done

before the commencement of the suit, may be admitted to answer the bill exhibited, and issue may be joined, and witnesses on both sides examined, and such other proceedings, decree and execution may be had thereon as there might have been in case the same party had originally appeared, and the proceedings had then been newly begun, or as if no former decree or proceedings had been in the same cause.

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SECT. 9. *Provided nevertheless, and be it enacted by the authority aforesaid,* That if any person or persons against whom such decree shall be made, his, her or their heirs, executors or administrators shall not within five years next after the making such decree, appear and petition to have the cause re-heard, and pay down or give security for the payment of such costs as the court shall think reasonable in that behalf, such decree made as aforesaid, shall stand absolutely confirmed against the person and persons against whom such decree shall be made, his, her or their heirs, executors and administrators, and against all persons claiming or to claim by, from or under him, her or them, or any of them, by virtue of any act done or to be done subsequent to the commencement of such suit; and at the end of such five years, it shall and may be lawful for the court to make such further order as shall be just and reasonable according to the circumstances of the case.

Persons not petitioning in five years, to have the cause re-heard, the decree shall stand confirmed.

After five years the court may make further order.

SECT. 10. *Provided always, and be it enacted by the authority aforesaid,* That this act shall not extend or be construed to extend, to warrant or make good any proceeding against any person out of the State, unless it shall appear to the satisfaction of the court by affidavit or affidavits before the making of such decree, that such person had been a resident in the State within one year next before the subpœna in such suit issued against such person; or unless it shall appear by the return of the process, that such person had been duly served

Proceedings not warranted by this act against persons out of the State, &c.

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therewith in the State; or unless the said suit shall be commenced against any person or persons out of the State, for the obtaining a writ or writs of injunction, for staying a suit or suits at law, or to be relieved against any judgment or proceedings at law, obtained or had by any such person out of the State; or unless the said suit shall be commenced against any person seized or possessed of any estate, real or personal within the State; or unless the said suit shall relate to, or concern, or affect any lands, tenements, goods, chattels, rights, credits or other real or personal estate within the State, or to any contract made or to be done or performed within the State.

Infants being trustees, may convey, &c. under direction of the court.

SECT. 11. *And be it enacted by the authority aforesaid,* That from and after the first day of July next, it shall and may be lawful to and for any person or persons under the age of twenty-one years, having estates in lands, tenements or hereditaments, in trust only for others, by direction of the court of Chancery, signified by an order made upon hearing all parties concerned on the petition of the person or persons for whom such infant or infants shall be seized or possessed in trust, or of the guardian or guardians of such infant or infants, to convey and assure any such lands, tenements or hereditaments in such manner as the said court of Chancery shall, by such order so to be obtained, direct to any other person or persons, and such conveyance and assurance, so to be had and made as aforesaid, shall be as good and effectual in law, to all intents and purposes whatsoever, as if the said infant or infants were at the time of making such conveyance or assurance of the full age of twenty-one years, any law, custom or usage to the contrary notwithstanding.

Effect of such conveyance.

Infants being trustees, may be compelled to convey.

SECT. 12. *And be it enacted by the authority aforesaid,* That all and every such infant or infants being only trustee or trustees as aforesaid, shall and may be compelled, by such order, so as aforesaid

to be obtained, to make such conveyance or conveyances, assurance or assurances, in like manner as trustees of full age are compellable to convey or assure their trust estates.

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SECT. 13. *Provided nevertheless, and be it enacted by the authority aforesaid,* That this act shall not extend, or be construed to extend, to any case which is already provided for by an act of the General assembly, entitled, "An act to empower executors and administrators within this government, by leave of court, to convey lands contracted for with their decedents," passed in the seventeenth year of George the second.

This act not to extend to chap. 107, a. vol. 1. p. 269.

SECT. 14. *And be it enacted by the authority aforesaid,* That the registers of the court of Chancery in each of the counties of this State, shall before the first day of the next summer term, respectively procure a new seal of silver, copper or steel to be made of the diameter of one inch and an half at least; and cause the same to be engraven with the arms of the State of Delaware, or parts of the same, with a motto or inscription to describe the office to which the seal belongs; which said seals shall on the first day of the next summer term in each county respectively, and afterwards be taken, adjudged and deemed the seals of the court of Chancery in each county respectively, and shall be used and fixed to all writings and copies to which a seal of office ought to be affixed.

The registers in chancery to provide a seal of office,

SECT. 15. *And be it enacted,* That the said registers, their executors and administrators shall deliver the said seals to their successors in office respectively, from time to time, whole and undefaced, common wear excepted, under the penalty of one hundred dollars, to be recovered by the person who shall hereafter be lawfully appointed to hold the said office, by an action of debt; and that the successors in said office respectively shall upon the delivery of the said seals in manner aforesaid, reim-

And deliver said seals to their successors;

who shall reimburse the cost;

Which shall be entered of record.

burse and pay to the former register, his executors or administrators, the sums of money the said seals originally cost; which said original cost shall be by order of the chancellor, entered among the records of said court at the next summer term.

Registers in chancery to enter into recognizance with security;

Condition thereof.

To be in trust, &c.

SECT. 16. *And whereas*, Divers sums of money are frequently ordered or decreed to be paid into court by the chancellor, and when paid in, are deposited with the register of that court, subject to the further order or decree of the chancellor: *Be it therefore enacted by the authority aforesaid*, That every register of the court of Chancery now in commission, shall at the next court of Chancery to be held in the respective counties after the first day of July next; and every register of the court of Chancery, hereafter appointed and commissioned, shall at the next term succeeding his appointment, enter into a recognizance to the State of Delaware before the chancellor, with two or more good and substantial freeholders of the county, to be approved of by the chancellor, jointly and severally, in the sum of three thousand dollars, lawful money of the United States of America; upon condition that if he the said register, shall upon request to him made for that purpose, well and truly pay or cause to be paid to the several suitors and parties interested, their executors or administrators, according to the order or decree of the chancellor for the time being, all and every sum and sums of money to them respectively ordered or decreed to be paid by the chancellor, which shall have been deposited or paid into court by the authority, order or decree of the chancellor, and shall and do from time to time, and at all times during his continuance in office, well and faithfully execute the said office, and perform in every thing the duty in him reposed, then the said recognizance to be void, otherwise to be and remain in full force and virtue; which said recognizance shall be, and is hereby declared to be in trust to and for the use and benefit of every person and persons, their executors or administrators, to

whom any sum or sums of money which shall have been deposited or paid into the court of chancery by the authority, order or decree of the chancellor, shall be ordered or decreed to be paid by the chancellor; and the said recognizance shall be in trust to and for the use and benefit of any person or persons who shall be injured by any breach or neglect of duty in such registers respectively; whereupon the party grieved, may proceed by petition to the chancellor against the said respective registers and their sureties, jointly or severally; and after hearing the parties concerned, upon reasonable notice to appear and answer to the said petition, or if after such notice, the person or persons against whom such petition is preferred, shall neglect or refuse to appear and answer thereto, the chancellor may proceed as if such person or persons had appeared and answered thereto, and in each case make such order or decree as may be just and right, and may force obedience to such order or decree, by imprisonment of body, or sequestration of lands and goods, as fully as in any case whatsoever, cognizable in said court: *Provided*, That if any breach or neglect of duty shall be alleged in any such petition, whereof sufficient evidence shall not appear upon the records, proceedings or process of the said court, for the decision thereof, then, and in such case, the said court shall order such matter to issue and trial, in the Supreme court, or in the court of Common pleas in the county where the matter ariseth, before any final order or decree shall be made in the court of Chancery; and the said recognizances so to be proceeded on, are hereby declared still to remain cautionary, for the satisfaction of all others who may be grieved by the said registers respectively as aforesaid.

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How proceeded
on in Chancery.

Evidence not
sufficient, the
court shall order
the matter
to issue and trial
at law.

Recognizance to
remain cautionary.

SECT. 17. *And be it enacted and declared by the authority aforesaid*, That it is and shall be the duty of the clerk of the Orphans' court in each county to provide at his own proper costs, well bound and covered, good and convenient books, and therein to

Clerks of the
Orphans' court
to provide
books,

and record all proceedings for division, valuation and acceptance of intestates' lands, &c.

record in a fair and legible hand, at full length, and in a clerk-like manner, all petitions for the division and valuation of intestates' lands, and all orders made thereon by the Orphans' court, and all returns to such orders, the same being approved of by the court ; every order, adjudication and acceptance of the land of an intestate, by any heir or other person accepting the same ; all recognizances taken from any person accepting lands and tenements at a valuation ; all petitions and orders made for the sale of lands by an executor or administrator, and the returns thereupon, the same being approved by the court ; all orders for making an estimate of the annual value of the lands of orphans and minors, and the returns thereupon, the same being approved by the court ; every appeal from the register for the probate of wills and granting letters of administration, and the exceptions to an executor's, administrator's or guardian's account ; the final order, sentence and decree thereon, and all other matters touching and concerning such appeal ; every choice, appointment and removal of a guardian or guardians, all the proceedings between sureties or their representatives, and their principals in administration, guardian and testamentary bonds upon petition for counter security, and the sentence, order or decree thereon, all proceedings to compel administrators to give better security, and for the revocation or repeal of letters of administration by authority of an act, entitled, "An act for establishing Orphans' courts ;" and every other petition, process, order, return, sentence, decree and proceeding whatever, issued, made, given, done or performed in the said Orphans' court, or by order of the said court, although not particularly described or mentioned in this act, at least within three months next after the date of such petition, process, order, approval of return, sentence, decree, or proceeding, issued, made, given, done or performed in the said court : *Provided nevertheless*, That it shall be sufficient for the said clerks to record the substance of all citations, subpoenas, attachments and other process issued for summoning and compelling the appearance of par-

Proviso.

ties and attendance of witnesses, without recording the same at full length; and the said clerks respectively shall make and keep fair and exact alphabets to the said record-books, wherein the names of the parties, in all such proceedings, shall be written at large, and a short reference be made to the proceedings; which said record-books and alphabets, shall be for the use of the said Orphans' courts respectively, and shall at all times be produced and brought into the said courts, by the said clerks respectively, for the examination and inspection of the judge of the said courts, whenever he shall direct or order the same, and shall be delivered over by the said clerks to their successors in office, with the other papers and books of the said several offices.

Clerks shall keep alphabets.

Books, &c. to be produced when ordered, &c.

SECT. 18. *And be it enacted by the authority aforesaid,* That if any clerk of the Orphans' court shall refuse or neglect to record in manner aforesaid, any such proceeding of the Orphans' court, or matter or thing so as aforesaid required to be recorded by him, for the space of three months next after the date of any such proceeding, matter or thing as aforesaid, such clerk so refusing or neglecting, shall for every such refusal or neglect, forfeit and pay to the State, the sum of fifty dollars, together with the costs of prosecution, to be recovered by indictment in the court of General quarter sessions of the peace and jail delivery of the county where the offence shall be committed.

Penalty for neglecting to record.

SECT. 19. *And be it enacted by the authority aforesaid,* That it shall be the duty of the respective clerks of the Orphans' court, to receive all fees which shall become due to the crier in the said courts, and within six months next after the sitting of the said courts, they shall pay or cause to be paid all such fees to the crier, first deducting and retaining thereout at the rate of two and an half per centum for their trouble in collecting, receiving and paying over said fees; and if any clerk shall refuse or neglect to pay to the crier his fees aforesaid, it shall

Clerks to collect criers' fees, &c.

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and to make a
list thereof, and
deliver it to the
chancellor.

be lawful for the said crier to proceed for and recover the same, before any justice of the peace of the county in the same manner as other debts of the same amount are recoverable; and the said clerks respectively, are hereby required, without fee or reward, to make a list of all such fees as shall become due as aforesaid, to said criers respectively, at every sitting of the Orphan' court, and deliver the same to the chancellor before the said Orphans' court shall rise or adjourn, and after the same is examined and adjusted by the chancellor, he shall certify and sign the said list, and deliver the same to the said criers, and the said list so certified and signed, shall be conclusive evidence against the said clerks respectively, of the amount of fees due to the said criers; and if any clerk shall refuse or neglect to make and deliver to the chancellor as aforesaid, any such list, such refusal or neglect shall be a contempt of the court, and the said clerk shall be proceeded against for the same accordingly.

Judge of the
Orphans' court
may award cita-
tions, &c.

and force obedi-
ence, &c.

And to order
the manner of
recording.

SECT. 20. *And be it enacted by the authority aforesaid,* That it shall be lawful for the judge of the Orphans' court, upon application made to him by a petition in writing, at any time when the court is not sitting to award citations against any person or persons returnable to the next usual sitting of the Orphans' court, in the same manner as he may or can do at the time the said courts are held, and if any person or persons being duly summoned to appear in any of the said Orphans' courts ten days before the time appointed for their appearance, shall make default, the judge of the said court may award attachment or attachments for contempt, and may force obedience to the warrants, sentences or orders of the said court, by imprisonment of body and sequestration of lands and goods, as fully as can be done in any case whatever in the Orphans' court, or in the court of chancery.

SECT. 21. *And be it enacted by the authority aforesaid,* That it shall be lawful for the judge of the

Orphans' court, at any time when he shall deem it necessary, to order and prescribe the manner in which the proceedings of the Orphans' court shall be recorded, which order shall be obligatory on the said respective clerks.

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SECT. 22. *And be it enacted by the authority aforesaid,* That every clerk of the Orphans' court now in commission, shall at the Orphans' court next to be held in the respective counties after the first day of July next, and every clerk of the Orphans' court hereafter appointed and commissioned, shall at the Orphans' court held in the county next after his appointment, enter into a recognizance before the judge of the Orphans' court, in open court jointly and severally with two or more good and substantial freeholders of the county, to be approved by the judge of the Orphans' court, in the sum of three thousand dollars, lawful money of the United States of America, upon condition, that if the said clerk shall and do from time to time, and at all times during his continuance in office, well and faithfully execute the said office, and perform in every thing the duty in him reposed, then the said recognizance to be void, otherwise to be and remain in full force and virtue; which said recognizance shall be, and is hereby declared to be in trust to and for the use and benefit of any person or persons who shall be injured by any breach or neglect of duty in such clerks of the Orphans' court respectively; whereupon the person or persons grieved, may proceed by way of scire facias or other legal process, and upon proving what damage hath been sustained and verdict found therefor, the court in such case shall give judgment for so much as the jury or inquest shall then find, with the costs, and no more, and shall award execution for the same; and the said recognizances so to be proceeded upon, are hereby declared, still to remain cautionary for the satisfaction of such others as shall prove themselves damnified, and recover their damages as aforesaid, by due course of law.

Clerks to enter
into a recogni-
zance;

conditioned, &c.

To be in trust
for, &c.

Remedy there-
on;

To remain cau-
tionary.

Recognizances
to be recorded;

Copies thereof
to be evidence.

Register to
cause executors
&c. to return in-
ventories, &c.

And to settle
their accounts,
&c.

SECT. 23. *And be it enacted by the authority aforesaid,* That the chancellor shall cause the said recognizances respectively entered into, by the registers of the court of Chancery, and by the clerks of the Orphans' court, to be recorded in the office for recording of deeds in the respective counties, and the recorder is hereby directed to record the same without fee or reward when required thereto, by the chancellor; and the copies or exemplifications of such recognizances so enrolled, being certified by the recorder under his hand and seal, (which the recorder is hereby required to affix thereto,) shall be allowed in all courts of law, where produced, and are hereby declared and enacted to be as good evidence, and as valid and effectual in law as the original recognizances, and the said copies or exemplifications may be sued, pleaded and made use of accordingly.

SECT. 24. *And be it enacted by the authority aforesaid,* That it shall and may be lawful for the register for the probate of wills, and granting letters of administration in each of the counties of this State, upon the application of any heir, legatee or creditor, or of their executors or administrators, or in case there shall be no such application, then ex-officio, forthwith after the expiration of six months from the date of their letters testamentary, or letters of administration, to cause executors and administrators to return an inventory and appraisement of the goods and chattels, rights and credits of their testator or intestate, together with a list of outstanding sperate and desperate debts, due and owing to the deceased at the time of his death; and also to cause all executors and administrators, and ex-officio, to cause all guardians, their executors and administrators, forthwith after the expiration of one year from the date of their letters testamentary, or of their letters of administration, or from the time of their being chosen or appointed guardian, or from the probate of the will appointing such guardian, and the executors or adminis-

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trators of any executor, administrator or guardian, forthwith after the expiration of six months from the date of their said letters, and as often afterwards (but not oftener than once in every year) as such application shall be made as aforesaid, or as such register shall without such application judge necessary, to adjust and settle their administration or guardian accounts; and if any executor, administrator or guardian, or their executors or administrators, shall be duly summoned to appear before any register as aforesaid, and to return such inventory as aforesaid, or to adjust and settle any such administration or guardian accounts ten days before the time appointed therefor, and shall make default, the said register may send his attachment for contempt, and force obedience to his warrants, sentences, orders and decrees, concerning any matter cognizable before him, by imprisonment of body or sequestration of lands or goods, as fully as any court of equity may or can do.

And may force obedience to his warrants, &c.

SECT. 25. *And be it enacted by the authority aforesaid,* That from and after the first day of July next, all accounts of executors, administrators and guardians, all inventories and appraisements as aforesaid, all valuations of intestates' lands, and all estimates of the annual value of the lands of orphans or minors, shall be adjusted, settled, made and returned in money of the United States, and not in pounds, shillings and pence; and on all letters testamentary, letters of administration, and orders for such valuations as aforesaid, an indorsement shall be made, directing the appraisal or valuation to be made in money as aforesaid.

All accounts, &c. &c. to be in money of the U. States,

with indorsements to that effect.

SECT. 26. *And whereas,* Many justices of the peace, have frequently refused, although their fees have been tendered to them, to furnish transcripts, copies or exemplifications of their records, under pretence that they were not bound to furnish such transcripts, copies or exemplifications, except in cases of appeal; *Be it therefore enacted and decla-*

Justices of the peace to furnish copies of their records.

Penalty for refusing.

red by the authority aforesaid, That all persons, parties to, or interested or concerned in any suit or civil proceeding, before any justice of the peace, have, and shall have right to have transcripts, copies or exemplifications of any such records and proceedings; and if any justice of the peace, shall after the passing of this act, when thereto required by any plaintiff or defendant in any suit, cause, or action which hath been or hereafter shall be commenced, brought or tried before him, or which come before him, or in which judgment was pronounced by him, or when thereto required by the executors or administrators of such plaintiff or defendant, refuse to make and deliver to such plaintiff or defendant, his, her or their executors or administrators, a true and fair transcript, copy or exemplification, certified under his hand and seal, of the record and proceedings of any such suit, cause or action, such justice of the peace shall forfeit and pay to the State, the sum of forty dollars, for every such offence, to be recovered by indictment, in the court of General quarter sessions of the peace and jail delivery, of the county where the offence is committed; and every such justice of the peace, shall also forfeit and pay to such person or persons, to whom he shall so refuse to make and deliver such transcript, copy or exemplification certified as aforesaid, the sum of forty dollars, to be recovered with costs of suit, in any court of record in this State.

The proceedings of the Orphans' court of New-Castle county, prior to 1802, to be recorded.

SECT. 27. *And whereas,* The proceedings of the Orphans' court of New-Castle county, for some years prior to the year eighteen hundred and two, were neglected to be recorded by the then clerk; *Be it therefore enacted by the authority aforesaid,* That the chancellor shall be, and is hereby authorized and empowered to cause the said proceedings to be recorded in the record books of the said court, and that the commissioners of the Levy court and Court of appeal of New-Castle county, shall cause such sum or sums of money to be paid to such person or persons as may be employed by the chancellor,

for the purposes aforesaid, after the said proceedings shall be recorded as aforesaid, as the chancellor shall judge adequate therefor; and it shall be lawful for the chancellor to commit to the custody of such person or persons, as may be so employed by him, the said unrecorded proceedings of the said court.

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Passed at Dover, Feb. 1, 1806.

C H A P. XXII.

An ACT making provision for the support of government, for the year one thousand eight hundred and six.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of ten thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time and in the manner directed by an act of the General assembly, entitled, "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government, for the year of our Lord one thousand seven hundred and ninety-eight;" and shall be assessed and levied in the several counties of this State, in the following proportions: that is to say, for the county of Newcastle, the sum of four thousand dollars; for the county of Kent, the sum of three thousand five hundred dollars; and for the county of Sussex, the sum of three thousand dollars.

10,500 dollars to be raised and paid into the treasury.

SECT. 2. *And be it enacted,* That the aforesaid sums of money shall be appropriated and applied **G**

Appropriation for the

payment of salaries, &c.

to and in the following manner: that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the governor, chancellor, judges of the Supreme court, and of the Court of common pleas, attorney-general, secretary, and auditor of accounts, up to the first day of January, which will be in the year of our Lord one thousand eight hundred and seven; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General assembly, their clerks and other expenses, and for printing the laws passed at this session of the General assembly, and the votes and proceedings of the two branches thereof; and the residue, if any there be, shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

3,000 dollars appropriated to purchase stock.

State treasurer required to make the purchase, &c.

SECT. 3. *And be it enacted*, That the sum of eight thousand dollars, part of the sum now in the treasury of the State, shall be and the same is hereby appropriated to the purchase of stock in the funds of the United States of America; and the State treasurer is hereby authorized and required to purchase, for the use of the State, on the lowest and best terms to be obtained, with said money, the said stock; and the same, when so purchased, shall be entered by him in the treasury books, specifying therein the number and amount of each certificate, the date thereof, to whom the same issued, of whom bought, and the price paid for the same; and the said treasurer is hereby directed to return to the auditor, in his quarterly settlements with him, an account of such purchase of stock, with a specification thereof, as before mentioned.

Passed at Dover, February 1, 1806.

C H A P. XXIII.

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1806

An ACT to increase the salary of the chancellor, and the daily allowance of grand and petit jurors, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That in lieu of the salary heretofore allowed by law, the annual sum of one thousand dollars be, and hereby is granted to the chancellor, which shall commence from the twenty-first day of March next, and be paid quarterly at the treasury of this State.

Chancellor's salary after 21st March, 1806.

SECT. 2. *And be it enacted,* That from and after the first Tuesday in October next, there be granted in lieu of the present daily allowance, to each member of the General assembly, three dollars, and to the speaker of each house, three dollars and fifty cents for each day's attendance: and that the clerk of each house, be allowed for every day's attendance, three dollars, to be paid at the treasury of this State, on warrants drawn by the speakers of each house respectively, and each member shall also be entitled to one day's allowance for going to, and one day's allowance for returning from the place where the General assembly is or shall be held.

Allowance to members of the General assembly, &c.

SECT. 3. *And be it enacted,* That henceforth, in lieu of the daily allowance, and in addition to the mileage heretofore granted by law, there be allowed every grand juror summoned, for every day of his attendance and service, in any of the courts of this State, provided he be sworn or affirmed before the charge be given, to be paid by the county, one dollar; and every petit juror summoned, for every day of his attendance, provided he appear at every calling of his name, by order of the court, to be paid by the county, one dollar.

To grand and petit jurors:

To door keepers

SECT. 4. *And be it enacted*, That the door-keepers of the respective houses, shall be allowed, in lieu of their present daily allowance, for every day of their attendance, one dollar and fifty cents.

To commissioners of the Levy court.

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SECT. 5. *And be it enacted*, That in addition to the fees already allowed the commissioners of the Levy court, they shall each have three cents per mile, from the places of their abodes respectively, to the court house of their county respectively, for each and every day of their attendance.

Passed at Dover, Feb. 1, 1806.

C H A P. XXIV.

An ACT to revive and continue in force the act, entitled, "An act to create a fund sufficient to establish schools in this State," for seven years, from the first day of January in the present year.

Chap. 105, c.
2 vol. p. 1296,
revived.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the act, entitled, "An act to create a fund sufficient to establish schools in this State," passed the ninth day of February, in the year of our Lord one thousand seven hundred and ninety-six, shall be, and is hereby revived and re-enacted in every part and thing therein contained; except so much thereof as is altered, changed, or repealed, by the act, entitled, "A supplement to an act, entitled, an act to create a fund sufficient to establish schools in this State," passed the twenty-fourth day of January, one thousand seven hundred and ninety-seven.

Exception.—See
chapter 133, c.
2 vol. p. 1362.

Limitation.

SECT. 2. *And be it further enacted*, That this act

shall be and continue in force, for seven years from the first day of January, in the present year.

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Passed at Dover, February 1, 1806.

CHAP. XXV.

A supplement to the act, entitled, "An act for the appointment of escheators, and to declare and regulate escheats."

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of the third section of the act, to which this is a supplement, as requires each of the escheators in the respective counties of this State, to cause to be empannelled and summoned twenty-four good and lawful men of the county, to come before him to make the enquiry mentioned in said section; be and the same is hereby repealed; and that from henceforth, it shall and may be lawful, for each of the said escheators to issue his precept, directed to the Sheriff or coroner of the county, as the case may require, thereby commanding such Sheriff or Coroner to empannel and summon sixteen good and lawful men of the county, to come before the said escheator, at some public and convenient place within the same county, not less than ten, nor more than twenty days thereafter, to make enquiry for the purposes as in the said section provided; and if any twelve or more of the said inquest shall find that any such estate real or personal, within the said county, hath escheated to the State, an inquisition thereof shall be made, signed and sealed by the said escheator, and twelve or more of the inquest that find the same, setting forth that the intestate person

Part of the third section of the former act repealed.

Escheator to issue his precept, directing the Sheriff to summon jury of inquest.

In what case inquisition shall be made, &c.

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in the same precept named, hath died without heirs or any known kindred as aforesaid, and specifying the estate real or personal, if any, of which such intestate died seized or possessed, and also the person or persons, in whose hands or possession the same shall be; which inquisition to be taken as aforesaid, shall be certified and transmitted by the said escheator, as soon as conveniently may be, after the holding of such enquiry, into the office of the clerk of the Supreme court.

Of the costs of enquiry, &c.

SECT. 2. *And be it enacted*, That where any escheator shall hold an enquiry upon any lands and tenements, goods and chattels, (cases of information given to the Governor excepted,) and shall previously to his holding any such inquisition, obtain a written opinion from the attorney general, that such lands and tenements, goods and chattels, so enquired on, have escheated, then the said escheator is hereby directed to make out a bill of all the costs of holding such enquiry, and make a report thereof to the General assembly, and the said costs being examined and approved shall be allowed, and the said attorney general is hereby directed upon a case stated to him, by any of the escheators in this State, to give his written opinion thereon ex-officio.

Escheats that have heretofore happened, shall be enquired of, &c.

SECT. 3. *Whereas*, Doubts have arisen on the construction of the eleventh section of the act, to which this is a supplement, whether cases of escheats, which have heretofore happened for want of heirs, be within the provision of the said section; *Therefore be it enacted*, That in all cases where escheats have heretofore happened for want of heirs or otherwise, except as is excepted in the thirteenth section of the said act, they and each of them shall be enquired of by the escheator, decided upon like traverse and claim, and under like limitations of time for making such traverse and claim, exposed to sale in like manner, as is in the said act to which this is a supplement, provided as to escheats which should thereafter happen for want of

heirs, and the money thence arising shall belong and go as is therein directed.

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SECT. 4. *And be it enacted*, That if any person shall have been absent and out of the State, or shall hereafter be absent and out of the State for seven years together, and no evident proof be made of his or her life, in any such inquest held, or to be held, under and by virtue of this act, or the act to which this is a supplement, he or she shall be accounted and taken to be dead, any law, usage or custom to the contrary notwithstanding.

Persons absent
7 years, &c. to
be accounted
dead.

Passed at Dover, Feb. 1, 1806.

C H A P. XXVI.

An ACT authorizing the treasurer of this State to pay certain claims therein mentioned.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the treasurer of this State be, and he is hereby authorized and directed to pay to Peter Robinson, Esquire, or his order, the sum of ten dollars, for sending to each of the counties of this State a certified copy of the additional supplement to an act for the valuation of real and personal property within this State, and also for expenses incurred for portage of the journals of the Senate and House of Representatives to the town of Dover, one dollar and twenty-five cents; to John Hall, escheator of the county of New-Castle, for expenses incurred in prosecuting, on the part of the State, an enquiry relative to the estate of Jonathan Osburn and Duncan Beard, ninety-eight dollars and sixty-five cents; to Joseph Jones, for publishing the resolutions of

State treasurer
to pay Peter Ro-
binson;

John Hall, es-
cheator of N.
Castle county

Joseph Jones;

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Wootten and
Allee;

Wm. Pryce;

James Wilson;

Treasurer of
Kent county;

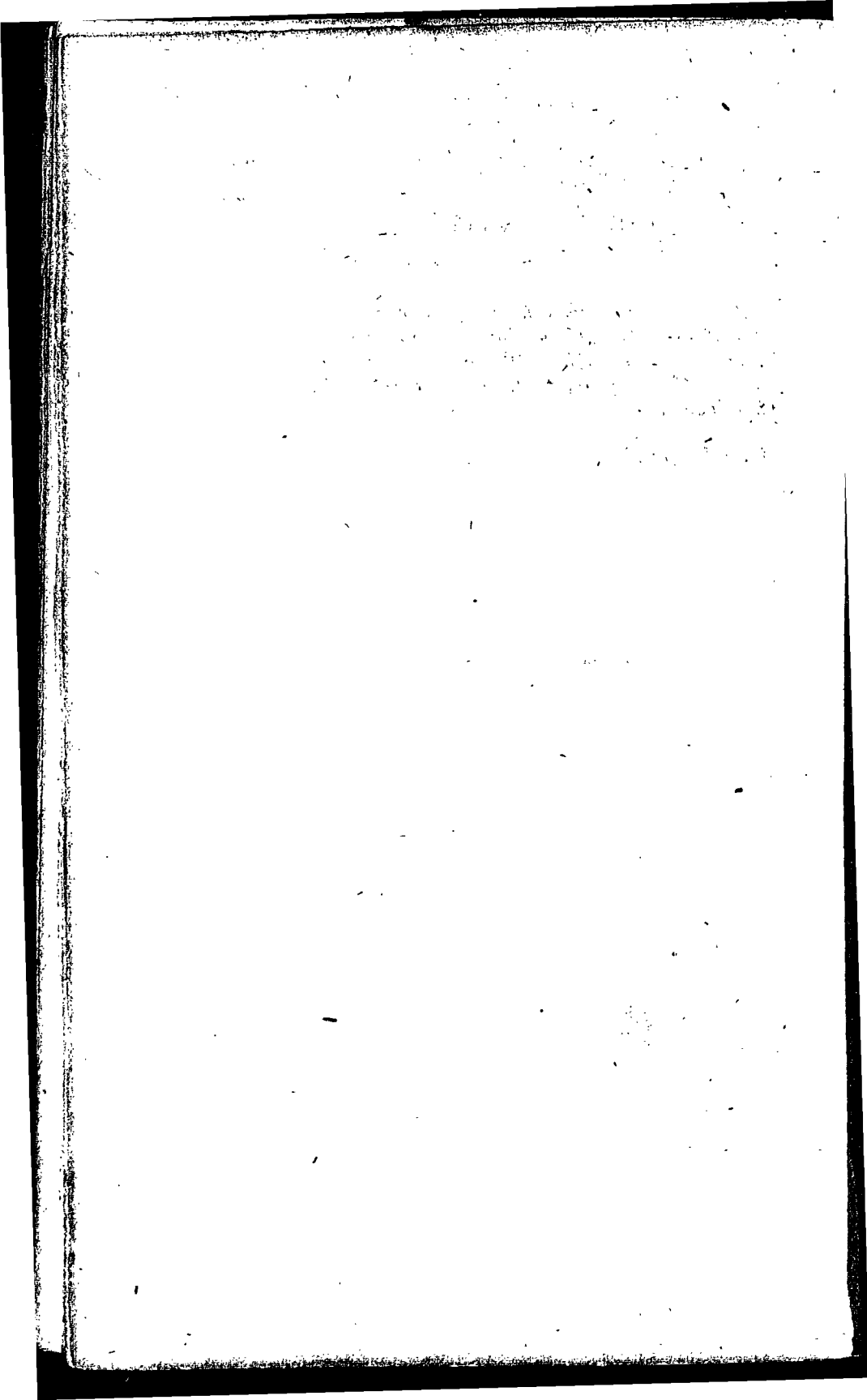
And to retain,
&c.,

the State of Massachusetts, proposing an amendment to the constitution of the United States, fifteen dollars, and for inserting the proclamation of the Governor of this State, declaring James M. Broom duly elected a representative in Congress, the sum of three dollars; to Wootten and Allee, for publishing the resolutions from the State of Massachusetts, proposing an amendment to the constitution of the United States, fifteen dollars, and for printing five quires of blank commissions for justices of the peace, five dollars; to William Pryce, for binding ten copies of the journals of the House of Representatives and five copies of the journals of the Senate, for box and portorage, twenty-five dollars and one cent; to James Wilson, in full for binding the laws of this State, the sum of twenty-five dollars; and to the treasurer of Kent county, the sum of eighty-eight dollars and fifty-six cents, being a moiety of the expense of repairing the State-house, and forty dollars, a moiety of the expense of a flight of stone steps for the front door thereof; and that John Clarke be authorized to retain in his hands the sum of twenty-two dollars and fifty cents, for his expenses incurred, as trustee of the school fund, in procuring stock for the said fund; and that he be authorized to retain in his hands four dollars, for attendance on the sale of Joseph David's and William Polk's lands, at the suit of the State.

Passed at Dover, February 3, 1806.

[illegible][illegible]

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CHAP. XXVII.

An ACT to confirm the title of a certain lot or piece of land, with the improvements and appurtenances situate in the borough of Wilmington, and county of New-Castle, in the State of Delaware, to William Townsend, his heirs and assigns.

Passed at Dover, Jan. 15, 1807.—Private act.

CHAP. XXVIII.

An ACT to incorporate a company to erect a draw-bridge over the river Christiana, at Wilmington, and for other purposes therein mentioned.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful to open books for receiving and entering subscriptions, to the amount of fifteen

Commissioners appointed to open books and receive subscriptions.

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thousand dollars, in shares of fifty dollars each, under the management of William Collins, William Hemphill, John Warner, James Lea and Jacob Broom, for the purpose of erecting a draw-bridge across the river Christiana, at Wilmington, and opening a road from thence through Holland's creek marsh, in such direction as shall be deemed most eligible and proper to the fast land at or near the house of major Peter Jaquett, of the width of eighty feet, inclusive of an allowance for making a drain on each side of the road, for the purpose of raising the same above the level of the said marsh, and for keeping the said bridge and road through the marsh aforesaid, in good and sufficient repair, and for opening and making a road of the width of not less than forty feet, nor more than sixty, on the fast land from the said Peter Jaquett's, to intersect the road leading from the public ferry over the said river, below Wilmington, to the town of New-Castle, where the said road crosses the division line between the lands of major Peter Jaquett and Robert White, in the most direct line the nature of the ground will admit of.

Books, when to be opened.

General meeting of the subscribers.

SECT. 2. *And be it enacted*, That the said books shall be opened on the first Tuesday in March next, upon ten days public notice being previously given by the commissioners aforesaid, or a majority of them, and shall continue open for three days successively; that on the first Tuesday of April thereafter, there shall be a general meeting of the subscribers, at the borough of Wilmington; of which meeting notice shall be given by the said commissioners, or a majority of them, in the public newspapers, at least twenty days before the said meeting; and the acting commissioners, at the time and place aforesaid, shall lay before such of the subscribers as shall meet, according to said notice, the books by them kept, containing the state of the said subscriptions; and if the capital sum aforesaid, should, upon examination, appear not to have been subscribed, then the said commissioners, at the said meeting, are empowered to take and receive subscriptions,

to make up the deficiency ; and a just and true list of all the subscribers, with the sums subscribed by each, shall be made out and returned by the said commissioners, or a majority of them, under their hands, to the Supreme court of New-Castle county, to be there kept and recorded.

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SECT. 3. *And be it enacted,* That no person shall, on the first day the books are opened, subscribe for more than two shares of said stock ; but should the subscriptions not be filled up on the first day, then the commissioners shall permit any person to subscribe on the second day, for one additional share ; and if the subscriptions be not filled up on the second day, then any person may subscribe for as many shares as he or she may think proper, until the capital sum aforesaid, is subscribed for ; and there shall be paid into the hands of the commissioners, at the time of subscribing, five dollars on each and every share so subscribed for by him or her who subscribed for such share or shares, which shall be deemed and taken to be in part, and on account of said share or shares, so subscribed for as aforesaid ; which money, so received by the commissioners as aforesaid, after deducting the reasonable expenses of taking the subscriptions aforesaid, shall be by them deposited in the bank of Delaware, and there to remain subject to the draft or drafts of the president and directors of the Wilmington bridge company, to be chosen as is herein after directed.

Regulations for
subscribing, &c.

SECT. 4. *And be it enacted,* That in case two thirds of the said capital, or a greater sum shall be subscribed, as aforesaid, the subscribers and their heirs and assigns, from the time of their said first meeting, shall be, and they are hereby declared to be incorporated, by the name of the "Wilmington Bridge Company," and may have perpetual succession, and sue and be sued, and make and use a common seal as such, which they may alter, break or renew, from time to time, at pleasure, and shall

Incorporation of
the subscribers.

Style & powers.

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Election of president and directors.

have all the privileges and franchises, incident to a corporation; and such of the said subscribers, as shall be present at the said meeting, or a majority of them, are hereby empowered and required to elect nine directors; that the said directors, when so elected, shall proceed to elect, by ballot, one of their number, who shall be president for one year, and until another shall be chosen, in manner aforesaid; that the said directors shall be divided into three classes, the classes to be determined by lot, and the time of the first class to expire at the end of the first year, the time of the second class to expire at the end of the second year, and the time of the third class to expire at the end of the third year, so that one third may be chosen or appointed annually.

Their qualification.

SECT. 5. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation, to perform the duties of his office with fidelity.

Commissioners appointed to fix on the place for the bridge;

SECT. 6. *And be it further enacted*, The more effectually to enable the president, directors and company aforesaid, to execute and complete the purposes aforesaid, authorized by this act, that James Stroud, Nehemiah Tilton, James Brindley, Samuel Canby and Joseph Shipley, be, and they are hereby appointed commissioners, and they, or a majority of them, are hereby authorized, empowered and required, to call to their assistance, one able and skilful surveyor, and two chain carriers, all of whom shall be first sworn or affirmed; who, together with the commissioners aforesaid, or a majority of them, are hereby empowered and directed to enter upon, and pass over, any lands, through which it may be thought necessary to run any line or lines, or over which they may have occasion to go and travel, in execution of the trust hereby reposed in them; and the commissioners aforesaid, shall, and they are hereby required to view the river Christiana, at Wilmington, there to fix and determine on the most suitable place for the erection

of the said bridge, so that the same may be at the end of Market-street; and also to view the ground from the southerly abutment of the said bridge through Holland's creek marsh, and to lay out a road through the same in the most direct line the nature of the ground will admit of, to the fast land at or near the house of major Peter Jaquett, and from thence, in the most direct line, the nature of the ground will admit of, to Read's, formerly Clark's corner, aforesaid, and also from the said road near Jaquett's, to the road leading from the public ferry over the said river, below Wilmington, to the town of New-Castle, from where the said road crosses the division line between the lands of major Peter Jaquett and Robert White; and the commissioners aforesaid, or a majority of them, shall cause the surveyor, whom they may employ, to make a correct plot or draft of the bridge, and roads aforesaid, fairly describing the roads, by their courses and distances from the end of Market-street, in Wilmington, across the said Holland's creek marsh as aforesaid, to the fast land, at or near major Peter Jaquett's house, and thence to Read's, formerly Clark's corner, as aforesaid, and from the said fast land, at or near Jaquett's, to the road leading from the public ferry over the said river, to the town of New-Castle, where the said road crosses the divisional line between the lands of major Peter Jaquett and Robert White; and the said plot or draft shall be signed by the surveyor, and the commissioners aforesaid, shall certify thereon, that they have approved thereof, and the said plot or draft, with the said certificate of the commissioners thereon, shall be returned into the office of the clerk of the peace, for the county of New-Castle, and be by him recorded and carefully kept; and the said return, when made in the manner aforesaid, shall be conformed to, by the said Wilmington bridge company; who shall erect the bridge, and open the roads, as they are, or shall be laid down in the said plot or draft, without any deviation therefrom; and the said bridge and roads, shall forever thereafter, be kept in good order and repair, by the said company.

and to lay out roads.

Plot thereof to be made, &c.

Powers & duties
of the president
and directors.

SECT. 7. *And be it further enacted,* That the said president and directors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct at what time, and in what proportion, the subscriptions shall be advanced and paid; which orders shall be advertised in the public newspapers, or otherwise, at least one month before the time of payment, so appointed; and they are hereby authorized and empowered to demand, and receive of the several proprietors, from time to time, the sums of money, so ordered to be advanced, for carrying on and executing, or repairing and keeping in order, the said bridge and roads, until the sums subscribed, shall be fully paid; and to order the said sums to be deposited in the hands of the treasurer, to be by him disbursed and paid out, as the said president and directors, or a majority of them, shall order and direct; and if any of the said proprietors, shall refuse or neglect to pay their said proportions, within one month after the time of payment so ordered and advertised, as aforesaid, then the share or shares of the said proprietors, and all monies thereon paid, shall be forfeited to the company, and shall be sold by them to any person willing to purchase, for such price as can be obtained therefor; and the said purchaser or purchasers shall be subject to the same rules and regulations, as if the sale and conveyance had been made by the original proprietors.

Shares, how for-
feited.

Bridge to be
erected, & plan
thereof.

SECT. 8. *And be it enacted,* That the president, directors and company, of the Wilmington bridge company, shall, at their own proper costs and charges, erect a draw-bridge across the river Christiana, at Wilmington, aforesaid, of the following dimensions, viz. the bridge shall be of the width of not less than twenty-five feet, to be built of timber of the most durable kind that can be procured, with a draw of the length of thirty feet over the channel, or deepest part of the said river, for the purpose of letting vessels pass and re-

pass through the same; which draw shall, at all times, on the approach of any masted vessel or vessels be drawn; at the expense of the said bridge company, and that without any let or hindrance to the said vessels, in passing and re-passing, at all times, and without any charge or costs to such masted vessel, for drawing said bridge, under and subject to the penalties and forfeitures hereinafter provided.

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SECT. 9. *And be it enacted*, That the said president and directors, so elected, and their successors, or a majority of them assembled, shall have full power and authority to agree with any person or persons, on behalf of the said company, to erect such bridge, and make such roads, and perform such other works, as they shall judge necessary for opening, improving and extending the roads, so to be ascertained and returned by the commissioners aforesaid, and carrying on the same from place to place, and from time to time; and upon such terms, and in such manner, as they shall think fit, and out of money arising from the subscriptions and tolls, and other aids, herein after given; to pay for the same, and to repair and keep in order the said bridge, roads, and other works, necessary thereto, and defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers, toll-gatherers, managers and servants, as they shall judge requisite, and to agree for and settle their respective wages and allowances, and to settle, pass, and sign their accounts, and also to make and establish rules of proceeding, and to transact all other business and concerns of the said company, in and during the intervals between the general meetings of the same, and they shall be allowed, as a satisfaction for their trouble therein, such sum of money as shall by a general meeting of the subscribers, be determined: *Provided always*, That the treasurer shall give bond, in such penalty, and with such security, as the president and directors, or a majority of them, shall direct, for the true and faithful dis-

Further powers
of the president
and directors.

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charge of the trust reposed in him, and that the allowance to be made to him for his services, shall not exceed two dollars in the hundred, for the disbursements by him made, and that no officer in the said company, shall have any vote in the settlement or passing his own account.

Bridge, &c. vest-
ed in the corpo-
ration.

SECT. 10. *And be it enacted*, That for and in consideration of the expenses the said stockholders will be at, not only in erecting the said bridge, and making said roads and other works, but in maintaining and keeping the same in repair, the said bridge, roads and works, with all their profits, under the limitations aforesaid, shall be, and the same are hereby vested in the said corporation, forever, subject nevertheless to the conditions hereafter mentioned; and that it shall and may be lawful for the said president and directors, after the said bridge shall be erected, and the said roads be opened and made passable, to demand, and receive the following tolls or pontage for crossing said bridge: to wit,

	Cents.
Pontage.	
For every single horse and rider	6
For every foot passenger	1
For every coach, chariot or landau	37 1-2
For every other four-wheeled pleasurable carriage	25
For every curricule	25
For every chair, sulkey, or other two-wheeled pleasurable carriage	12 1-2
For every stage-waggon, with passengers	25
For every loaded waggon	25
Not loaded	12 1-2
For every loaded cart, & three horses or oxen	18
For every sled or sleigh	12 1-2
Unloaded do. do. do.	9
For every loaded cart, and one horse	6
Unloaded do. do.	4
For every other horse, mule, or ox, in a cart or waggon	3
For driven or led horses, cattle or mules, each	1
For every sheep and hog	1-2

SECT. 11. *And be it further enacted,* That every person or persons, who shall prefer an annual contract for the use of said bridge, shall be entitled, for himself and his family, to all the benefits of the same, except as to stages for the conveyance of persons for hire, for the sum of six dollars, to be paid in such manner, that a quarterly payment shall always be in advance; and if any person or persons, who wish to make such contract, shall think the said annual payment unreasonable, and disproportionate to the number of their family, and their use of the said bridge, the party so aggrieved, and the president of the bridge company, shall choose a disinterested freeholder, who are hereby required to decide, without further appeal, what reduction, if any, shall be made from the annual payment herein before specified.

Commutation of rates, &c.

SECT. 12. *And be it enacted,* That if the president, directors and company, or any person or persons having the care and keeping of the said bridge, shall exact or demand any greater prices or rates than what are herein before prescribed, and specified, he or they, so offending, shall, for every offence, forfeit and pay any sum, not exceeding twenty dollars, one moiety thereof, to the party grieved, and the other moiety, to the trustees of the poor, for the use of the poor of said county, to be recovered, as debts to the same amount, are recoverable by the laws of this State.

Penalty for extorting undue rates.

SECT. 13. *And be it enacted,* That it shall and may be lawful for the president and directors, or a majority of them, to contract and agree with the owner or owners of any lands and tenements, for the purchase of so much thereof as shall be necessary for erecting said bridge, and opening said roads, if they can agree with such owners; but in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos mentis, or out of the State, or otherwise incapacitated to convey, then it shall, and may be lawful for the said

Lands for the use of the bridge, &c. how obtained.

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president and directors to apply to the clerk of the Supreme court for New-Castle county, who, upon such application, is hereby authorized, empowered, enjoined and required, to issue one or more writ or writs, as occasion shall require, in the nature of a writ of ad quod damnum, to be directed to the Sheriff of said county, or to the Coroner of said county, if the Sheriff should be in any way interested, describing the same, and naming the owner thereof, and commanding the said Sheriff or Coroner, as the case may be, that by the oaths or affirmations of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties, he shall enquire whether the person or persons owning any lands and tenements necessary to be used by the said president and directors, will suffer and sustain any, and what damages, by reason or means of taking any such lands, tenements, or other real hereditaments, necessary for the use of the said bridge and roads, or by any ways or means whatever, and to return the same writ, together with the finding of the said jury, to the next Supreme court after such finding, and upon such writ being delivered to the said Sheriff or Coroner, as the case may be, he shall give, at least ten days notice, in writing, to the parties in the said writ named, or their representatives, of the time of executing the same, and shall cause to come upon the premises, at the time appointed, twelve good and lawful men of his bailiwick, who shall be selected, in such manner as struck juries usually are, to whom he shall administer an oath or affirmation, that they will diligently enquire concerning the matters and things in the said writ specified, and a true verdict give, according to the best of their judgments and ability without favour or partiality to any; and thereupon the said Sheriff and inquest, shall proceed to view all and every the lands and tenements, or other real hereditaments, in such writ specified, and having considered the quantity and quality of so much as shall be necessary to be vested in the said company, for the purposes aforesaid, they shall cause the same

And damages
ascertained, &c.

to be minutely and exactly described, by metes and bounds, or other particular descriptions, and shall value and appraise the injury and damages which the owner or owners of such lands, tenements, hereditaments, or other improvements, will, according to their best skill and judgment, sustain and suffer, by means of the same being vested in the said company, defining and ascertaining, as well all such lands and tenements, liberties and privileges, so to be vested in the said company, as the several sums at which the said injuries and damages shall be so assessed, and the said Sheriff and jury shall make an inquisition, under their hands and seals, distinctly setting forth all the matters and things aforesaid, and the Sheriff shall forthwith return the same, together with the said writ, to the office of the clerk of the Supreme court, which shall be held next after the return of any such writ: the judges of the said court shall examine the same, and if the said writ shall appear to have been duly executed, and the return thereof, be sufficient to ascertain the lands and tenements, rights, liberties and privileges intended to be vested in the said company, and the several compensations awarded to the owners thereof, then the said court shall enter judgment, that the said company, paying to the owners, as aforesaid, the several sums of money, in the said inquisition assessed, or bringing the same into court, for the use of such owners, and also paying the costs of the said writ, and of executing and returning the same, shall be entitled to have and to hold to them and their successors and assigns forever, all and every the lands, rights, liberties and privileges, in the said inquisition described, as fully and effectually, as if the same had been granted to them by the respective owners thereof; and if any return, so to be made, shall not be sufficiently certain for the persons aforesaid, the said court shall award an inquisition de novo.

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SECT. 14. *And be it enacted*, That it shall and may be lawful for every of the said proprietors, to

In what manner
stock may be
transferred.

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transfer his or her share or shares, by deed executed, before two witnesses, and registered, after proof of the execution thereof, in the said company's books, and not otherwise, except by devise; which devise, shall also be exhibited to the president and directors, and registered in the said company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls or pontage : *Provided*, That no transfer whatever, shall be made, except for one or more whole share or shares, and not for part of such shares, and that no share, at any time, be sold, conveyed, transferred or held in trust, for the use and benefit, or in the name of another, whereby the said president and directors, or proprietors of said company, or any of them, shall or may be challenged or made to answer concerning any such trust, but that every person, appearing, as aforesaid, to be a proprietor, shall, as to others of the said company, be, to every intent, taken absolutely, as such, but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

Capital, insufficient, may be increased, and manner thereof.

SECT. 15. *And be it enacted*, That if the said capital, already granted by this act, shall not prove sufficient, it shall and may be lawful for the said company, from time to time to increase the said capital, by the addition of so many more whole shares as shall be judged necessary by the said proprietors, or a majority of them, present at any general meeting of the said company; and the president and directors, or a majority of them, are hereby empowered and required, after giving at least one month's public notice, to cause books to be opened at Wilmington, for receiving and entering such additional subscriptions, in which the proprietors of the said company, for the time being, shall, and hereby are declared to have the preference of all others, for the first day after the said books are opened, as aforesaid, of taking and subscribing for one whole share each : *Provided* the number of additional subscrip-

tions shall amount to the number of one whole share, for each stock-holder in said company; and the president and directors are hereby required to observe, in all other respects, the same rules therein, as are by this act prescribed; for receiving and adjusting the first subscriptions, and in like manner to return, under the hands of any three or more of them, an exact list of such additional subscriptions, with the sums by them respectively subscribed, into the Supreme court as aforesaid, to be there recorded, and all proprietors of such additional shares shall be, and they are hereby declared to be, from thenceforward, incorporated into the said company.

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SECT. 16. *And be it enacted*, That no one stockholder or proprietor in said company, shall, at any time, by subscription, hold any more or greater number of shares than twenty shares in the said capital stock; nor shall any minor subscribe for any share or shares in said company.

Subscription limited.

SECT. 17. *And be it enacted*, That if any person or persons shall refuse or neglect to pay the rate of pontage or toll, as aforesaid, it shall and may be lawful for the person or persons having the care, and collection of the pontage or toll of said bridge, or either of them, to refuse passage to any such person or persons, until he, she or they shall comply and pay the pontage or toll aforesaid.

Passage denied, on refusal, &c. to pay pontage.

SECT. 18. *And be it enacted*, That the president, directors and company, of the said bridge, shall, for the safety of travellers, as well as of the navigation, place, or cause to be placed, six or more lamps, at the expense of the said Wilmington bridge company, on a suitable number of posts, to be erected on the said bridge, two at the southern end, and two at the northern end of the said bridge, and one on each side the draw aforesaid; which lamps shall be lighted every evening, after the erection of the said bridge, within one hour after the setting of the sun, and continue lighted un-

Lamps to be erected, &c.

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til day light in the morning of the ensuing day, and the company aforesaid, or their agent or collector of tolls, for every night the said lamps shall not be lighted, shall forfeit and pay the sum of ten dollars, to be recovered as debts of the same amount are recoverable by the laws of this State, and applied as other fines and forfeitures under this act are directed to be.

Penalty for damaging the bridge, &c.

SECT. 19. *And be it further enacted,* That if any person or persons shall cut or injure, or destroy, any piece or pieces of timber, or any plank or planks, or other things belonging to the said bridge, or shall remove the same from the said bridge, or shall in any wise voluntarily damage the same, or shall voluntarily extinguish or injure the lamps aforesaid, or shall cut down or otherwise destroy, or injure any tree or trees, planted upon the causeway aforesaid, by the said company, for ornament, or either of them, he, she or they, so offending, and being thereof convicted before any justice of the peace of New-Castle county, upon the oath or affirmation of one or more credible witness or witnesses, shall forfeit and pay for every such offence, over and above the damage done to the said bridge, the sum of thirty dollars, to be recovered under the hand and seal of the justice of the peace before whom such conviction was had, and to be applied, one half to the person or persons who shall sue for the same, and the other moiety to the use of the poor of New-Castle county.

Draw of the bridge to be kept in repair, &c.

SECT. 20. *And be it enacted,* That the president and directors of the said Wilmington bridge company, shall, at all times, keep and maintain the draw of the said bridge, for the free passage of vessels with fixed masts, required to be constructed by this act, in good order and sufficient repair, and at all times after the erection of the said bridge, and during its continuance, give, or cause to be given, good attendance at the said bridge, to draw and raise the same, when required, and peaceably, freely

and quietly, suffer every vessel and all vessels to pass and re-pass unmolested, through the said draw, free from all and all manner of toll whatsoever; and if the president and directors, or any person or persons having the care of the said bridge and draw, shall, at any time after the erection of the said bridge, neglect or refuse to keep the draw of the said bridge in good and sufficient repair, or shall neglect or refuse to give good and faithful attendance at the said draw, or to raise up the same, so as to permit the passage of all vessels (free from toll) such person or persons, or the president and directors of the said bridge company, so neglecting or refusing, shall, for each and every such offence, forfeit and pay to the person or persons aggrieved, for every fifteen minutes his, her or their vessel or vessels shall be detained by the default or neglect of the parties aforesaid, the sum of ten dollars, to be recovered as debts of the same amount are recoverable by the laws of this State.

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Forfeiture for
neglect, &c.

SECT. 21. *And be it further enacted,* That the said bridge and roads in this act directed to be erected and opened, shall, after the erection and laying out of the same, be, and they are hereby declared to be a public highway for all and every the citizens or inhabitants of this State, and of the United States, to pass and re-pass over and along, they paying the toll or pontage aforesaid; and for that purpose, the president and directors of the said Wilmington bridge company, or their agent or agents, shall at all times, after the said bridge is erected, and the said roads are opened and made passable, give good attendance at the said bridge, and shall peaceably and quietly suffer every person or persons, with their goods, chattels and effects whatsoever, to pass and re-pass, unmolested, over the said bridge and roads, they paying therefor the toll or pontage aforesaid.

Bridge & roads
declared a public
highway.

SECT. 22. *And be it enacted,* That no toll or pontage shall be demanded or paid for crossing the

Pontage, when
to be demanded.

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said bridge, until the commissioners, or a majority of them, appointed by this act, to lay out the roads from the said bridge to the point where the public road leading from the ferry below Wilmington crosses the division line between the lands of major Peter Jaquett and Robert White, and thence on to Clark's corner aforesaid, shall have certified, under their hands and seals, that the said bridge and roads are completed; and made passable with safety; which said certificate shall be returned to the same court to which they are directed to make return of the survey of the roads aforesaid, to be there filed and preserved among the records of the said court.

Profits exceeding ten per cent. per ann. excess to go to school fund.

SECT. 23. *And be it enacted*, That when the nett profits arising or accruing to the bridge company aforesaid, from the tolls or pontage established by this act, shall exceed the sum of ten per cent. per annum, on the capital stock of the said bridge company, then the said company, for each and every year in which the same shall happen or take place, shall pay into the hands of the trustee of the funds for establishing schools in this State, the respective sums which may be in their hands, after deducting the said nett profits of ten per cent. per annum, on their said capital stock, which said sums respectively, in each and every year, as aforesaid, the trustee is hereby empowered to sue for and recover, by action on the case, in any court of record within this State.

Books to be open to trustee thereof.

SECT. 24. *And be it enacted*, That the books of accounts belonging to the said bridge company, shall at all reasonable times, be open to the said trustee.

Passed at Dover, Jan. 20, 1807.

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A supplement to an act, entitled, "An act to empower executors and administrators, within this government, by leave of court, to convey lands contracted for with their decedents."

Chap. 107. a.
vol. 1. p. 269.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That bonds or other writings, under hand and seal, and duly witnessed, for the conveyance of lands, may be proved, petitions preferred, and orders made, for executors or administrators to execute and acknowledge deeds or conveyances in the Supreme court, in like manner, as by the act to which this is a supplement, the same may be done in the court of Common pleas.

Bonds, &c. may be proved, and orders made in Supreme court.

SECT. 2. *And be it further enacted by the authority aforesaid,* That all deeds and conveyances, which shall be executed in virtue of any order or orders of the Supreme court, and in pursuance of this act, and the act to which this is a supplement, shall be as good and available in law and equity, and as binding on the estate of the deceased, as the same might or could have been, if executed by the deceased, in his or her life time.

Deeds, &c. by virtue of such order, declared good.

SECT. 3. *And be it further enacted by the authority aforesaid,* That deeds and conveyances executed in pursuance of any order or orders of the Supreme court heretofore made, in virtue of the act to which this is a supplement, shall be as good and available in law and equity, as if such deeds or conveyances had been executed by virtue of any order or orders of the court of Common pleas.

Also those, in pursuance of orders heretofore made.

Passed at Dover, January 28, 1807.

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CHAP. XXX.

A supplement to an act, entitled, "An act to authorize the owners and possessors of the marsh or low ground, commonly called and known by the name of Calbreath's marsh, situate in the forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same."

Passed at Dover, Jan. 29, 1807—Private act.

CHAP. XXXI.

An ACT to enable George Morgan, junior, and Elizabeth A. Morgan, his wife, to sell and convey certain real property therein mentioned.

Passed at Dover, Jan. 29, 1807---Private act.

CHAP. XXXII.

A further supplement to an act, entitled, "An act for establishing a market in the town of New-Castle, for appointing a clerk of the market, and directing the assize of bread."

Chap. 15. 4th
vol. p. 25.

Preamble.

WHEREAS the act to which this is a further supplement, is found insufficient in many respects, with regard to the regulations of the market

in the town of New-Castle, and much hardship and inconvenience is experienced by the inhabitants of the said town, for want of better regulations, and more especially to prevent the injurious practice of forestalling ; for remedy whereof,

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SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That it shall and may be lawful for the commissioners of the town of New-Castle, or a majority of them, and they are hereby authorized to make, alter, repeal and again re-enact all laws, regulations and ordinances, which they may, from time to time, deem requisite and necessary, for the better regulation of the market in the town of New-Castle: *Provided nevertheless,* That nothing in this act, shall be construed to authorize the said commissioners to exercise any powers repugnant to the laws and constitution of this State.

Powers of the
commissioners.

Proviso.

Passed at Dover, Jan. 29, 1807.

CH A P. XXXIII.

An ACT for the better regulation of the gaol and work-house in the county of New-Castle, and for other purposes.

WHEREAS the laws heretofore made, have not answered all the good purposes thereby intended in establishing regulations for the gaol and work-house, in the county of New-Castle ; for remedy whereof,

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the Levy court of

Commissioners
to be appointed.

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Their powers
and duties.

New-Castle county, shall, and they are hereby directed to appoint, annually, at their meeting in the month of March, three of the trustees of the poor of the county aforesaid, or such other persons as they may appoint as commissioners of the public gaol and work-house of said county, who shall meet at the court-house, in said town, on the first Tuesday of April next, and on the first Tuesday of every third month thereafter, or oftener, if necessary, and at such meetings, the said commissioners, or a majority of them, shall make all such good and wholesome ordinances, rules and bye-laws, as they shall think proper for the direction, government and support of the gaol and work-house of said county; and also for the cleanliness and employment of all such persons as may be committed thereto, all which ordinances rules, and bye-laws, shall be binding and obligatory on all persons concerned, until they shall be repealed or altered: *Provided always*, That the said ordinances, rules and bye-laws, be no ways contrary to the laws of the State.

Proviso.

Overseer, &c. to
be appointed.

SECT. 2. *And be it enacted*, That it shall be the duty of the Levy court, and they, or a majority of them, are hereby authorized to appoint annually, an overseer for the work-house in said county of New-Castle, and such other officers and servants as they shall think proper, and the said overseer shall receive, for his services, such compensation as shall be allowed by the said Levy court.

To give bond.

SECT. 3. *And be it enacted*, That the overseers of the work-house, to be appointed, in manner aforesaid, shall enter into bond, with two or more good and sufficient sureties, to be approved by the Levy court, in the sum of one thousand dollars, payable to the said Levy court, conditioned as follows: to wit, "The condition of the above obligation is such, that if the above bounden A. B. as overseer of the work-house of New-Castle county, shall well and truly discharge the duty and trust reposed in him as overseer, according to the direction and true in-

tent and meaning of an act of the General assembly, entitled, "An act for the better regulation of the gaol and work-house, in the county of New-Castle, and for other purposes," then the above obligation to be void, and of no effect, otherwise to be and remain in full force and virtue in law."

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SECT. 4. *And be it enacted* That the commissioners so appointed by the Levy court, or a majority of them, are hereby directed and required to purchase, for the use of said gaol and work-house, in the said county of New-Castle, sufficient working tools, beds and bedding, and such other necessary articles, as will maintain and fully employ such person or persons as may be committed to the gaol or work-house of said county, and lay their accounts before the Levy court, and when allowed, shall be provided for, and paid as other public accounts are.

Articles for the maintenance, &c. of prisoners, to be purchased.

SECT. 5. *And be it enacted*, That the overseer of the work-house, shall compel and oblige every of the persons, who may be committed to his custody, if of sufficient ability to work and labour; and the produce of such labour, he is hereby directed to sell, and the money arising from such sale, or from their labour, only where materials or employment are furnished by others, shall be applied to their maintenance and support.

Duty of the overseer.

SECT. 6. *And be it enacted*, That upon complaint, and due proof made, by the overseer of the work-house, or keeper of the gaol, to the commissioners, or a majority of them, that any person or persons in the work-house or gaol, hath behaved him or herself in a disorderly manner, or hath refused or neglected to perform his or her duty, labour or task, or hath disobeyed or violated any of the ordinances, rules and bye-laws of the said work-house and gaol, it shall and may be lawful for the commissioners, or a majority of them, to order and direct such moderate and proper correction, as the case may require.

Prisoners, misbehaving, may be corrected.

Overseer to keep and render regular accounts, &c.

SECT. 7. *And be it enacted,* That the overseer of the said work-house, shall keep a fair and regular list of all persons committed to his custody, together with their ages, as near as can be ascertained; and the time when committed and discharged; and shall lay a regular and fair account, in writing, of all materials, necessaries and other things, coming into his hands; and of all expenses and charges attending their maintenance and support, and all monies received by him, for the sale of the produce of their labour, and otherwise, and shall settle his accounts with the Levy court, at their meeting, in the month of March annually, and pay over any money that may be remaining in his hands, to the treasurer of said county.

May be removed for misbehaviour.

SECT. 8. *And be it enacted,* That upon complaint made by the said commissioners, it shall and may be lawful for the Levy court, or a majority of them, to remove the said overseer, and all other officers by them to be appointed, in pursuance of this act, and appoint others to supply the vacancy occasioned by their removal.

Compensation to commissioners.

SECT. 9. *And be it enacted,* That the Levy court, shall, at their meeting, in the month of March annually, settle and pay the said commissioners, the sum of two dollars, for each and every day's service as commissioners of the said gaol and work-house, by orders drawn on the treasurer of said county; and shall, in case of a vacancy, either by death, or inability to act, or removal out of the county of either or any of the commissioners, supply such vacancy, for the residue of the time said commissioner was appointed for.

Vacancies, how supplied.

Repeal, &c. vide p. 392, vol. 3

SECT. 10. *And be it enacted,* That all the powers and authorities heretofore given to the judges of the Supreme court, and court of Quarter sessions, so far as it regards the appointment of a keeper of the work-house, and inspectors of the common gaol; and the powers of the inspectors of the common

gaol of New-Castle county, shall be, and hereby are, vested in the Levy court of said county, and in the commissioners directed to be appointed under this act, and all acts of the General assembly of this State, that may be repugnant to the provisions of this act, are hereby repealed, or so much thereof as is hereby altered, shall be null and void.

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Passed at Dover, Jan. 29, 1807.

C H A P. XXXIV.

An ACT to make it felony to steal bonds, notes or other securities, for the payment of money.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That if any person or persons shall, from and after the passing of this act, steal or take by robbery, any order or orders, entitling any other person or persons to any annuity, interest or share in any of the funds of the United States of America, or in any of the funds of the State of Delaware, or any bank notes, or any check, or order on any incorporated bank, for the payment of money, or any bill of exchange, bond or warrant, or bill, or promissory note, for the payment of any money, being the property of any other person or persons, or of any corporation, notwithstanding any of the said particulars are termed, in law, a chose in action, it shall be deemed and construed to be, felony, of the same nature, of the same degree, and in the same manner, as it would have been, if the offender or offenders had stolen or taken by robbery, any other goods, of like value, with the money due on such order or orders,

Stealing or taking by robbery, securities for money, made felony.

L

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bank notes, checks, bills of exchange, bonds, warrants, bills or promissory notes, or secured thereby, and remaining unsatisfied; and such offender or offenders, shall suffer such punishment, as he, she or they should, or might have done, by the laws of this State, if he, she or they, had stolen or taken by robbery, other goods of the like value, with the money due on such order or orders, bank notes, checks, bills of exchange, bonds, warrants, bills or promissory notes respectively, or secured thereby, and remaining unsatisfied; any law to the contrary thereof in any wise notwithstanding.

Passed at Dover, Jan. 30, 1807.

CHAP. XXXV.

A Supplement to an act, entitled, "An act for the more effectual draining and improving the marsh, cripple, and low land on Morris's Branch, in Appoquinimink hundred, and county of New-Castle, and for other purposes therein mentioned."

Passed at Dover, Feb. 2, 1807.—Private act.

C H A P. XXXVI.

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An ACT for the more effectual executing of the writ of elegit.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, whenever any writ of elegit shall be directed to any Sheriff, of any county in this State, for the delivery of any lands, tenements and hereditaments, to the party obtaining the said writ, it shall be the duty of the Sheriff, to enquire, by the same jury, by whom he shall enquire of the value of any such lands, tenements and hereditaments, upon their oaths, or if any of them be conscientiously scrupulous of taking an oath, upon his or their affirmation or affirmations, into the title of the person or persons, against whom any such writ shall be issued, to such lands, tenements and hereditaments, and shall certify the same inquest, endorsed and annexed to the said writ, together with the said writ, to the court from which such writ issued; and if it shall be found by the said inquisition, that the said lands, tenements and hereditaments, are liable to be taken in execution for the satisfaction of the debt or damages, with the costs of suit, mentioned in the said writ, thereupon the court shall award a writ, in the nature of a writ of habere facias possessionem, whereupon the Sheriff shall deliver to the plaintiff or plaintiffs, his, her or their agent, the said lands, tenements and hereditaments, and remove from the possession of the same, the person or persons possessed thereof; and all persons, who may have become possessed of the same, at any time after the date of the said inquisition; *Provided nevertheless*, if the Sheriff, when he enters upon any such lands, tenements and hereditaments, to execute any such writ of elegit, shall find the defendant or defendants, or their, or either of their executors or administrators, or any per-

Sheriff to enquire on the elegit into the title to lands, &c.

If found, liable to be taken in execution, court to award a habere facias possessionem, &c.

Provido.

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Further proviso

son or persons holding under such defendant or defendants, executor or executors, administrator or administrators, or any one or more of them, in possession of the said lands, tenements and hereditaments, then, and in every such case, he shall remove the said defendant or defendants, or their, or either of their executors or administrators, or other person or persons holding under such defendant or defendants, or their, or either of their executor or executors, administrator or administrators, or any one or more of them, from the possession thereof, and deliver the same to the said plaintiff or plaintiffs, his, her or their agent, without enquiring, as aforesaid, into the title of the person or persons, against whom any such writ shall be issued, to such lands, tenements and hereditaments. *And provided also,* That when the person or persons against whom any such writ is issued, is or are owners of any undivided share or shares only of any such lands, tenements, and hereditaments, that then, and in such case, the other owner or owners of the undivided share or shares, shall not be removed from the possession of his, her or their share or shares of such lands, tenements and hereditaments, but the share or shares only of such defendant or defendants, against whom such writ shall be issued, shall be delivered, and such owner or owners only, shall be removed from his, her or their possession, as aforesaid.

Inquisition not to be conclusive on persons in possession.

SECT. 2. *And be it enacted by the authority aforesaid,* That the finding of the said jury, upon such writ of *elegit*, shall not be conclusive upon the person or persons in possession of said lands, tenements and hereditaments, at the time of such finding, nor upon any other person or persons whatsoever, but that it shall be lawful for the said person in possession thereof, at the time of such finding, after he, she or they shall be removed from such possession as aforesaid, and for all other persons, at any time whatsoever, to institute an action or actions of ejectment, or any other proper legal remedy, for the recovery of the possession of said lands, tenements

Ejectment, after removal may be brought, &c.

and hereditaments, notwithstanding such finding, as aforesaid, and thereupon recover the possession of such lands, tenements and hereditaments, in case the same were not liable to be taken in execution for the satisfaction of said debt and damages, with the costs of suit, as in other cases. *Provided* the plaintiff or plaintiffs in any such action, shall obtain the verdict of the jury, and the judgment of the court upon such trial.

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SECT. 3. *And be it enacted by the authority aforesaid,* That in case the said jury shall, upon such enquiry, as aforesaid, find that the said lands, tenements and hereditaments, are not liable to be taken in execution, for the satisfaction of said debts and damages, with the costs of suit, it shall be lawful for the plaintiff or plaintiffs, in any such writ of elegit, to proceed in such manner as he might do before the passing of this act, and such finding, shall not be conclusive against such plaintiff or plaintiffs.

Inquisition not to be conclusive on plaintiffs, &c.

SECT. 4. *And be it enacted by the authority aforesaid,* That it shall be the duty of the justices of the Supreme court, and of the Court of common pleas, respectively, to frame and adopt the form of the writ of elegit, and of a writ of habere facias possessionem, and also of the oath or affirmation to be administered to the said jurors, conformably to the true intent and meaning of this act, as near as may be to suit the several cases which may arise in the said courts, so that no person may be delayed for want of form.

Justices of the respective courts, to frame writs, &c.

Passed at Dover, February 2, 1807.

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XXXVII.
1807

Chap. 45, c. 2
vol. p. 1160.

Preamble.

General war-
rants declared
valid.

CHAP. XXXVII.

An additional supplement to the act, entitled, "An act, opening and establishing a land office within this State, and for the sale of all vacant and unlocated lands therein."

WHEREAS it is represented to this General Assembly, that the recorder of deeds in and for the county of Sussex, in this State, hath granted and issued, and was accustomed to grant and issue, in most cases, general warrants, for surveying and locating vacant land within the said county, without setting forth, in such warrants, a specification of the land thereby intended to be surveyed and located, as is required by the first section of the act to which this is a supplement, passed at Dover, the nineteenth day of June, in the year of our Lord, One thousand seven hundred and ninety-three, by reason whereof, doubts have arisen concerning the validity of said warrants; wherefore, to prevent the hardship and injustice that might result to the grantees of such warrants, and their assigns:

SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That all general warrants issued by the recorders of the several counties in this State, after the said nineteenth day of June, in the year of our Lord, One thousand seven hundred and ninety-three, and before the eleventh day of January, in the year of our Lord, One thousand seven hundred and ninety-eight, be, and the same are hereby declared to be good and available in law and equity, and shall have the same force and effect, as if they had issued in the special manner directed by the first section of the before recited act: any thing in the said act to the contrary notwithstanding.

SECT. 2. *And be it further enacted by the authority aforesaid,* That all surveys made, and patents granted under, or by virtue of said warrants, shall have the same effect as if said warrants had issued in the special manner directed by the before recited section: *Provided nevertheless,* That in all cases where any special warrant may have issued, that then, and in such case, the special warrant shall have the preference, notwithstanding it may be of a younger date.

Surveys, &c.
under such war-
rants, confirm-
ed.

Proviso.

Passed at Dover, Feb. 2, 1807.

C H A P. XXXVIII.

An ACT to change the name of Head of Broad-kiln to Milton.

Passed at Dover, Feb. 3, 1807---Private act.

C H A P. XXXIX.

An ACT to establish a bank, and incorporate a company, under the name of the Farmers' Bank of the State of Delaware.

WHEREAS the establishment of a bank for the State of Delaware, upon a foundation sufficiently extensive to answer the purposes intended thereby, will be conducive to the general interests of the State, and tend to promote the agriculture, commerce and manufactures thereof: Therefore,

Preamble.

Bank and branches established.

Style.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That a bank to be called and known by the name of the "Farmers' Bank of the State of Delaware," shall be established at the town of Dover, in Kent county, and a branch thereof shall be established at the town of New-Castle, in New-Castle county, and a branch thereof at George-Town, in Sussex county, and the proportion to be allotted to the branch banks, shall be as is herein after directed.

Capital limited, &c.

By whom subscriptions shall be taken.

SECT. 2. *And be it further enacted,* That the capital stock of the said bank, shall not exceed five hundred thousand dollars, divided into ten thousand shares, of fifty dollars each, and that two thousand shares of the said capital stock, shall be reserved for the use and benefit of the State, to be subscribed for in the manner herein after directed; and the remaining eight thousand shares, shall be allotted to the different counties of this State, and subscribed for in the manner following, that is to say, at the town of New-Castle, for the county of New-Castle, for three thousand four hundred shares under the direction of Francis O'Daniel, James Booth, John Bird, Mordecai M'Kinney, John M'Beath, Joel Lewis, Levi Boulden, John Sutton, Samuel Thomas and Francis Haughey, or any two of them; at Dover, for Kent county, three thousand shares, under the direction of Nicholas Ridgely, James Sykes, Henry M. Ridgely, Willard Hall, William Hughlett, George Kennard, Isaac Davis, George Truitt, Samuel White, Peter Caverly and James B. Ralston, or any two of them; and at George-Town, for Sussex county, for one thousand six hundred shares, under the direction of Daniel Rodney, Samuel Paynter, junior, Benton Harris, James Anderson, Manaam Bull, Isaac Tunnell, George Robinson, Jacob Cannon, merchant, and Jesse Green, or any two of them.

SECT. 3. *And be it further enacted,* That books, for the said subscriptions, shall be opened by the commissioners aforesaid, between the hours of ten and eleven o'clock, in the forenoon, on the first Monday in May next, and shall continue open until four o'clock, post meridiem, and shall remain open between those hours, for three days at least, and for the term of six days, unless sooner filled: *Provided nevertheless,* That the citizens of this State, shall have the preference for the three first days the books are opened: And if it should happen, that more than the stipulated number of shares should be subscribed for on the first day, then the said commissioners are hereby authorized and directed to apportion the shares subscribed among the several subscribers, by deducting from the highest subscriptions, until they are reduced to their proper number.

**Books for sub-
scriptions, when
to be opened, &c**

Proviso.

SECT. 4. *And be it enacted,* That it shall be lawful for any person, co-partnership or body politic; (except banking establishments) in person or by attorney, to subscribe for a share, or any number of shares, not exceeding twenty, in any one day, while the subscription books shall remain open, (except as in this act shall be directed, relatively to the State of Delaware) and the amount of the share and shares subscribed for, shall be paid by the several and respective subscribers, one half in gold or silver, and the residue, in notes of the banks established by law in Philadelphia, Wilmington, or the State of Maryland, or any of them, in the manner following, that is to say, every subscriber shall pay to the commissioners aforesaid, at the time of subscribing for the same, the sum of five dollars on each share that shall be by him or her subscribed: And each subscriber shall, within sixty days thereafter, pay the further sum of five dollars, on each share, to the directors of the said bank, either in the town of New-Castle, Dover or George-Town, as the case may be, and so in like manner, the sum of five dollars shall be paid on each

Regulations for subscribing, &c.

M. longicauda (Heller) (new comb.)

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Proviso.

share, at the expiration of every sixty days, to the directors either in the town of New-Castle, Dover or George-Town, as the case may be, until twenty-five dollars shall have been paid on each and every share, and the remainder shall be paid in such proportions, and at such times, as the directors may appoint. *Provided however,* That not more than ten dollars, on each share, so remaining unpaid, shall be demanded in any one year, and that three month's notice of such demand, shall be given.

Forfeiture for
default of pay-
ment, &c.

SECT. 5. *And be it enacted,* That if any stockholder shall fail to pay his or her instalments, to the amount of ten dollars on each share, at the times, and in the manner before specified, such stockholder shall forfeit to the use of the company, all monies paid antecedently to such failure or default, but no forfeiture shall take place after ten dollars on each share, shall have been paid; but as it is requisite that means should be taken, to secure the regular payment of the subsequent instalments: *Therefore,* if any stockholder shall fail to make regular payments of any instalments, after ten dollars shall have been paid, such stockholder's money in bank, shall remain free from interest; and not be entitled to dividend, until such instalment or call shall be made good; and the dividend thereafter to be paid to such stockholder, (as well upon the money by him or her regularly paid, as upon the money paid after default) shall be calculated only from the time when said last instalment was made good or paid.

Incorporation of
the subscribers.

Style thereof.

Capacity to sue,
&c.

SECT. 6. *And be it further enacted,* That the subscribers to the said bank, their successors and assigns, shall be, and hereby are, created and made a corporation and body politic, in law and in fact by the name and style of, The president, directors and company of the Farmers' Bank of the State of Delaware; and shall so continue until the first day of September, one thousand eight hundred and twenty-two, and by that name shall be, and are hereby made able and

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capable, in law, to have, take, purchase, receive, possess, enjoy, and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, to an amount, not exceeding in the whole, eight hundred thousand dollars, including the capital stock aforesaid, and the same to sell, grant, demise, alien or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or any other place whatsoever; and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure: And also to ordain, establish and put in execution, such bye-laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of this State, or of the United States: And for the making whereof, general meetings of the stockholders, shall and may be called by the directors, in the manner herein after specified; and generally to do and execute all and singular the acts, matters and things, which to them it shall or may appertain to do, subject nevertheless to the rules, regulations and provisions herein after prescribed and declared.

Authorized to
establish bye-
laws, &c.

SECT. 7. *And be it further enacted*, That no subscriber, or stockholder, or member of the said company, shall be answerable in his person, or individual property, for any contract or engagement of said company, or for any losses, deficiencies or failures of the capital stock of the said company; but the whole of the said capital stock, together with all property, rights and credits, belonging to the said institution, and nothing more shall, at all times, be answerable for the demands against the said company.

Stockholders
not answerable
individually, for
contracts of the
company.

SECT. 8. *And be it further enacted*, That for the well ordering of the affairs of the said corporation, there shall be twenty-seven directors; of whom the General assembly of this State, shall choose nine, of

Number, &c. of
directors to be
chosen.

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Their continu-
ance in office.

Election of pre-
sidents.

Proviso.

Appointment,
&c. of the first
directors.

whom three shall be resident in New-Castle county, three in Kent county, and three in Sussex county; at each annual session thereof, in the month of January in each year, hereafter; and the remaining eighteen directors, shall be elected by the stockholders or proprietors of the capital stock of the said corporation, in proper person, or by proxy, and by plurality of the votes actually given in at a general meeting of the said stockholders to be annually held at the town of Dover, on the third Tuesday of January in every year, for that purpose, of which said eighteen directors, six shall be resident in the county of New-Castle, six in Kent county, and six in Sussex county; and those who shall be chosen by the General assembly, as aforesaid, at each annual session thereof, shall be capable of serving as directors, by virtue of such choice or appointment, until the said General assembly shall, at the annual session after such choice or appointment, choose other directors, pursuant to the provision aforesaid, and those who shall be duly elected at any election by the stockholders or proprietors aforesaid, shall be capable of serving as directors by virtue of such choice, until the end or expiration of the third Tuesday in January next ensuing the time of such election, and no longer: And the said directors, at their first meeting after each election, shall choose one of their number, he being a resident of Kent county, as the president of the principal bank, and also another of their number, he being a resident of New-Castle county, as the president of the branch bank at New-Castle, and also one other of their number, he being a resident of Sussex county, as the president of the branch bank at George-Town: *Provided* that the election of directors for the present year, shall not be included in the above general regulation, but shall be held at the time and in the manner herein after specified.

SECT. 9. *And be it further enacted*, That the governor of the State of Delaware, be, and he is hereby empowered and required to appoint, within thirty

days after the first Monday of May next; nine directors for the State of Delaware, apportioning them in the same manner among the several counties of the State, as herein before directed in the case of a choice of directors by the General assembly: And the stockholders or proprietors aforesaid, in proper person, or by proxy, and by a plurality of the votes actually given, are hereby authorized and empowered to elect, on the second Tuesday of June next, eighteen directors, apportioning them in the same manner among the counties aforesaid, as herein before directed in the case of an election for directors, by the stockholders aforesaid: And the said election for the said eighteen directors, shall be held in the town of Dover, on the day in this section for that purpose appointed: And the eighteen persons who shall then and there be chosen, together with the nine persons who shall be appointed by the governor as aforesaid, shall be the first directors, and shall be capable of serving, by virtue of such choice and appointment, until the third Tuesday of January next, or until their successors shall be duly elected, in pursuance of this act; and the same directors, at their first meeting after their said appointment and election, as last mentioned, shall choose one of their number, as president of the principal bank at Dover, and one other of their number, as president of the branch bank at New-Castle, and one other of their number, as president of the branch bank at George-Town; the first of whom shall be a resident of Kent county, and one other, a resident of New-Castle county; and one other, a resident of Sussex county; and the said directors may, as soon thereafter as they see proper, determine upon, and commence the operations of the said bank, at Dover, New-Castle and George-Town aforesaid, respectively; *And it is hereby expressly provided, and further enacted, That in case it should at any time happen, that a choice or appointment, and election, respectively, of directors, should not be made upon any day, when, pursuant to this act, they ought to have been made, the corporation shall not, for that*

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And presidents.

Proviso, in case of failure in the choice, &c. of directors.

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Further proviso

cause, be deemed to be dissolved; but it shall be lawful for the General assembly, at any other session, to choose, and for the stockholders, at any other day, to hold, and make an election of directors, in such manner as shall have been regulated with respect to such election by the laws and ordinances of the corporation; *And it is also further hereby provided*, That in case of the death, absence from the United States, resignation, or removal of a director, or his ceasing to be a stockholder, (except only in the case of the directors appointed for the State) his place may be filled up by a new choice, by the directors for the remainder of the year; and in case of the death, absence from the United States, resignation or removal of a director, appointed for the State, as aforesaid, the Governor of the State for the time being, shall and may supply his place, by a new appointment, for the remainder of the year.

Who may be directors

SECT. 10. *And be it further enacted*, That no person can be admitted to take his seat, as a director, unless he shall be, at the time, a stockholder, except in the appointment of directors on behalf of the State, and, if he shall at any time cease to be a stockholder, he shall cease to be a director.

Their powers.

SECT. 11. *And be it further enacted*, That the directors for the time being, shall have power to appoint such officers, clerks and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well governing and ordering the affairs of the said corporation, as shall be described, fixed and determined, by the laws, regulations or ordinances of the same.

Articles of the constitution.

SECT. 12. *And be it further enacted*, That the following rules, restrictions, limitations and provisi-

ons, shall form the fundamental articles of the constitution of the said corporation: that is to say,

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First—The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold, in the proportions following: that is to say, for one share, and not more than two shares, one vote; for every two shares above two, and not exceeding ten, one vote; for every four shares above ten, and not exceeding thirty, one vote; for every six shares above thirty, and not exceeding sixty, one vote; for every eight shares above sixty, and not exceeding one hundred, one vote; and for every ten shares above one hundred, one vote: But no person, copartnership, or body politic, shall be entitled to a greater number than thirty votes; and after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election.

Voting regulated.

Second—Not more than three-fourths of the directors in office, who shall have been chosen by the stockholders, exclusive of the president, shall be eligible for the next succeeding year; but the directors, who shall be presidents of the principal bank, and of the branch banks, at the time of the election, may also be re-elected.

Rotation of office, &c.

Third—No director shall be entitled to any emolument, unless the same shall have been allowed by the stockholders, at a general meeting. The stockholders shall make such compensation to the presidents respectively, for their extraordinary attendance at the banks, as shall appear to them reasonable.

Compensation to the president &c. allowable.

Fourth—The directors shall hold occasional meetings at the principal bank, and at the branch banks, at such times, as may be previously appointed by them.

Meetings of the directors.

Number of directors to form a board at the principal bank,

Fifth.—Not less than five directors shall constitute a board, for the transaction of business, at the principal bank, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director, whom he, by writing, under his hand, shall nominate for the purpose.

And at the branches.

Sixth.—Not less than five directors, at the branch banks, shall constitute a board, for the transaction of business at the said banks, of whom the presidents thereof respectively, shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director there, whom he, by writing, under his hand, shall nominate for that purpose.

Number of stockholders requisite to call a general meeting.

Seventh.—Any number of stockholders, not less than twenty, who together, shall be proprietors of five hundred shares, or upwards, shall have power, at any time, to call a general meeting of the stockholders, for purposes relative to the institution, giving at least five weeks notice in one public gazette in the State of Delaware, and in one public gazette of the city of Philadelphia, and in one public gazette of the State of Maryland, and specifying, in such notice, the object or objects of such meeting.

Cashier to give bond, &c.

Eighth.—Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with one or more sureties, to the satisfaction of the directors, together with a warrant of attorney, to enter judgment, or judgments thereon, in a sum not less than fifty thousand dollars, with condition for his good behaviour.

What lands, &c. the corporation may hold by way of security, &c.

Ninth.—The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such, as shall be requisite for its accommodation in relation to the convenient transacting of its business, and such as shall have been, *bona fide*, mortgaged to it, by way of security, or

conveyed to it, in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments, which shall have been obtained for such debts.

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Tenth.---The said corporation shall take no more than at the rate of six per centum per annum, upon its loans or discounts. Allowable per centum.

Eleventh.---The stock of the said corporation shall be assignable and transferable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same. Stock, assignable.

Twelfth.---The bills obligatory, and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereupon, under the hand or hands of such person or persons, and of his, her or their assignee or assignees, and so as absolutely to vest and transfer the property thereof, in each and every assignee or assignees, successively, and to enable such assignee or assignees, to bring and maintain an action thereupon, in his, her or their own name; and all bills or notes, which may be issued by order of the corporation aforesaid, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order, or bearer, though not under the seal of the corporation aforesaid, shall be binding and obligatory on the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her, or their natural capacity or capacities, and shall be assignable and negotiable, in like manner as if they were so issued by such private person or persons; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable, by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; Bills of credit, under the seal of the corporation, assignable, &c.
Bills or notes under the hand of the president, &c. obligatory,
and in what manner assignable, &c.

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Dividends to be
made, &c.

and those which shall be payable to bearer, shall be negotiable, and assignable by delivery only.

Thirteenth.---Half yearly dividends shall be made of so much of the profits of the said institution, as shall appear to the directors advisable, and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts, and of the surplus profit, if any, after deducting losses and dividends: *Provided however*, that nothing in this rule contained, shall be construed, in any manner, to invalidate or contravene any of the provisions contained in the fifth section of this act.

Auditor to be
furnished with
accounts.

Fourteenth.---The auditor of accounts of the State of Delaware, shall be furnished; from time to time, as often as he may require, not exceeding once in twelve months, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the monies deposited therein; of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as relate to the statements; who shall report annually, a statement thereof, to the General assembly: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

Surplus profits
to be divided.

Fifteenth.---The surplus profits arising from the operations of the bank, shall be divided every third year, or such proportion thereof, as the directors may deem advisable.

Meetings of the
directors regu-
lated.

Sixteenth.---The directors shall, after their first appointment and election, under this act, meet on the first Tuesday of July next, at the town of Dover; and the directors shall meet annually hereafter, at the bank, in the town of Dover, on the first

Tuesday in January, in each year hereafter. Books shall be kept at Dover, New-Castle and George-Town, in which shall be fairly entered, the stock subscribed and paid for by the stockholders of each county ; and transfers from A. to B. shall be made on the books of the principal bank, or at either of the branch banks, as the case may be, on proper application, by the stockholders. As the Farmers' bank consists of a principal bank and branch Banks, the general accounts shall be kept at the principal bank at Dover, and the course of operations, shall be as follows--The directors of the principal bank at Dover, shall furnish the directors of the branch banks with a proportionate amount of notes signed by the president of the principal bank at Dover, and countersigned by the cashier, made payable at the proper branch bank ; and each note shall, on the face of it, have a blank, to be filled up by the president of the branch bank, with his name, in his own hand writing ; and the branch banks shall stand charged on the books of the principal bank at Dover, with all such remittances ; and it shall be the duty of the directors of the branch bank at New-Castle, and the directors of the branch bank at George-Town, respectively, within six months after the commencement of the said banks, and half yearly thereafter, to render to the directors of the principal bank at Dover, a clear account of all expenses attending the conducting said branches, respectively, together with the account of the nett profits resulting therefrom, in order to the striking of the dividends, which shall be done at the principal bank at Dover, and the dividends on stock, standing on the books of the branch banks respectively, shall be paid at the said branch banks respectively.

Books to be kept, &c.

Principal bank to furnish notes, &c.

Branches to render accounts

Mode of striking dividends, &c.

SECT. 13. *And be it further enacted,* That the said company shall, in no case, be concerned in any article, but notes, bills of exchange, mortgages, stock of the United States, or bullion, except in case of debts due to the bank, then they may and

Articles the company may be concerned in, &c.

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Dividends to be
made, &c.

and those which shall be payable to bearer, shall be negotiable, and assignable by delivery only.

Thirteenth.---Half yearly dividends shall be made of so much of the profits of the said institution, as shall appear to the directors advisable, and once in every three years, the directors shall lay before the stockholders, at a general meeting, for their information, an exact and particular statement of the debts, and of the surplus profit, if any, after deducting losses and dividends: *Provided however*, that nothing in this rule contained, shall be construed, in any manner, to invalidate or contravene any of the provisions contained in the fifth section of this act.

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furnished with
accounts.

Fourteenth.---The auditor of accounts of the State of Delaware, shall be furnished, from time to time, as often as he may require, not exceeding once in twelve months, with statements of the amount of the capital stock of the said corporation, and of the debts due to the same; of the monies deposited therein; of the notes in circulation, and of the cash in hand; and shall have a right to inspect such general accounts in the books of the bank, as relate to the statements; who shall report annually, a statement thereof, to the General assembly: *Provided*, That this shall not be construed to imply a right of inspecting the account of any private individual or individuals with the bank.

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Fifteenth.---The surplus profits arising from the operations of the bank, shall be divided every third year, or such proportion thereof, as the directors may deem advisable.

Meetings of the
directors regulated.

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Tuesday in January, in each year hereafter. Books shall be kept at Dover, New-Castle and George-Town, in which shall be fairly entered, the stock subscribed and paid for by the stockholders of each county; and transfers from A. to B. shall be made on the books of the principal bank, or at either of the branch banks, as the case may be, on proper application, by the stockholders. As the Farmers' bank consists of a principal bank and branch Banks, the general accounts shall be kept at the principal bank at Dover, and the course of operations, shall be as follows--The directors of the principal bank at Dover, shall furnish the directors of the branch banks with a proportionate amount of notes signed by the president of the principal bank at Dover, and countersigned by the cashier, made payable at the proper branch bank; and each note shall, on the face of it, have a blank, to be filled up by the president of the branch bank, with his name, in his own hand writing; and the branch banks shall stand charged on the books of the principal bank at Dover, with all such remittances; and it shall be the duty of the directors of the branch bank at New-Castle, and the directors of the branch bank at George-Town, respectively, within six months after the commencement of the said banks, and half yearly thereafter, to render to the directors of the principal bank at Dover, a clear account of all expenses attending the conducting said branches, respectively, together with the account of the nett profits resulting therefrom, in order to the striking of the dividends, which shall be done at the principal bank at Dover, and the dividends on stock, standing on the books of the branch banks respectively, shall be paid at the said branch banks respectively.

Books to be kept, &c.

Principal bank to furnish notes, &c.

Branches to render accounts

Mode of striking dividends, &c.

SECT. 13. *And be it further enacted,* That the said company shall, in no case, be concerned in any article, but notes, bills of exchange, mortgages, stock of the United States, or bullion, except in case of debts due to the bank, then they may and

Articles the company may be concerned in, &c.

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In what way
unsubscribed
shares may be
sold.

shall be fully justifiable in taking any kind of security, which they can obtain.

SECT. 14. *And be it further enacted,* That should it happen that a part of the shares in the said bank, allotted to any county, shall not be subscribed for, the commissioners of the county where such shares shall not be subscribed for, shall return the same to the directors of the principal bank at Dover, and the directors of the said bank, may sell and dispose of the same, at such time as they see proper, giving, at least four weeks public notice of the number of shares in each county, which shall not be subscribed for, and the time and place when and where they will open a subscription for the disposal of such shares.

Limitation of
the debts of the
corporation.

Proviso.

Directors liable
in case of ex-
cess.

Funds of the
corporation,
also liable.

SECT. 15. *And be it further enacted,* That the total amount of the debts which the said corporation shall, at any time, owe, whether by bond, bill or note, or other contract, shall not exceed double the amount of the capital actually paid into the said banks, (unless the contracting of any greater debt shall have been previously authorized by a law of the State;) *And provided also,* That the money deposited in the said banks, for safe keeping, shall not be considered as the debts of the banks within the provisions of this clause. In case of excess, the directors, under whose administration it shall happen, shall be liable for the same in their natural and private capacities, and an action of debt may, in such case, be brought against them, or any of them, or their heirs, executors or administrators, in any court of record of this State, or the United States, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement, to the contrary notwithstanding; but this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same from being also liable for, and chargeable with, the said excess. Such of the said directors, who may have

been absent when the said excess was contracted or created; or who may have dissented from the resolution or act, whereby the same was so contracted or created; may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the governor of the State, and to the stockholders, at a general meeting, which they shall have power to call for that purpose.

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SECT. 16. *And be it further enacted,* That before the president and directors shall act as such, they shall take an oath or affirmation, that they will faithfully, diligently and honestly, perform the duties of their station; which oath or affirmation may be administered by any judge or justice of the peace of this State; and the cashier, the book-keeper and clerks, shall also take a similar oath or affirmation, (to be administered, as aforesaid,) and shall besides, give bonds, with security, to the satisfaction of the board of directors, for the faithful discharge of their duties, in their several stations.

Qualification of
the officers.

SECT. 17. *And be it further enacted,* That all notes offered for discount, by any person or persons, shall, on the face thereof, be made negotiable at the Farmers' Bank of the State of Delaware; and when the drawer shall not reside in Dover, New-Castle, or George-Town, or within one mile, such note shall be payable at the house of some person at Dover, New-Castle, or George-Town; and notice given by the proper officer of the bank, at said house, that such note hath become due, shall be, to all intents and purposes, held and considered to be as completely binding on the drawer and endorser, as if notice had been personally served on each of them.

In what manner
the notes shall
be made negoti-
able.

SECT. 18. AND WHEREAS, it would greatly promote the agricultural and manufacturing interests, if this bank should be authorized to make loans on more extended principles than have heretofore been adopted by similar institutions: *Be it further enacted,*

Directors au-
thorized to loan
out money, &c.

Proviso.

That the directors of the principal bank and the branch banks shall, and they are hereby empowered, on the application of any farmer, mechanic or manufacturer of this State, to loan out to such person or persons, a sum not less than one hundred dollars, nor exceeding two thousand dollars, for six months: *Provided however*, That no person shall obtain the benefit of such loan, until he shall give such reasonable personal or landed security, as the directors of the principal bank, or branch banks, may require: *Provided also*, That the directors of the principal bank, and branch banks, shall not be obliged to loan out, for such length of time, more than one eighth of their capital stock, and the interest shall always be paid at the time of obtaining the loan.

Forging, &c.
how punished.

SECT. 19. *And be it further enacted*, That if any person or persons shall forge, counterfeit or alter the common seal of the said president, directors and company, or any bank bill or note, made or given out, or to be made or given out for the payment of any sum of money, by, or for the said president, directors and company, or shall tender in payment, utter, vend, exchange or barter, any such forged, counterfeited or altered bill or note, or shall demand to have the same exchanged for ready money, by the said president, directors and company, or any other persons, knowing such bill or note tendered, uttered, vended, exchanged or bartered, or demanded so to be exchanged, to be forged or counterfeited, or shall forge, counterfeit, alter or utter, pass, or attempt to utter or pass, any check or order on the cashiers, or any of them, of the said bank, or of the said branch banks, or offices of discount and deposit, knowing such check or order to be forged, counterfeited or altered, shall be subject to the same pains and penalties, and be in like manner punished, as the forging, counterfeiting or altering the common seal, or any bank bill or note, or other bank paper security or evidence, is liable to be punished in and by an act of assembly of this State,

entitled, "An act for preventing and punishing the counterfeiting of the common seal, bank bills and bank notes, of the president, directors and company of the Bank of North America, and for other purposes therein mentioned," passed the eighth day of February, in the year of our Lord one thousand seven hundred and eighty-three; and that the second section of the same act, is hereby adopted and made a part of this act, as fully and to all intents, constructions and purposes, as if the same section was herein and hereby repeated and enacted, in the words thereof.

Chap. 96, b. 2
v. p. 773.

Adoption of the
2d sec. thereof.

SECT. 20. *And be it further enacted*, That every matter and thing herein contained, shall be construed and taken most favourably and beneficially for the said corporation.

This act to be
construed favor-
able for the cor-
poration.

SECT. 21. *Provided always, and be it enacted*, That if any sum, not less than two hundred thousand dollars, shall not have been subscribed prior to the tenth day of October next, that then, and in that event, this charter and act of incorporation, shall cease and be of no effect.

Limitation of
this act.

Passed at Dover, Feb. 4, 1807.

C H A P. XL.

An ACT directing the manner of choosing commissioners to regulate, repair and light the streets in the town of Milford, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the inhabitants of said

Commissioners,
&c. to be elected
annually.

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1807

town, (living within the limits herein after described) who are entitled to vote at the general election, to assemble at any convenient place in the said town, on the first Monday in March next, between the hours of two and six o'clock in the afternoon, and on the same day annually, in future, and then and there choose, by ballot, five commissioners, one assessor, and one treasurer, who shall continue in office one year, or until others are duly elected.

Powers, and duties of the said commissioners.

SECT. 2. *And be it enacted,* That the said commissioners, or any three of them, shall have full power and authority, and they are hereby required and directed, as soon as conveniently may be, after the first Monday in March next, to cause all the streets, lanes and alleys, within the said town, to be carefully surveyed and laid out by a skilful surveyor, who shall be duly qualified, by oath or affirmation, to do the same, according to the best of his skill and judgment; and the said surveyor shall under the superintendence and directions of the said commissioners, make out a plot or map of the said survey to be made, which plot or map, shall contain a description of the boundaries of the said town, and the courses, width and names of the several streets, lanes and alleys, which names shall be given by the said commissioners, to the said streets, lanes and alleys, and the said plot or map, shall be signed by the said commissioners, or a majority of them, and by the said surveyor, and shall be deposited in the recorder's office, for the county of Kent, there to be recorded.

Stones to be fixed as landmarks at the intersections of streets.

SECT. 3. *And be it enacted,* That the said commissioners, shall cause to be fixed large stones in the earth, (so that no part thereof appear above the surface) in the centre or middle of the streets respectively, where they intersect each other; which stones, so set and affixed in the earth, in the middle of the streets, as aforesaid, as well as such other stones, as shall, from time to time hereafter be so

set or fixed in the earth, by the commissioners for the time being, shall, in all cases, and in all courts of law within this State, be deemed, taken and allowed as land marks.

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1807

SECT. 4. *And be it enacted,* That the said commissioners, for the time being, shall have full power and authority to cause the said streets, lanes and alleys, to be repaired, supported, regulated and amended, in any manner they may deem most proper for the convenience and interest of the citizens of the said town; and shall cause a fund to be raised by way of tax, upon the persons and estates within the said town, to discharge the expense of repairing and supporting the said streets, or for any other purpose they may suppose will contribute to the prosperity of the said town. *Provided always, and be it enacted,* That the said commissioners shall not be compelled to support or repair the streets in the said village, now deemed public highways, and supported by the county of Kent.

Streets, lanes & alleys to be repaired, &c.

Proviso.

SECT. 5. *And be it enacted,* That the said commissioners, shall have full power and authority to cause such of the streets of the said town, as they may, from time to time, think proper to be lighted in time of night, by proper lamps, to provide such articles as may be necessary for keeping up said lamps; to employ one or more watchmen, and for paying the expenses of the same, they shall cause a tax to be laid upon the persons and estates within the streets so lighted by lamps, in proportion to the benefit that they may severally receive therefrom.

Lamps to be erected, &c.

and watchmen appointed, &c.

SECT. 6. *And be it enacted,* That the said commissioners are hereby required, directed and enjoined, to cause all nuisances to be removed from the said streets, lanes and alleys; and in case any person or persons, who shall occasion such nuisance, shall neglect or refuse to remove the same within three days after being requested so to do,

Nuisances to be removed, &c.

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1807

in writing, by any two of the said commissioners, he, she or they, so refusing or neglecting to remove the nuisance, as aforesaid, shall forfeit and pay to the treasurer, for the use of the town, five dollars, to be recovered as debts under forty shillings are recoverable.

Qualification
and duty of as-
sessor.

SECT. 7. *And be it enacted,* That the assessor to be chosen, as aforesaid, shall be duly qualified, by oath or affirmation, to perform the duties of his office, to the best of his knowledge, and without favour or partiality; and in two weeks after the first Monday in March, annually, shall make a true and impartial assessment on all the persons and estates within the said town, for the purpose of raising a general fund for repairing the streets, and other purposes, and one other assessment on the persons residing in, and estates situated on, the streets, to be lighted by lamps, as aforesaid, for the purpose of raising a fund, for the support and repairs of said lamps, and for the payment of watchmen: and the said assessor, shall forthwith, after making the assessment, cause a duplicate thereof to be set up in the most public part of the said town, notice whereof he shall give, by at least two advertisements; and if any person or persons shall conceive themselves aggrieved or over-rated by the said assessor, they may, within twenty days after putting up the said duplicate, appeal to the said commissioners for the time being, whose decision thereupon shall be final.

Persons over-
rated by him,
may appeal.

Duty of the
treasurer, &c.

SECT. 8. *And be it enacted,* That after the expiration of the said twenty days, the treasurer for the time being, shall proceed to collect the taxes, as they have been levied by the said assessor, and corrected by the said commissioners, in case of appeal; and the said treasurer, shall have the same power and authority to collect the said taxes, as are given by law to the collector of county rates and levies; and the said treasurer, before he enters on the duties of his office, shall give his bond, with suf-

ficient security, to the said commissioners, conditioned for the faithful discharge of the trust reposed in him; and he, the said treasurer, shall discharge himself of all monies in his hands, by orders drawn on him, by said commissioners, or any three of them, and shall settle his accounts annually, in the month of February, with the said commissioners, or as often as a majority of them shall call upon him for that purpose; and the said treasurer and assessor shall receive, for their trouble in the premises, a reasonable compensation, to be determined by the said commissioners.

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Compensation
to assessor and
treasurer.

SECT. 9. *And be it enacted*, That the following shall be deemed and considered as the bounds and limits of the said town of Milford--beginning at a corner of Joseph Oliver, senior, and Peter Caverly's land, on Mispillion creek, and thence extending with the line of the aforesaid lands, until it intersects the line of the lands late of William Bradley, deceased, and the said Joseph Oliver, senior, and thence, till it intersects the line of John Draper's land, and thence extending therewith, to Mispillion creek, and then up the said creek to the place of beginning.

Bounds and li-
mits of the town
fixed.

Passed at Dover, Feb. 5, 1807.

C H A P. XLI.

An ACT to authorize the State treasurer to pay the sums of money therein mentioned.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer be, and he is hereby authorized

To James A.
Bayard, and
Cesar A. Rod-
ney.

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1807

To the auditor
of accounts.

and directed to pay unto James A. Bayard, or his order, and to Cæsar A. Rodney, or his order, the sum of one hundred dollars, respectively, for services as counsel in certain actions of ejectment now pending in the Circuit court of the United States, in the name of the lessee of Richard and Thomas Penn, against divers citizens of this State, holding lands under the grant of this State; and to the auditor of accounts, or his order, the sum of one hundred dollars, to enable him to make such further preparation for the trial of the said suits, as shall be advised by said counsel.

To Nicholas
Vandyke.

SECT. 2. *And be it further enacted,* That the State treasurer be, and he is hereby authorized to pay to Nicholas Vandyke, late attorney general, or his order, the sum of one hundred dollars, as a retaining fee in the said suits.

Passed at Dover, Feb. 6, 1807.

C H A P. XLII.

An ACT for the better regulation of free negroes and free mulattoes.

Non-resident
free negroes
prohibited com-
ing to reside in
this State.

To be warned
to depart.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That no free negro or free mulatto, not now residing in this State, shall hereafter come into this State, to reside, (except as herein after excepted;) and that if any free negro or free mulatto, shall come into this State, contrary to the directions of this act, and shall remain here ten days, it shall be the duty of any justice or conservator of the peace, who shall have knowledge or information thereof, to issue his

warrant or precept, to any constable of the county, commanding him to notify and warn the said negro or mulatto, to depart the State; and upon his or her refusal or neglect to depart, as aforesaid, within ten days after being notified and warned, as aforesaid, it shall be the duty of the said justice or conservator of the peace, to issue his warrant, under his hand and seal, directed to any constable of the county, who shall forthwith, proceed to arrest the said free negro, or free mulatto, and bring him or her before the said justice or conservator of the peace, who shall, in case the said free negro or free mulatto cannot find surety for his or her appearance at the next court of General quarter sessions of the peace, commit the said free negro or free mulatto to the public gaol of the county, there to remain and abide the order of the said court; and he or she shall there be proceeded against before the said court, by indictment, and upon due conviction thereof, shall be adjudged to pay a fine of not exceeding thirty dollars, with all costs of prosecution, and if he or she shall not have sufficient estate, and be unable to pay and discharge the said fine and costs, then the said free negro or free mulatto, shall be adjudged to be sold by the Sheriff of the county, as a servant, for any term, not exceeding seven years, to any person or persons whatsoever, residing in this State, willing to purchase him or her: *Provided nevertheless*, if any free negro or free mulatto, shall produce to any justice or conservator of the peace, sufficient testimonials, in writing, that he or she is by the laws of the State, from whence he or she came, entitled to his or her freedom, and a certificate from under the hands and seals of two justices of the peace in the State from whence he or she came, of his or her good moral character, and industrious habits, to which certificate is annexed the seal of any court of record in the county of the State from whence he or she came, with the signature and assurance of the clerk of the said court, that the justices signing the said certificate, are actually in the commission of the

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To be arrested,
&c. on neglect-
ing to depart.

and on convicti-
on to be fined,
&c.

Proviso.

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peace; then, and in that case, any such free negro or free mulatto, shall be permitted to reside and remain in this State.

What shall be evidence of such notification.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the return of the said constable, to the warrant or precept aforesaid, certified or endorsed thereon, shall be admitted to be read as competent evidence against any such free negro, or free mulatto, of such notification or warning: *Provided always,* That the said constable be sworn or affirmed by the said justice or conservator of the peace, to the truth of the said return, so to be certified or endorsed, as aforesaid, which oath or affirmation, the said justice or conservator of the peace, is hereby empowered and directed to administer and to certify the same under his hand, upon the said warrant or precept.

Proviso.

Who shall be deemed non-residents.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any free negro or free mulatto, residing in this State, shall, from and after the passing of this act, remove out of, or depart therefrom, and shall there remain or abide, for the space of two years, then such free negro or free mulatto, shall be deemed, construed and taken, to be a non-resident, and shall be subject to the same inconveniences and disabilities; and upon his or her return thereafter into this State, shall be proceeded against, and shall be liable to the same penalties and punishment, as are herein before limited, directed and appointed against free negroes and free mulattoes, now residing out of this State: *Provided,* That nothing herein contained, shall be construed to extend to any sea-faring person or persons of colour, who may be following his or their occupation, notwithstanding they may have been longer than two years out of this State.

Proviso.

Free negroes, convicted of larceny, may be sold to make re-stitution.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if any free negro or free mulatto, free negroes or free mulattoes, shall, from and after the passing of this act, feloniously steal, take and

carry away any goods, chattels or effects, of any person or persons, body politic or corporate, of any value whatever, and shall be duly convicted thereof before the court of General quarter sessions of the peace, to be held for the county where such offence shall be committed, he, she or they, so offending, shall be adjudged to restore the goods, chattels or effects, so stolen, to the right owner or owners, thereof, and to pay to the said owner or owners, double the value thereof; or if the said goods, chattels or effects cannot be found, then the four-fold value thereof, with the full costs of prosecution: and that he, she or they, be disposed of by the Sheriff of the county, as a servant or servants, for any term, not exceeding eleven years, for the best price that can be obtained for him, her or them, to any person or persons whatsoever, residing in this State, willing to purchase him, her or them; and that the said purchaser or purchasers, shall in like manner, be at liberty to sell, dispose of, or assign the said servant or servants, to any person or persons residing in this State: *Provided*, That the assignment shall be executed before a justice of the peace, and by him be made a record of; and all assignments made in any other manner, are hereby declared void, which assignments shall be for the said term, or so much thereof, as may remain unexpired.

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Purchasers at
liberty to sell
again.

Proviso.

SECT. 5. *And be it further enacted, by the authority aforesaid*, That so much of the money arising from the said sales, as may be necessary, shall be applied by the Sheriff towards the satisfaction aforesaid, and in discharge of the costs of prosecution; and the residue, if any, shall be paid to the State treasurer, for the use of the person so adjudged, who shall be entitled to receive the same from the State treasurer, with interest thereon, except for one year, at the expiration of his or her term of servitude, as fines and forfeitures are directed by law; and if the said money, arising from the said sale, shall not be sufficient to make the satisfaction, and pay the costs of prosecution aforesaid, then the said court shall

Purchase money
how applied.

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issue their writ, in the nature of a fieri facias, directed to the Sheriff, commanding him to levy the said deficiency of the goods and chattels, lands and tenements of the said offender or offenders.

Free negroes,
for aiding persons
to steal,
how punished.

SECT. 6. *And be it further enacted by the authority aforesaid,* That if any free negro or free mulatto, free negroes or free mulattoes, shall, from and after the passing of this act, aid, abet, comfort or assist, any person or persons, feloniously to steal, take and carry away any goods, chattels, or effects, of any person or persons, body politic or corporate, of any value whatever, or shall be accessary thereto, knowing the same to be stolen, he, she or they, so offending, and being duly convicted thereof, shall be subject to the same penalties and punishment, and shall be proceeded against as is herein before directed, limited and appointed, by the fourth and fifth sections of this act, against free negroes and free mulattoes, guilty of larceny.

Negroes prohibited intermarrying with white persons.

SECT. 7. *And be it further enacted by the authority aforesaid,* That hereafter it shall not be lawful for any negro or mulatto to intermarry with a white person, within this State, and all such marriages, are hereby enacted and declared to be absolutely void and of no effect.

Penalty for marrying them, &c.

SECT. 8. *And be it further enacted by the authority aforesaid,* That if any minister or preacher of the gospel, or religious society of people in this State, shall solemnize any such marriage, the person or persons, so offending, shall, for every such offence forfeit and pay to the use of the State, the sum of one hundred dollars, to be recovered by indictment in the court of General quarter sessions of the peace, and gaol delivery, to be held for the county in which such offence shall be committed.

Penalty on white woman bearing a bastard negro child.

SECT. 9. *And be it further enacted by the authority aforesaid,* That if any white woman within this State, shall, from and after the passing of this act,

bear a bastard child, begotten by a negro or mulatto man, she shall for such offence, forfeit and pay any sum not exceeding one hundred dollars, to be recovered by indictment, for the use of the State; and if a servant or apprentice, and incapable of paying such fine, she shall, in lieu and satisfaction of the said fine, be adjudged to serve her master or mistress, for any term, not exceeding five years, as the court before whom she shall be convicted, shall, in their discretion, think fit; and that the father of the said bastard child, if a free man, shall, upon conviction thereof, be fined, in any sum, not exceeding one hundred dollars; and if a slave, shall be publicly whipped with thirty-nine lashes, on his bare back, well laid on.

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Penalty on the father.

SECT. 10. *And be it further enacted by the authority aforesaid,* That if any white man shall be legally convicted of committing fornication with a negro or mulatto woman, such white man shall forfeit and pay, to the use of the State, to be recovered as aforesaid, any sum not exceeding one hundred dollars; *Provided nevertheless,* That it shall not be lawful for any negro or mulatto, to give testimony against such white man.

Penalty on white men, convicted of fornication with negroes.

Proviso.

Passed at Dover, Feb. 6, 1807.

C H A P. XLIII.

An ACT to alter and change a part of a road wherein mentioned.

Passed at Dover, Feb. 6, 1807.—Private act.

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1807

C H A P. XLIV.

Chap. 135, vol.
3, p. 298.

An additional supplement to an act, entitled, "An act authorizing the distribution of certain public papers, relating to lands in this State."

Preamble.

WHEREAS the time limited for recording certain public papers, relating to lands in this State, directed to be recorded, by an act passed at Dover, January the twenty-third, in the year of our Lord, One thousand eight hundred and six, entitled, "A supplement to an act, entitled, An act authorizing the distribution of certain public papers, relating to lands in this State," is found too short, to effect the good purposes thereby intended; and whereas it is represented to this General assembly, that vacancies have happened in the appointments made by the governor of this State, according to the provisions of said act, and that no power is given to the governor, by said act, to supply such vacancies:

Extension of the
time for record-
ing certain pa-
pers.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the time limited for recording the public papers, directed to be recorded by the aforesaid act, be, and is hereby extended for, and during the term of one year, from the time limited in said act; and all papers recorded within the time so extended as aforesaid, shall be as good and effectual in law, as if such papers had been recorded within the time appointed in said act, any thing therein contained to the contrary notwithstanding.*

Governor to
supply vacan-
cies.

SECT. 2. *And be it enacted by the authority aforesaid, That it shall and may be lawful for the governor of this State, to supply any vacancy or vacancies that have heretofore, or shall hereafter happen, by the death, resignation, removal or otherwise, of any person or persons appointed according to the*

directions of the act, to which this is an additional supplement.

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SECT. 3. *And be it enacted by the authority aforesaid,* That in lieu of the compensation provided by the act to which this is a supplement, for the persons performing the duties therein appointed and enjoined, each and every of the persons, who heretofore have been, or hereafter shall be, appointed, to perform said duties, shall have and receive, for each and every day of his attendance, in discharging the said duties, any sum not exceeding three dollars, to be allowed by the Levy court of each county.

Compensation
to commission-
ers.

SECT. 4. *And be it enacted,* That the persons, who are now appointed, or who may hereafter be appointed for the county of Kent, shall have power and authority, and they are hereby required and empowered, to examine all the papers now in the recorder's office for the county of Kent, called and known by the name of "Stephenson's Papers," and direct all such papers, they may think necessary to be recorded; and should there be amongst the said papers, any belonging to the county of Newcastle or Sussex, they shall direct the same to be sent by the recorder of Kent, to the respective counties, there to be subject to the examination of the persons appointed by the governor, to be recorded, if it be thought necessary.

Certain papers
to be examined,
&c.

Passed at Dover, February 6, 1807.

C H A P.
XLV.
1807

C H A P. XLV.

An ACT authorizing the State treasurer to pay certain claims therein mentioned.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer be, and he is hereby authorized and directed to pay to John B. Wootten, or his order, for printing two reams of marriage licences and bonds, the sum of thirty-three dollars and thirty-three cents; to William Pryce, or his order, for binding fourteen copies of the third volume of the laws of this State, the sum of ten dollars and eighty-seven and an half cents; to Edward Pole, or his order, for military stores furnished the schooner Delaware, during the revolutionary war, the sum of three hundred and ten dollars and nineteen cents, in full for the balance of his account against this State; to Thomas Carey, or his order, for his expenses and trouble, in apprehending and securing negro George Parker, charged with having committed a rape on the body of Hannah Bramble, the sum of one hundred and sixty dollars; and to the treasurer of Kent county, for the use of the county, the sum of one hundred and seventy-seven dollars and twelve and a half cents, for cash expended by order of the Levy court of said county, in sending messengers to Virginia, to take into custody a certain Bonnell, a fugitive from justice, by virtue of a warrant from the governor of this State; and that the said State treasurer be authorized to retain in his hands, the sum of fifty dollars, for expenses incurred in procuring stock, as directed by law, and the further sum of ten dollars, for cash paid James M. Broom, esq. as counsel in a suit brought in the name of the State, against George Read, esq. out of such public money, as is, or here-

To J. B. Woot-
ten,

To Wm. Pryce,

To Edw. Pole,

To Thos. Carey,

The treasurer
of Kent county,

And to retain.

after may come in the treasury, not otherwise appropriated by law.

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XLVI.
1807

Passed at Dover, Feb. 6, 1807.

CHAP. XLVI.

An ACT making provision for the support of government for the year one thousand eight hundred and seven, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of ten thousand five hundred dollars, shall be raised and paid into the treasury of this State, within the time, and in the manner, directed by an act of the General assembly, entitled, "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government for the year of our Lord, one thousand seven hundred and ninety-eight," and shall be assessed and levied in the several counties of this State, in the following proportions: that is to say, for the county of New-Castle, the sum of four thousand dollars; for the county of Kent, the sum of three thousand five hundred dollars; and for the county of Sussex, the sum of three thousand dollars.

10,500 dollars
to be raised, and
paid into the
treasury.

SECT. 2. *And be it enacted,* That the aforesaid sums of money, shall be appropriated and applied to and in the following manner: that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due to the governor, chancellor, judges of the Supreme court and court of Common pleas, attorney general, secretary and auditor of accounts, up to the first day of

Appropriation
thereof.

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January, which will be in the year of our Lord one thousand eight hundred and eight; and so much thereof, as may be necessary, shall be applied to the payment of the daily allowance of the members of the General assembly, their clerks, and other expenses, and for printing the laws passed at this session of the General assembly, and the votes and proceedings of the two branches thereof; and the residue, if any there be, shall be applied to the payment of any sums of money, due to the citizens of this State, for which provision shall be made by law.

10,000 dollars
appropriated to
the purchase of
stock.

State treasurer
to make the pur-
chase, &c.

SECT. 3. *And be it enacted*, That the sum of ten thousand dollars, part of the sum now in the treasury of the State, shall be, and the same is hereby appropriated to the purchase of stock in the funds of the United States of America; and the State treasurer is hereby authorized and directed to purchase forthwith, for the use of the State, on the lowest and best terms to be obtained, with said money, the said stock; and the same, when so purchased, shall be entered by him in the treasury books, specifying therein, the number and amount of each certificate, the date thereof, to whom the same issued, of whom purchased, and the price paid for the same; and the said treasurer is hereby directed to return to the auditor of accounts, in his quarterly settlements with him, an account of such purchase of stock, with a specification thereof, as before mentioned.

Passed at Dover, February 6, 1807.

C H A P. XLVII.

An additional supplement to an act, entitled, "An act for the valuation of real and personal property within this State."

Chap. 98, c. 2 v.
p. 1247.

WHEREAS it is represented to this General assembly, that the commissioners of tax in the county of New-Castle, have not assembled on the first Tuesday in January, according to law, and that only two commissioners of tax for said county, are in commission; therefore, in order to afford time for the governor to make the necessary appointments, and that the business may be performed as heretofore;

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the time of making such valuation, shall be, and hereby is, extended to the third Tuesday in February, instant, at which time, the commissioners of tax shall meet at the courthouse in the county of New-Castle, and the assessors of the county of New-Castle, shall also then and there attend the said commissioners, and return to them their several valuations of real and personal property, and the said commissioners shall then arrange the valuations, and do and perform every act and thing required of them, under the like penalties, and in as full and ample a manner, as the same was required of them to be done and performed on the first Tuesday in January; and the clerk of the peace in and for New-Castle county, shall set up and publish, in the manner directed by the act of the General assembly, passed the nineteenth day of January, one thousand seven hundred and ninety-seven, immediately after such arrangement, alphabetical lists, with notice, as by the said act directed; and for neglect or refusal so to do, to be punished as the said act prescribes; and the commissioners of the Levy court

Extention of the
time of valuation,
&c.

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XLVIII.
1807

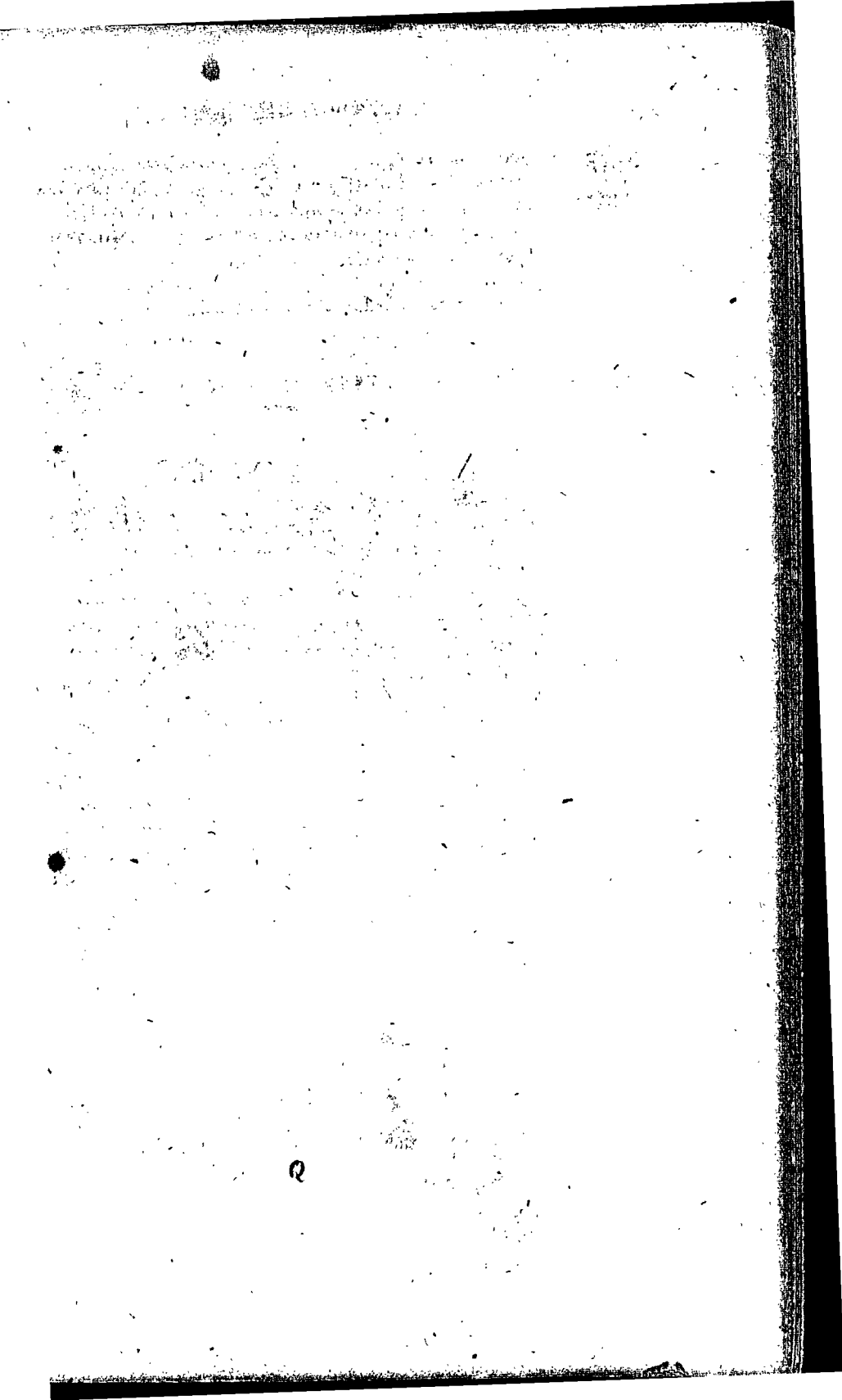
and court of Appeals, for the present year, shall meet on the last Tuesday of March next, and then and there do and perform the services required of them by the act above mentioned, and the act to which this is an additional supplement.

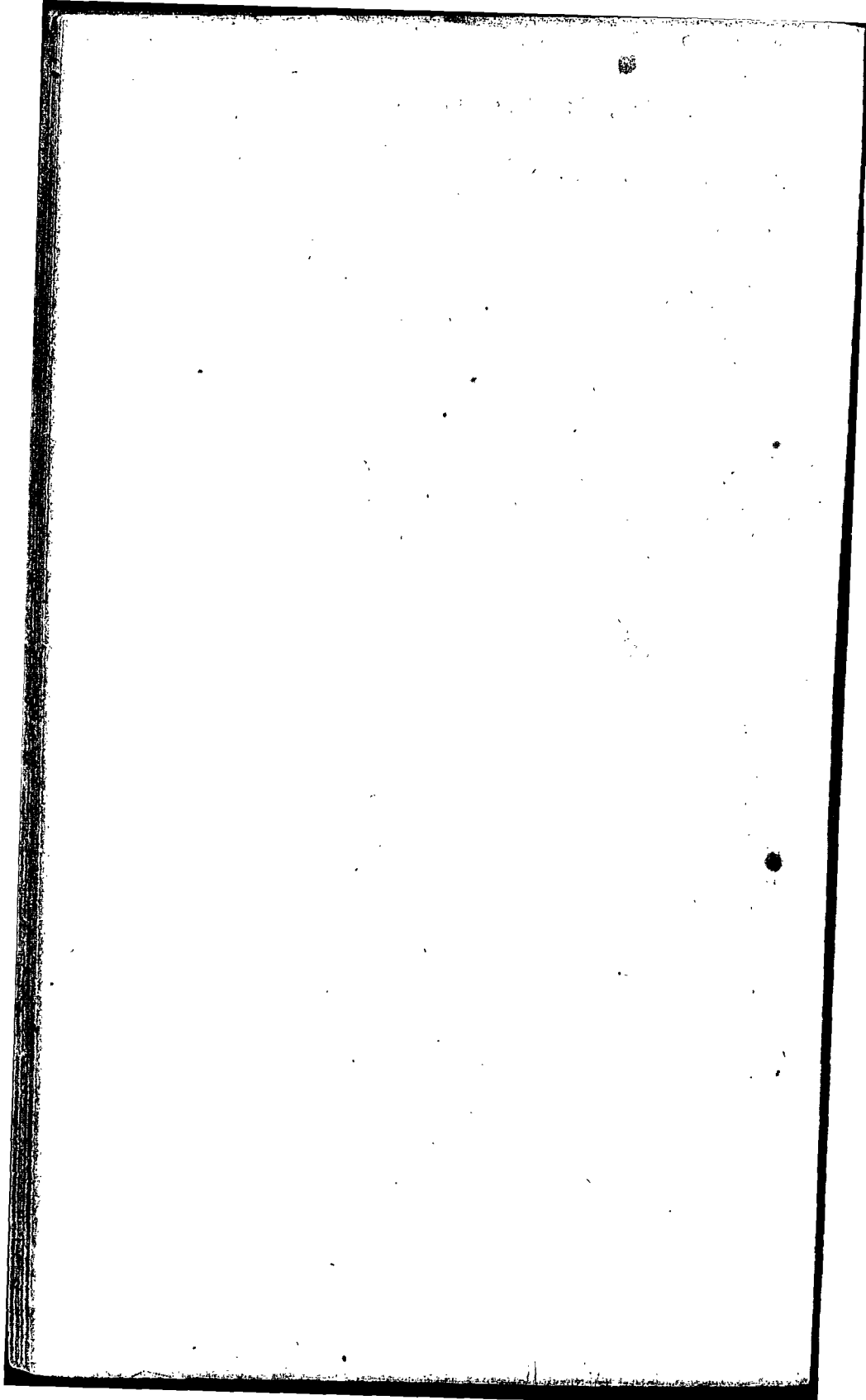
Passed at Dover, Feb. 6, 1807.

C. H. A. P. XLVIII.

A Supplement to an act, entitled, "An act to enable the trustees, wardens and vestry of St. Paul's Protestant Episcopal Church, in George-Town, Sussex county, to raise by lottery, the sum of fifteen hundred dollars to finish the same, and inclose the lands thereunto belonging, for a burial ground."

Passed at Dover, Feb. 6, 1807.—Private act.





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CHAP. XLIX.

An ACT to establish an Uniform Militia throughout this State.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That each and every free able-bodied white male citizen of this State, or any of the United States, residing in this State, who is or shall be, of the age of eighteen years, and under the age of forty-five years, except as hereinafter excepted, shall severally and respectively be enroled in the militia by the captain or commanding officer of the company, within whose bounds such citizen shall reside, such bounds to be fixed and limited agreeably to the subdivisions which have been made by lieutenant-colonels, majors and captains of the different counties, by the directions of an act of the General assembly of this State, entitled, "A supplement to an act, entitled, An act for establishing the militia of this State," passed the ninth day of February, in the year of our Lord, one thousand seven hundred and ninety-six; and it shall be the duty of every such captain or commanding officer of a company, at all times hereafter to enrol every such citizen as aforesaid, and also those who shall from time to time

Who shall be
enroled, and
by whom.

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1807

Notification of
the enrolment.

arrive at the age of eighteen years, and not excepted by this act, that have or shall come to reside within the bounds of his company, and shall notify such citizens by a proper non-commissioned officer of his company, by whom such notice may be proved; and in all cases of doubt respecting the age of any person enroled, or intended to be enroled, the party questioned, shall prove his age, to the satisfaction of the commanding officer of the company within whose bounds he may reside.

Persons exempted from military duty.

SECT. 2. *And be it further enacted,* That the vice-president of the United States, the officers judicial and executive of the government of the United States, the members of both houses of Congress, and their respective officers, the members of both houses of the General assembly of this State, all custom-house officers and their clerks, judges of the Supreme court, and court of Common pleas, chancellor, attorney-general, auditor of accounts, secretary and treasurer of the State, sheriffs, gaolers and keepers of work-houses, all post-officers and stage-drivers, who are employed in the care and conveyance of the mail of the post-office of the United States, all ferry-men employed at any ferry on the post roads, all inspectors of exports, all pilots, all mariners actually employed in the sea-service of any citizen or merchant within the United States, ministers of religion of every denomination, professors and teachers in colleges, academies, latin schools, and school-masters having twenty scholars, shall be exempted from military duty, and no other persons.

Arrangement of
the militia.

SECT. 3. *And be it further enacted,* That the militia of this State, shall form one division, and shall be arranged into brigades, regiments, battalions and companies, in manner and form following; the State to make one division, and each county to consist of one brigade, and each brigade to consist of not less than two, or more than eight regiments, each regiment to consist of two battalions, and each

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battalion to consist of five companies, one of which shall be light infantry, grenadiers or riflemen, to be formed of volunteers from their respective regiments, and each company to consist of not more than sixty-four privates, and not less than forty, or as near as may be, having regard to their local situation. There shall be to each brigade at least one company of artillery, and one or more troops of horse, as the brigadier may think proper, provided they do not exceed one company of each to a regiment, or more than an eleventh part of the infantry, which shall be formed of volunteers from their respective brigades.

SECT. 4. *And be it further enacted*, That in order that the militia may be well armed, equipped and accoutred, every citizen whose assessment shall amount to the sum of five hundred dollars, that has been, or hereafter shall be enroled and notified thereof, (except as herein before excepted, and all young men under the age of twenty-one years, enroled agreeably to the second section of this act, shall be exempted from furnishing the necessary arms and accoutrements, and from all militia duties and fines during such minority, except in cases of rebellion or any actual invasion of this State,) shall, within a year after the passing of this act, provide himself with a good musket, a sufficient bayonet and belt, two spare flints, and cartouch box, to contain twenty-four cartridges, suited to the bore of his gun, or with a good rifle and shot pouch, and in case of neglect, shall be considered and returned among the absentees. *Provided however*, That every non-commissioned officer and private, who now possesses, or who shall possess, before the expiration of the said year, a musket or firelock, shall be obliged to appear on duty with such musket or firelock, whether his assessment be under or above five hundred dollars, under the penalty for neglect of being considered and returned among the absentees; and after the expiration of the said year, every non-commissioned officer or private, who may

How the militia
shall be armed.

Who shall be
exempted.

Proviso.

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How the officers
shall be armed.

Artillery, &c. to
be uniformly
clad at their
own expense,

and appear arm-
ed on days of
exercise.

Colours, and by
whom furnished

not have received any public arms, and whose assessment shall not amount to five hundred dollars, but who shall possess a musket or firelock, shall be obliged to appear on duty with such musket or firelock or be considered and returned as an absentee; the commissioned officers of the infantry, shall be armed with a sword or hanger, and esponton, and those of the artillery, with a sword or hanger, a fusee, bayonet and belt, and cartridge box to contain twelve cartridges; the commissioned officers of the troops of horse shall furnish themselves with good horses, of at least fourteen and an half hands high, and shall be armed with a sabre and pair of pistols, the holsters of which shall be covered with bear-skin caps; each light horseman or dragoon, shall furnish himself with a good horse at least fourteen hands and an half high, a good saddle, bridle, mail pillion, and valise holsters, and a breast plate and crupper, a pair of boots and spurs, a pair of pistols, a sabre, and cartouch box, to contain twelve cartridges for pistols. The artillery, light infantry, grenadiers and horse, shall be uniformly clothed in regimentals at their own expense, the colour and fashion to be recommended by the brigadier commanding the brigade to which they shall belong. But the officers, and non-commissioned officers and privates of every troop or company of voluntary militia hereafter to be raised, shall be obliged to wear the uniform prescribed by the brigadier, or be considered as not belonging to such company; and all officers hereafter to be commissioned, shall likewise uniform themselves in the manner directed by the major-general; every militia-man shall appear so armed and accoutred, when called out to exercise, or into service, (here it is considered that the public find knapsacks and ammunition) and every man so enroled as aforesaid, and providing himself with arms, accoutrements, &c. shall hold the same exempt from all suits, distress, executions, or sales for debt or payment of taxes: each battalion shall be provided with a stand of colours, by the commanding officer of the same, bearing the

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United States coat-of-arms, which standard shall be borne by the eldest ensign present, and each company, with a drum and fife, or bugle horn, by the commissioned officers of the company, each regiment shall have one drum-major and one fife-major, whose business it shall be to attend on battalion and regimental reviews, under the direction of the lieutenant colonels and majors of each regiment; and it shall be the duty of the major of each battalion to cause to be established a school for music in the central parts of each battalion of his regiment, under the direction of the commanding officers of the same, at which place and time, by previous notice given by the commanding officer of each battalion, the drum and fife-majors shall attend, to instruct any and every drummer and fifer of the several companies; the commanding officers of which, are hereby authorized and enjoined to forward one or more scholar or scholars belonging to their respective companies, to be taught and instructed in the principles of martial music: The commanding officers of companies are hereby enjoined to send those only whom they have good reasons to believe will continue to reside in their companies or districts: The schools to be held for three months, beginning from the first day of May next, unless sooner ordered by the major-general, and three days of each week in the central parts of the several battalions; the hours and time of attendance to be fixed by the majors or commanding officers of battalions: If no suitable persons can be found capable of teaching music in the bounds of the several regiments, the commanding officers of the same, may obtain them wherever in their power, their board and expenses of teaching to be paid out of the fines of the respective battalions. Learners of music for the troops of cavalry, to be procured by their respective commanding officers, which expense shall also be paid out of the fines of the brigade to which such troop shall belong: *Provided however,* That if the brigadier and a majority of the field officers of any brigade, shall be of opinion that

A school for
music to be
established.

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one school to a regiment or brigade be sufficient, they are hereby authorized and empowered to direct accordingly: *And provided further*, That nothing herein contained, shall be obligatory on the commanding officers of regiments in any brigade, unless the brigadier and a majority of the field officers in such brigade, shall recommend the establishment of the said schools.

How the militia
shall be officer-
ed.

SECT. 5. *And be it further enacted*, That the militia shall be officered as follows: To a division, one major-general, and two aids-de-camp, to be out of the line of captains, with the rank of majors; to each brigade, one brigadier-general, with one brigade inspector, to serve as brigade major, and to be out of the line of subalterns, with the rank of major; to each regiment, one lieutenant colonel-commandant; and to each battalion one major; to each company of infantry, (including light infantry, grenadiers and riflemen) one captain, one lieutenant, one ensign, four sergeants, four corporals, one drummer and one fifer or bugler; there shall be a regimental staff, to consist of one adjutant to be out of the line of subalterns, and one quarter-master, to rank as lieutenants, one paymaster, one surgeon, and one surgeon's mate; and one sergeant-major; each company of artillery shall consist of one captain, two lieutenants, four sergeants, four corporals, six gunners, six bombardiers, one drummer and one fifer, and thirty-two privates or matrosses, or as near as may be; each troop of cavalry shall consist of one captain, two lieutenants, one cornet, four sergeants, four corporals, one saddler, one farrier, one trumpeter, and not less than thirty-two privates, or as near as may be; there shall be one quarter-master general for the State.

Governor to
commission all
officers.

SECT. 6. *And be it further enacted*, That the governor shall, after the passing of this act, appoint and commission all the officers of the militia: *to wit*, the major-general, brigadiers, quarter-master-general, lieutenant-colonels, majors, captains, lieu-

tenants, ensigns and cornets; that the major-general shall appoint his own aids-de-camp; that the field officers of each regiment shall appoint their respective regimental staffs; and that each captain shall appoint his sergeants, one of which, to be appointed clerk of the company. That all officers appointed under this act, shall be commissioned for seven years, their respective grades to be decided by the date of their commissions, and when two of the same grade bear equal date, then their rank shall be determined by lot to be drawn by them before the commanding officer of the brigade, regiment, or battalion, company or detachment, and if they refuse to draw, the commanding officer shall draw for them; which lot shall be marked on each commission by the colonel or commanding officer in whose presence it shall be drawn, and forever exclude the controversy of the parties; and whenever the governor shall commission any officer, he shall cause to be noted on the new commission the date of the old commission, provided the new appointment be of the same rank as the former commission; and in all matters relating to grade, the commission shall be considered as bearing the date of the former commission, provided it be as aforesaid, for a new office of the same rank with the old.

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Of their com-
missions and
rank.

SECT. 7. *And be it further enacted,* That on the first Tuesday in November next ensuing, the captain or commanding officer of each company shall call the persons belonging to the same together, giving due notice thereof, by setting up at least three advertisements in the most public places in his district, ten days before such day of meeting, and shall divide them into eight classes, as nearly equal in number to each other as conveniently may be, allotting a sergeant or corporal to each class; and eight slips of paper, numbered respectively from one to eight, being prepared, every private shall determine by drawing a ballot, what class he is to serve in; and in case any of the persons belonging to any com-

How the com-
panies shall be
classed.

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Captains to
form rolls, and
send copies to
colonels.

Migrations to
be certified by
captains.

pany shall neglect to attend, at the time and place appointed for classing the said company, or if present, shall refuse to draw as aforesaid, then the said captain or commanding officer shall appoint one disinterested freeholder to draw for the absentees, or persons so refusing; and when the classes shall be so settled, the captain or commanding officer of each company shall form a roll, consisting of the eight classes, and the names and surnames of the men in each class, numbered according to the order of balloting, which he shall keep for his own use, transmitting forthwith a copy thereof, with a list of his commissioned officers, and the date of their respective commissions and non-commissioned officers prefixed, to the colonel or commanding officer of his regiment, who shall enter the same in a book by him to be provided for that purpose; and the captain or commanding officer of each company of artillery, troop of horse, grenadiers, light infantry or riflemen, shall in like manner return a copy of his roll to the brigadier, and the said captain or commanding officer shall, on the first Tuesday in April, in every succeeding year, add to the said roll the names and surnames of all such male white citizens between the ages aforesaid, who on the next preceding twelve months have removed to, and are then residing in that sub-division, or therein have attained the age of eighteen years, except as herein before excepted; and every militia-man migrating or removing out of the bounds of one battalion or company to another, shall apply to the commanding officer of the company to which he did belong, who shall give him a discharge, certifying the class to which he belongs, and whether he has served his tour of duty or not, and the time and date of said service; which certificate the said militia-man shall produce to the captain or commanding officer of the company in whose bounds he next settles, within ten days after his settlement, and the said captain or commanding officer is hereby required to enrol him in the class specified in the said certificate.

SECT. 8. *And be it further enacted,* That when there are two or more full troops of horse in each brigade, they shall be formed into a battalion, and each battalion shall be entitled to a major, adjutant and quarter-master, and they shall meet in battalion at least once in every year, at such time and place as shall be ordered by the brigadier; and when the artillery in each brigade, shall form two or more full companies, they shall be formed into a battalion, and each battalion shall be entitled to a major, adjutant and quarter-master; and each company of artillery shall be provided, by the State, with good field-pieces, with carriages and apparatus; and the commanding officer of each company of artillery shall be accountable for the careful preservation of the pieces and apparatus; and any company of artillery most convenient to the place of regimental review appointed by this act, may be ordered to attend the same at the discretion of the brigadier.

When troops of horse shall be formed into a battalion.

and when artillery, &c.

SECT. 9. *And be it further enacted,* That when it may be necessary to use any portion of the militia for public defence, it shall be in the power of the commander in chief, the major-general, or brigadier, according to the emergency and nature of the service, to call out any company or companies of artillery, troop of horse, light infantry, infantry or riflemen, or any part thereof; and the service so performed by them, shall be deemed and taken as a part of their tour of duty. And whenever any number of battalion companies are drafted for service, it shall be the duty of the adjutant-general to call out and proportion the number of artillery-men, horse men, light infantry or riflemen, necessary for the same, according to military usage.

Who may call the militia into service.

SECT. 10. *And be it further enacted,* That no officer of cavalry, artillery, light infantry or riflemen, shall enrol in their company, so many men within the bounds of any battalion or company, as will reduce the said battalion-company to a less number

No battalion company to be reduced by enrolment to less than forty.

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Corps of cavalry, &c. containing not 20 privates, to be disbanded.

than forty effective men; and if any of the said corps so to be raised by voluntary enrolments, shall not, in the course of one year after the appointment of their officers, raise twenty privates, or shall be reduced under that number, and shall remain in that situation for six months thereafter, then such corps shall be deemed disbanded, and the men which belonged to such corps shall be enroled in the battalion company, within the bounds of which, the individuals thereof shall respectively reside; and whenever any of the said corps heretofore raised, shall not contain twenty privates for the space of six months, they shall be disbanded, and the men enroled in like manner; and if any non-commissioned officer or private of any volunteer corps, shall neglect for the term of three months, to provide himself with the uniform of the company to which he belongs, he shall be considered as discharged from said voluntary corps, and shall be enroled in the battalion-company within the district of which he resides, by the captain of such company.

Drafts of militia, how officered, & called into service by classes.

SECT. 11. *And be it further enacted,* That to the end the militia when called into service by classes, shall be properly officered, the following order is hereby directed and enjoined to be observed, *that is to say*; for the first draft, the captains, lieutenants, and ensigns holding the oldest commissions in each regiment; for the second draft, the captains, lieutenants, and ensigns holding commissions of the next oldest date; and so on until the whole number of classes have performed an equal tour of duty. The field-officers of the division, and of every brigade, in this State, shall be divided in like manner, provided that not more than one commissioned officer be drawn from any one company, nor a greater number of field-officers from any regiment or brigade than the commander in chief may limit, (respect being always had in like manner to the seniority of the commissions of such field-officers,) and each class to be considered as a detachment from the different companies, liable to serve six months,

and no more, and to be relieved by the next class in numerical order; the relief to arrive at least two days before the expiration of the term of the class to be relieved: But nothing herein contained shall prevent the governor, major-general or brigadiers, from employing and calling out part of any class or any company or companies, regiment or regiments, without respect to rule; whenever the exigency is too sudden to allow the assembling of the militia, which compose the particular classes, and the service of those so called out, shall be a part of their tour of duty; and the pay of the militia when called into actual service, shall commence two days before marching; and they shall receive pay and rations at the rate of fifteen miles per day on their return home.

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In case of emergency, rule not to be regarded.

When pay to commence and end.

SECT. 12. *And be it further enacted,* That when the militia, or any detachment thereof, are called into service, the pay and rations of the officers, non-commissioned officers and privates, shall be the same as established by the general government of the United States.

Pay of the militia.

SECT. 13. *And be it further enacted,* That the rules of discipline approved and established by Congress, in their resolution of the twenty-ninth of March, One thousand seven hundred and seventy-nine, shall be of the rules of discipline to be observed by the militia of this State, except such deviations from the said rules as may be rendered necessary by the regulations of an act of Congress, entitled, *An act more effectually to provide for the national defence, by establishing an uniform militia throughout the United States, or by some other unavoidable circumstances*; and it shall be the duty of every commanding officer at every muster-day, whether by brigade, regiment, battalion, or single company, to cause the militia to be exercised and trained agreeably to the said rules of discipline; but the captains, or commanding officers of companies or troops, on company-days, shall not keep the men under arms longer than

Rules of discipline.

Men not to be kept over five hours under arms.

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five hours, during which time it shall be the duty of the said commanding officers to have as many of the evolutions in the said rules of discipline performed, as the nature of the case will admit.

Disabled persons to be supported by the public.

Horses to be appraised :

and, if killed, paid for.

SECT. 14. *And be it further enacted,* That if any person, whether officer or soldier, belonging to the militia of this State, called out into the service of this State, be wounded or disabled while in said service, he shall be taken care of, and provided for at the public expense ; and if any horse shall be taken into service of the militia, either in troop, artillery or waggons, or otherwise, such horse or horses, shall by the brigade inspector, with two freeholders, be appraised immediately before the time of going into actual service, and the said brigade inspector shall enter the same in a book ; and in case such horse or horses shall be killed, disabled, die or taken by the enemy, the owner or owners shall be paid the full value of such horse ; provided the said loss has not happened in consequence of the neglect or improper conduct of the owner of the said horse, or of his servant.

When to be exercised in companies, &c.

Proviso.

SECT. 15. *And be it further enacted,* That from and after the passing of this act, the militia in this State shall be exercised in companies, once in the months of November and April, in every year, at such time and place within the district, as the captain or commanding officer of each company shall appoint and direct ; and in battalions in the month of May in every year, within the bounds of each battalion, as the major thereof shall direct ; and in regiments as follows : the first regiment on the first Monday in June in every year ; the second regiment on the Tuesday following ; and the third regiment on the Wednesday, and so on, according to their numerical rank, on every day in the week, (Saturdays and Sundays excepted,) until the whole number of regiments shall have mustered and exercised in the aforesaid manner. *Provided nevertheless,* That it shall be the duty of the major, to give fifteen days

notice, before the meeting of any battalion, to the officers commanding companies; and it shall be the duty of the commanding officers of companies, to give notice ten days before the days of mustering, by at least three advertisements in the most public places in their respective districts, giving information of the time and place of muster, either in companies, battalions or regiments.

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SECT. 16. *And be it further enacted,* That if any captain or commanding officer of a company, shall neglect or refuse to call out his company agreeably to the directions of this act, he shall abide the decision of a court-martial who may cashier him if they see proper; and if any non-commissioned officer or private, not having a reasonable excuse, shall neglect or refuse, when the roll is called over, to answer to his name, or if answering to his name, shall not go into the ranks, and there perform his duty, shall be noted on the roll with the absentees of said companies, and be laid before a court-martial to be appointed for that purpose, who shall fine such person in any sum not exceeding two dollars; and as soon as the duty of the day is concluded, the captain or commanding officer shall cause the roll to be called, and every person at that time absent, without the commanding officer's consent, shall be noted and returned among the absentees.

Penalty on captain neglecting to call out his company.

On privates refusing to do duty.

SECT. 17. *And be it enacted,* That the captain or commanding officer of each of the companies or troops composing the militia of this State, shall enter in a book, to be by him, for that purpose, provided, an account of all fines, imposed on the officers, non-commissioned officers and privates, of his company or troop; and shall cause to be transmitted, in the month of January or February, in every year, a fair account of all fines, with his name subscribed thereto, to the commissary of the brigade to which such officer may belong; and a duplicate thereof, he shall transmit at the same time to the brigadier-general, and the said commissary and bri-

Captain to keep an account of fines,

and transmit an account thereof to the commissary, &c.

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five hours, during which time it shall be the duty of the said commanding officers to have as many of the evolutions in the said rules of discipline performed, as the nature of the case will admit.

Disabled persons to be supported by the public.

Horses to be appraised :

and, if killed, paid for.

SECT. 14. *And be it further enacted,* That if any person, whether officer or soldier, belonging to the militia of this State, called out into the service of this State, be wounded or disabled while in said service, he shall be taken care of, and provided for at the public expense ; and if any horse shall be taken into service of the militia, either in troop, artillery or waggons, or otherwise, such horse or horses, shall by the brigade inspector, with two freeholders, be appraised immediately before the time of going into actual service, and the said brigade inspector shall enter the same in a book ; and in case such horse or horses shall be killed, disabled, die or taken by the enemy, the owner or owners shall be paid the full value of such horse ; provided the said loss has not happened in consequence of the neglect or improper conduct of the owner of the said horse, or of his servant.

When to be exercised in companies, &c.

Proviso.

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Penalty on captain neglecting to call out his company.

On privates refusing to do duty.

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Captain to keep an account of fines,

and transmit an account thereof to the commissary, &c.

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Penalty for neglect.

Proviso.

Commissary for each county to be appointed.

Their duty.

gadier, when they receive the said lists, shall endorse on them the time when they received the same, and they shall both cause the amount of each list of fines, with the date when they were received, to be recorded in books for that purpose to be provided; and in the month of November in every year, the brigadier shall cause to be transmitted to the auditor of accounts, all such lists of fines by him received. And every captain or commanding officer, omitting, refusing or neglecting to transmit the said lists in manner aforesaid, shall, for every such neglect or refusal, be fined thirty dollars, which fine, may be sued for and recovered by the commissary, before any justice of the peace, with costs, who is hereby required to give judgment for the same, whereupon the amount of such judgment may be levied and recovered, by any collector appointed by the said commissary, in the manner that other fines are directed to be recovered by the twenty-first section of this act. *Provided however*, That if he shall obtain from the field officers of his regiment, or any two of them, a certificate in writing, testifying their opinion, that such officer has given them a satisfactory excuse for not transmitting the said lists, he shall be excused from the payment of such fine, and shall transmit to the commissary the said certificate, so attested, within one month after the omission to transmit such lists of fines, then the said officer, shall be excused from the payment of the said fine.

SECT. 18. *And be it further enacted*, That there shall be a commissary of military stores in each of the counties of this State, whose duty it shall be to collect all the public arms in their respective counties, and to provide some convenient place where they may be safely kept; and shall cause every musket so collected or purchased, to be branded on the butt of the stock, with the words, *State of Delaware*, and shall equally portion the muskets so collected or purchased, with the accoutrements, amongst the different captains or commanding offi-

cers of infantry companies throughout the county; each captain or commanding officer as aforesaid, entering into a bond to the said commissary, in a penalty equal to double the value of the arms and accoutrements, with his subaltern officers' security thereto, conditioned for the safe keeping of said arms and accoutrements, but not for the wear and tear thereof: which arms and accoutrements, on field and company days, the said captain or commanding officer shall deliver to such privates in their respective companies, as are deemed not able to equip themselves; and every private receiving any of the said arms and accoutrements as aforesaid, shall, immediately after the duty of the day, be concluded, deposit the same in such place as the commanding officer of the respective companies shall appoint for the safe keeping of all such arms and accoutrements.

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SECT. 19. *And be it further enacted,* That all sums of money, which shall come into the hands of any military commissary, in pursuance of this act, shall by him be applied in purchasing and paying for colours, drums, fifes, muskets, with bores sufficient for balls of the eighteenth part of a pound, bayonets, cartridge boxes, to contain twenty-four cartridges, and for belts, also for paying musicians, as the field officers or a majority of them, may direct: *Provided,* That the payments made on account of orders drawn by the field officers of any regiment, shall never exceed the amount of money received for fines, from any such regiment; and provided, that no second order drawn shall be paid, until an exact account of the disbursements of the money last paid, with proper vouchers, be rendered the said commissary: And the captains or commanding officers of all troops of horse, and captains or commanding officers of artillery, shall have power to draw orders on the said commissary, for the payment of their respective instruments of music, and their musicians; which order or orders shall be countersigned by the brigadier.

Appropriation
of fines.

Proviso.

In case no fines be imposed, captain to report to the commissary.

Penalty for neglect.

Commissaries to give bond ;

authorized to appoint collectors.

Their duty.

SECT. 20. *And be it enacted,* That the captain or commanding officer of each of the companies or troops composing the militia of this State, shall, and is hereby required, in case no fines shall be imposed on the officers, non-commissioned officers and privates, of his company or troop, make report in writing, at the times mentioned in the seventeenth section of this act, to the commissary of the brigade to which said officer may belong, that no such fines have been imposed ; and a duplicate thereof, he shall transmit at the same time, to the brigadier-general ; and the said commissary and brigadier, shall endorse the said reports, and record them in the same manner as is directed to be done with the account of fines transmitted according to the said section ; and every captain or commanding officer, omitting, refusing or neglecting to make such reports, shall be liable to the same fine for every such neglect or refusal, to be recovered in the same manner, and may be excused, as by this act is directed.

SECT. 21. *And be it enacted,* That every military commissary that shall be appointed, before he enters upon the duties of his office, shall give bond, in the name of the State, with one or more sureties, to be approved of by the brigadier-general, in the sum of three thousand dollars, conditioned for the faithful performance of the duties of his office ; which bond, the brigadier shall immediately forward to the auditor ; and it shall be the duty of the commissary once in every year, and not oftner, to have the fines collected, which shall be imposed within the brigade to which he belongs, and the accounts of which, shall be transmitted him in the manner herein prescribed, and for this purpose, he is hereby authorized and empowered, to appoint such, and as many collectors as he may think proper ; and each collector shall be by him furnished with a list of all fines, to be collected within the district for which such collector may be assigned ; which list shall be signed by the com-

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missary; and there shall be annexed to each list, a warrant from the said commissary, which he is hereby authorized and empowered to issue, authorizing such collector, after having given ten days notice, by at least three advertisements, set up in the most public places in his collection-district, to demand and receive from all delinquents, the several fines which they have been adjudged to pay; and in case of refusal or neglect to pay the same, to levy and recover such fines, with constable's cost, in the same summary mode, and as fully and amply to all intents and purposes, as the collectors of county-rates and levies, may or can, by the laws of this State, collect such rates and levies; and if any collector shall, in any case, levy for, or receive a larger sum than the amount of the fine actually due, and of constable's costs, or in case of sale being made, for the recovery thereof, shall not, within ten days after such sale, return the overplus, if any, to the person whose property may be sold, the party aggrieved, is hereby authorized and empowered to sue for, and recover before any justice of the peace, from the said commissary or his collector, ten dollars, with costs of suit, in addition to the sum which the said party may have paid over and above the fine actually due.

Penalty for collecting undue fines.

SECT. 22. *And be it further enacted,* That the auditor be, and he is hereby directed, to procure, at the expense of the State, a good and sufficient book, in which he shall make regular and fair entries of the transactions of the several military commissaries, and that he shall make a report of the same, together with all fines returned to the legislature, at their annual sitting in January in every year.

Auditor to keep accounts, &c.

SECT. 23. *And be it enacted* That if any collector appointed by the commissary, shall neglect or refuse to pay over the money which he may have received for fines, unto the commissary, whenever thereunto by him required, after retaining the amount of the commissions or compensation hereinafter

Penalty on collector, neglecting to pay over fines.

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mentioned, to be allowed the said collector, then the said commissary is hereby authorized and empowered to sue for and recover the same, with costs, before any justice of the peace, who is hereby required to issue execution, without stay, against such collector, in favour of the commissary, for the sum recovered, empowering and requiring any lawful constable to levy therefor, with costs, in the like manner with debts under forty shillings.

Collectors of
tax. may be ap-
pointed to col-
lect fines.

SECT. 24. *And be it enacted,* That it shall and may be lawful for the military commissary in each county, to appoint any one or more of the collectors of the county rates and levies, or any other person or persons, at his election, collector or collectors of such fines, as may be imposed on the officers, non-commissioned officers and privates; and in case of the appointment of any collector of the county rates and levies to be collector of such fines, the same shall be made after the first Tuesday of February, and before the first Tuesday of March annually; and every such collector of county rates and levies, so appointed, shall take upon himself the duty of collecting such fines, and shall, before he enters on his office, give bond, with one or more good and sufficient freeholders, jointly and severally, in the sum of one thousand dollars, lawful money of the United States of America, together with a warrant of attorney thereto annexed, for confessing judgment for the said penalty, in the name of the said commissary, to be taken and approved of by the commissioners of the Levy court and court of Appeals, at their meeting in March annually; conditioned for the faithful discharge of his duty in collecting the fines in his hundred, and paying over the same to the said commissary, according to the true intent and meaning of this act; and in case of their, or any of their refusal or neglect to give such bond and warrant of attorney, he or they respectively, shall forfeit and pay to the said commissary, the sum of eighty dollars, to be sued for and recovered in the same manner, as for the recovery of debts

To give bond.

Penalty for re-
fusing.

not exceeding twelve pounds; and shall not be the collector of such fines; and every such appointment of a collector of the county rates and levies; to collect such fines; shall be made and delivered to the collector, under the hand and seal of the commissary, at the time of his appointment; and a certificate thereof, shall be delivered or transmitted by the said commissary, to the commissioners of the Levy court and court of Appeals, on or before the first Tuesday in March annually; and every such collector of county rates and levies; so appointed to collect the said fines, shall be allowed commissions on all such monies which shall come into his hands, and be duly accounted for, at the rate of ten dollars for every hundred dollars; which said commissions shall be deducted and taken out of the commissions to be credited said commissary; according to the directions of this act. *Provided nevertheless,* That no such collector of county rates and levies, shall be required or obliged to collect any fines from any person or persons residing out of his hundred, at the time of the delivery of the list of fines and warrant of the commissary; *And also provided,* That the remedy given against the collectors of fines by the twenty-first section of this act, "shall be and remain, notwithstanding the giving bond with surety as aforesaid,"—the said commissary shall be answerable for any loss which may happen from the insufficiency of any collector or his security, to pay the money by them collected respectively by virtue of this act.

How such appointments to be made.

Commissions allowed collectors.

Proviso.

SECT. 25. *And be it enacted,* That the commissary shall annually appear before; and settle with the auditor, in the month of December; when he shall produce to him the list of fines, transmitted him by the returning officers, and a fair account of his transactions as commissary; and the said auditor shall charge the said commissary with the amount of each list of fines, with the fine of every officer, who has neglected to return his lists, as directed by this act, and with all other money which he

Commissary to settle annually with the auditor.

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His compensa-
tion.

Penalty for ne-
glect.

may have received, and then shall credit him with all monies expended by him in pursuance of the directions of this act, if proper vouchers for such expenditure are exhibited, with the amount of all orders drawn upon, and paid by him, by the field-officers; provided the money paid to the orders of the field officers of any one regiment, does not exceed the nett money arising from fines within the district of such regiment; and provided it shall appear that no second order was paid by him, until the money paid upon the former order had been regularly accounted for with vouchers; and further, the auditor shall credit the said commissary with the amount of all fines, on returning officers, the payment of which, it shall appear from the certificate of the field officers, as herein before directed, have been excused; with the amount of all lists of delinquencies passed by the field-officers, or a major part of them, of the regiment wherein the said fines have been imposed: *Provided however*, That the said field officers do declare, in a certificate to be attached to such list of delinquencies, that they believe neither the commissary, or any of his collectors, have been guilty of neglect with regard to the said delinquencies; and the auditor shall further credit the said commissary with the sum of twenty dollars for every hundred dollars, which he shall collect, in compensation for the trouble of the said commissary, and his collectors, in collecting the fines, and the said commissary shall be responsible to the said collectors for their compensation: And if the said commissary shall neglect or refuse to appear and settle as aforesaid; or after settlement, shall neglect or refuse for the space of one month, after such settlement, to pay over unto the State treasurer, the balance due on the said settlement, he not having therefor an excuse sufficient in the opinion of the commander in chief, he shall not be entitled to the commissions allowed him by this act; and the auditor shall immediately give notice to the governor, of such neglect or refusal, in order that he may remove and commission some other person to be commissary in

his place ; and the auditor shall cause a suit forthwith to be instituted against the said commissary, upon his bond, in which suit, there shall be recovered, besides costs of suit, the whole amount of the lists of fines which have been returned to the brigadier, and of such other lists, as can be proved to have been returned to the said commissary, as well as the amount of all other monies received by him, and of the fines incurred by officers neglecting to make regular returns, deducting only therefrom the lists of delinquencies attested in the manner required by this act, and the amount of those fines on the returning officers, the payment of which may have been excused in the manner herein before directed ; and of such payments and expenditures as he shall prove that he has made, conformable to this act. And the field officers who attest any list of delinquencies, shall forthwith forward to the auditor the amount and date of the list so passed, and the State treasurer, whenever any payments are made to him by the commissary, is hereby required immediately to transmit to the auditor the amount and date of such payments.

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Duty of field
officers :

and State trea-
surer.

SECT. 26. *And be it further enacted,* That when any class or classes, or parts of classes of the militia, shall be called to perform any tour of duty, the adjutant-general shall give the orders to the brigade majors, which orders shall be given by the brigade major to the captain or commanding officers of the several companies in his brigade, who shall immediately give notice to such non-commissioned officers and privates, in their respective companies, as shall be obliged to perform the same ; and every non-commissioned officer and private, so notified to perform any tour of duty, shall either perform the same in person, or find a substitute to perform the same in his stead, or pay a sum of money not exceeding thirty dollars, which shall be applied by the captain or commanding officer of the company to which the person belongs, so

Militia, how
notified when
called into ser-
vice.

Penalty for re-
fusing to per-
form tour of
duty.

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neglecting or refusing to perform his tour of duty, towards procuring a substitute as aforesaid ; which sum shall be recovered in the same manner as fines and forfeitures are recoverable by this act, unless excused by a court-martial.

Penalty on officers for not performing a tour of duty.

SECT. 27. *And be it further enacted*, That if any commissioned officer shall refuse or neglect to perform his tour of duty, when called on, he shall forfeit his commission, unless excused by a court-martial : also all other military duties, that may be required of him, so as to conform to the requisitions of this State, or the executive of the United States, he neglecting or refusing, shall abide the determination of a court-martial, according to the articles of war established by the General assembly of this State.

Governor, &c. to review the militia.

SECT. 28. *And be it further enacted*, That the governor may review the militia of the State at his pleasure, the major-general shall review at least one brigade once in every year, the brigadier-general shall review the regiments in his brigade every year.

Duty of the adjutant-general,

SECT. 29. *And be it further enacted*, That there shall be an adjutant-general in the State, whose duty it shall be to distribute all orders from the commander in chief of the State to the several corps, to attend all public reviews when the commander in chief shall review the militia, or any part thereof ; to obey all orders relative to carrying into execution and perfecting the systems of military discipline, established by this act ; to furnish blank forms of different returns that may be required ; and to explain the principles on which they should be made ; to receive from the several officers of the different corps throughout the State, returns of the militia under their command, reporting the actual situation of their arms, accoutrements, &c. and every other thing, which relates to the general advancement of order and discipline ; all which several officers of brigades, regiments, battalions and companies, are required to make

and of the officers.

agreeable to the forms and direction of the adjutant-general, so that the adjutant-general may be duly furnished therewith; from which returns he shall make proper extracts, and lay before the governor or commander in chief of the State, to be by him laid before the General assembly of the State, the number of effective men in each brigade, state of the militia, magazines and military stores, &c. and the said adjutant, shall transmit a duplicate of the same to the president of the United States; and every officer refusing to make such returns in due time, shall forfeit his commission, unless excused by a court-martial; and that the said adjutant-general shall be allowed and paid the sum of one hundred dollars, to be paid out of the treasury of this State, for each year during which he shall act as such officer, and continue to discharge the duties required of him by this act, to be paid quarterly by an order drawn on the State treasurer, and shall be allowed and paid such other and further sum or sums of money for blanks and forms by him furnished, as shall appear to be just and reasonable, an account for which blanks and forms, shall by the said adjutant, be rendered to the legislature at their session in January in every year.

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Penalty for neglect.

Adjutant's compensation.

SECT. 30. *And be it further enacted,* That every person belonging to the militia, unable to arm or equip himself in the manner herein before provided, and who has received arms and accoutrements from his officer, and shall destroy or embezzle such equipments, or any part thereof, he shall upon conviction before some justice of the peace, be adjudged to replace the article or articles by him so embezzled or destroyed, and pay the costs arising against him, or give security for the payment thereof, or be committed to the county-gaol to replace or pay for said articles so embezzled or destroyed, within the space of twenty days; and if he shall not perform the same within the time directed, the justice shall order him to be bound to service,

Penalty on persons destroying public arms, &c.

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or labour, for such time as will pay the full amount of such articles, as by him were embezzled or destroyed.

Penalty on officers, &c. for non-attendance at place of exercise.

On field-days.

By whom returns of fines shall be made.

SECT. 31. *And be it further enacted,* That if any officer, non-commissioned officer, or private, shall refuse or neglect to appear at the time and place appointed to exercise, either in company or battalion, those who are obliged to find arms and accoutrements, with arms and accoutrements in good order, such officer, non-commissioned officer or private, so neglecting or refusing, if not excused by a court-martial, shall be fined, if a major, four dollars, if a captain, two dollars, if a subaltern, one dollar and fifty cents, and if a non-commissioned officer or private, one dollar; and if any commissioned, non-commissioned officer, or private, shall neglect or refuse to attend at the time and place appointed to exercise in regiment, those who are obliged to find arms and accoutrements, with arms and accoutrements in good order, and not being excused by a court-martial, he shall be fined, if a colonel, ten dollars, if a major, six dollars, and if a captain, three dollars, if a subaltern, two dollars, and if a non-commissioned officer or private, one dollar and twenty-five cents; and the return of all fines incurred at a battalion or regimental day by field officers, shall be made by the highest officer in rank attending; to the commissary in the same month in every year, as is prescribed by this act for returning company-fines, and under the same penalty as is herein provided, of irregular returns of company-fines, and to be sued for in like manner, and to be chargeable to the commissary by the auditor on settlement as herein before provided, with regard to commanding officers of companies.

Penalty on persons behaving disorderly on duty.

SECT. 32. *And be it further enacted,* That any commissioned officer, non-commissioned officer or private of militia, who shall be disorderly or disobedient, or guilty of unmilitary conduct on a muster or training day, or at any other time when on duty,

if a commissioned officer, shall be put under arrest by the commanding officer, or tried by a court-martial, and may be cashiered; if a non-commissioned officer or private behaves disorderly, or is guilty of unmilitary conduct, he or they shall be confined during the time of said muster or training, at the discretion of his officers, and shall be fined not exceeding three dollars, nor less than one dollar, at the discretion of a court-martial.

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SECT. 33. *And be it further enacted,* That the governor or commander in chief, shall appoint court-martials for the trials of all officers, above the rank of captain; that the major-general or the commandants of brigades shall appoint court-martials, for the trial of captains and all officers under that rank, agreeable to the rules established by the Congress of the United States; and it shall be the duty of every officer, who shall appoint a court-martial, to approve or disapprove of every sentence of such court-martial by them appointed, and the officer who shall appoint a court-martial, shall at the same time appoint a judge advocate, whose duty it shall be impartially to state the evidence, both for and against the officer or other person, under trial, take accurate minutes of the evidence and all proceedings of the court, all of which he shall transmit, with the judgment of the court thereon under seal, to the officer whose duty it is to approve or disapprove of such judgment. Every officer put under an arrest or suspended from command, shall have a copy of the charges exhibited against him, ten days before the sitting of said court, and in case any officer, for the trial of whom a court-martial shall be appointed, shall neglect to appear, unless in case of his sickness or unavoidable accidents, which he shall make appear to the satisfaction of said court, and make his defence, he shall be deemed by said court, guilty of the charge, and sentenced accordingly. All court-martials shall be carried on in day-time, and when the members shall be required to give their votes on a question of decision, they shall begin with the youngest in commission

Court-martials
to be appointed,
&c.

Judge advocate,
his duty.

Officer put under
arrest, to
have a copy of
the charges
against him, &c.

Penalty on persons refusing to attend as witnesses, &c.

first: All persons shall be holden to appear to give evidence before a court-martial under the penalties for neglect, as are by law provided for witnesses in other cases, when summoned by a justice of the peace; and if any subaltern or private, shall refuse or neglect to serve on a court-martial, when duly noticed thereof, he shall be fined, if a subaltern, two dollars, and if a private, one dollar, to be returned and recovered as other company-fines, unless excused by the commanding officer of the company.

Court martials for the trial of privates.

SECT. 34. *And be it further enacted,* That all court-martials, for the trial of non-commissioned officers and privates, shall be appointed by the captain or commanding officer of the company, which shall consist of one subaltern and four privates, the subaltern to be president thereof; and at such court-martial, no person shall be excused, unless it be made appear to the satisfaction of the said court, by the testimony of a disinterested witness, that he was prevented from attending and doing duty, by sickness of himself, family, or other unavoidable circumstances, of such a nature as to require his personal attention.

Members of court-martials to be sworn.

SECT. 35. *And be it enacted,* That every member of a court-martial hereafter to be appointed, for the trial of any officer or private, in pursuance of this act, shall, before he proceeds to discharge the duties of a member of the said court, take the following oath or affirmation: to wit, that he will faithfully and impartially perform the duties of a member of the said court-martial, without favour or partiality; which said oath or affirmation, shall be administered by any commissioned officer of the regiment, or by the president of the said court martial: any thing in this act to the contrary in any wise notwithstanding.

SECT. 36. WHEREAS obedience to the laws, is the first duty of every man in a free government, and

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those laws, which put the means of defence and protection into the hands of the citizens themselves, require more particularly the aid and support of those, who value true liberty; and whereas the assembling of bodies of armed men in volunteer corps, independent companies, or under any other name, who do not acknowledge the legal military authority, and refuse to submit to the same, is dangerous to the liberties of the people, and calculated to overturn the militia establishment of the State: Therefore, *Be it enacted*, That if any person or persons within this State, shall raise, embody or enrol, any man or number of men, in any volunteer corps, independent company, or under any other name, or for any purpose whatsoever, which is not sanctioned by the laws of this State, or of the United States, he or they so raising, embodying or enrolling, and the person or persons so raised, embodied or enroled, shall be deemed and taken to be guilty of a high misdemeanor, and shall be liable to be prosecuted, and punished for the same by indictment, or information before any court of record within this State: And on conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars, and to be imprisoned not exceeding three months, at the discretion of the court; and the fine or fines so imposed, shall be paid into the hands of the military commissary of the county where the offence was committed, to be applied in the purchase of arms, for the use of the established militia: *Provided*, That nothing herein contained, shall be construed to prevent any white persons who are above forty-five years of age, from meeting in volunteer companies, for the protection of the country, when in their opinion they deem their services necessary:

Penalty on persons meeting in volunteer companies, &c.

Proviso.

SECT. 37. *And be it further enacted*, That commissioned officers of every regiment shall be called out twice a year, in the months of September and May annually, by order of the commanding officer of each regiment, through the medium of the adjutant of the same, to be by him trained and exercised

Commissioned officers to be called out and trained;

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and incorporat-
ed into a compa-
ny.

Penalty for non-
attendance.

The militia not
to be ordered on
water.

Secretary to fur-
nish the briga-
dier generals
with copies of
this law.

agreeably to the rules therein laid down, under the inspection of the field officers of the respective regiments, the time of meeting to be fixed by the colonels of the several regiments, and the place to be their usual regimental parade ground; and it shall and may be lawful for the said adjutant or exercising officer, to incorporate the officers thus assembled into one company, and put them through all the various evolutions of military tactics, as laid down and established in Baron Steuben's military discipline; and the said exercising officer may detain them on duty in the field, any time not exceeding six hours, provided they are not kept above three hours on duty at any one time, without allowing them a proper time to refresh themselves; those who neglect to attend, or attending, refuse to be exercised in the manner herein pointed out, shall be fined in any sum not exceeding five dollars, at the discretion of a regimental court-martial.

SECT. 38. *And be it further enacted,* That in case any part or classes of the militia of this State shall be called into actual service, that it shall not be lawful for the commanding officer of the same, or any other whatever, to call, send, or order them upon water, to oppose any ship or vessel armed with cannon, except in the particular case of acting as marines on board of one armed vessel against that of another; and then only under the most pressing emergency and unavoidable necessity.

SECT. 39. *And be it further enacted,* That after the passing and publishing of this act, that the secretary of State shall furnish each brigadier-general, or commanding officer of brigade, of the several counties, with a sufficient number of copies of this act, to enable him to distribute a copy to every commanding officer of regiment, battalion and company, in his brigade, which he is hereby requested to forward to the said officers, who are hereby required and enjoined, without delay, to procure for themselves an exact copy of the late edition of Baron Steuben's military discipline.

SECT. 40. *And be it further enacted,* That all persons authorized and required by this act, to take, receive, or hold any bond as surety for the collection of fines, or any other purposes specified in this act, with a view that justice may be obtained, and the penalty, if forfeited, recovered, they are hereby required and enjoined, upon the application of the proper person authorized and empowered to sue for and recover the same, to give up said bonds or other instruments of writing, under the same penalty which they contain, to be recovered as other fines and forfeitures are; and all persons authorized to keep any book or record, relative to the military transactions of this State, are required upon removal from office by the decision of a court-martial; moving out of the county or otherwise, to give up undefaced the said record to his successor in office; and in case of his death, his executors or administrators, upon the application of his successor or successors, shall give up to him all such records.

Persons holding any bond, &c. to deliver them to the person authorized to sue.

Persons removing, to give up the records to his successor.

SECT. 41. *And be it further enacted,* That all and every person and persons whatsoever, now holding any muskets, colours, drums or instruments of martial music, belonging to the militia of this State, who have been paid for the same, shall forthwith deliver them over to the captain of the district wherein they reside, under the penalty of twenty dollars, to be recovered as debts under forty shillings are recoverable.

Persons holding public arms, &c. required to deliver them up.

SECT. 42. *And be it enacted by the authority aforesaid,* That the following rules and articles, be and they hereby are established and declared to be in force for governing all troops of this State, stationed in forts and garrisons within the same, and also the militia or any part thereof, when called into actual service:

Articles of war.

Article 1. Whatsoever officer or soldier shall presume to use traitorous or disrespectful words against the authority of the United States, in Congress assembled, or the legislature of this State, if a

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commissioned officer, he shall be cashiered, if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted upon him by the sentence of a court-martial.

Articles of war.

Article 2. Any officer or soldier, who shall begin, excite, cause, or join in mutiny or sedition in the troop, company or regiment to which he belongs, or in any other troop or company in the service of this State, or in any party, post or detachment, or guard, on any pretence whatsoever, shall suffer such punishment as shall be inflicted by a court-martial.

Article 3. Any officer, non-commissioned officer or soldier, who being present at any mutiny or sedition, doth not use his utmost endeavours to suppress the same, or coming to the knowledge of any intended mutiny, doth not without delay, give information thereof to his commanding officer, shall be punished by the sentence of a court-martial, according to the nature of the offence.

Article 4. Any officer or soldier, who shall strike his superior officer, or draw or lift up any weapon, or offer any violence against him, being in the execution of his office, on any pretence whatsoever, or shall disobey any lawful command of his superior officer, shall suffer such punishment as shall be according to the nature of his offence inflicted on him, by the sentence of a court-martial.

Article 5. Whatsoever officer or soldier shall be convicted of having advised or persuaded any other officer or soldier to desert, shall suffer such punishment as shall be inflicted by a court-martial.

Article 6. Any non-commissioned officer or soldier who shall desert, or without leave from his commanding officer, absent himself from the troop or company to which he belongs, or from any detachment of the same, shall upon the conviction thereof, suffer such punishment as shall be inflicted by the sentence of a court-martial.

Article 7. All officers, of what condition soever, shall have power to quell or part any frays or disorders, though the persons concerned should belong to another regiment, company or troop, and either to order officers into arrest, or non-commissioned officers or soldiers to be put under guard, until their proper superior officers shall be made acquainted therewith; and whoever shall refuse to obey such officers, though of an inferior rank, or shall draw his sword upon him, shall be punished at the discretion of a general court-martial.

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Articles of war.

Article 8. Every officer commanding in quarters, garrison, or on a march, shall keep good order, and to the utmost of his power redress all such abuses or disorders, as may be committed by any officer or soldier under his command; and if on complaint made to him of officers or soldiers, beating or otherwise ill treating any person, or committing any kind of riots to the disquieting of the good citizens of this, or any of the United States, he shall refuse or omit to see justice done on the offender or offenders, and reparation made to the parties injured, so far as the offender or offenders' pay shall enable him or them, he shall on proof thereof, be punished by a general court-martial, as if he himself had committed the crimes or disorders complained of.

Article 9. If any officer shall think himself to be wronged by his colonel or commanding officer of the regiment, and shall upon due application made to him, be refused to be redressed, he may complain to the general or commander in chief of the forces in the service, in order to obtain justice, who shall examine into the complaint, and see that justice be done.

Article 10. If any inferior officer or soldier shall think himself wronged, by his captain or other officer commanding the troop or company to which he

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Articles of war.

belongs, he may complain to the commanding officer of the regiment, who shall summon a regimental court-martial for the doing justice to the complainant, from which regimental court-martial, either party, if he thinks himself aggrieved, may appeal to a general court-martial. But if upon a second hearing, the appeal shall appear to be vexatious and groundless, the person so appealing, shall be punished at the discretion of the said general court-martial.

Article 11. Whatsoever non-commissioned officer or soldier, shall be convicted at a court-martial of having sold, designedly, or through neglect wasted the ammunition delivered out to him, to be employed in the service of this State, shall, if a non-commissioned officer, be reduced to the ranks, and if a soldier, shall suffer such punishment as shall be inflicted upon him by a court-martial.

Article 12. All non-commissioned officers or soldiers, who shall be found one mile from the camp, without leave in writing from the commanding officer, shall suffer such punishment as shall be inflicted on them by the sentence of a court-martial.

Article 13. No officer or soldier shall be out of his quarters or camp, without leave of his commanding officer, upon penalty of being punished according to the nature of the offence, by the sentence of a court-martial.

Article 14. Every non-commissioned officer and soldier shall retire to his tent or quarters, at the beating of the retreat, in default of which, he shall be punished according to the nature of the offence, by the sentence of a court-martial.

Article 15. No officer, or non-commissioned officer or soldier, shall fail to repair, at the time fixed, to the place of parade or exercise, or other rendezvous, appointed by his commanding officer, if not pre-

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vented by sickness or some other evident necessity; nor shall go from said place of rendezvous; or from the guard, without leave from his commanding officer, before he shall be regularly dismissed or relieved, on the penalty of being punished according to the nature of his offence, by the sentence of a court-martial.

Article 16. Whatsoever commissioned officer shall be found drunk on his guard, party, or other duty under arms, shall be cashiered for it; and any non-commissioned officer or soldier, so offending, shall suffer such punishment as shall be inflicted on him by the sentence of a court-martial.

Article 17. Whatsoever sentinel shall be found sleeping on his post, or shall leave it before he shall be regularly relieved, shall suffer death, or such other punishment as shall be inflicted by a court-martial.

Article 18. Any person belonging to the forces employed in the service of this State, who by discharging fire arms, drawing of swords, beating of drums, or by any other means whatsoever, shall occasion false alarms in camp, garrison or quarters, shall suffer such punishment as shall be ordered by the sentence of a general court-martial.

Article 19. No officer or soldier shall do violence, or offer any insult, or abuse any person who shall bring provisions or other necessities to the camp, garrison or quarters of the forces of this State, on pain of suffering such punishment as a court-martial shall direct.

Article 20. Whatsoever officer or soldier shall abandon any post committed to his charge, or shall speak words inducing others to do the like, in time of an engagement, shall suffer death, or such other punishment as shall be inflicted by the sentence of a general court-martial.

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Articles of war.

Article 21. Any person belonging to the forces in the service of this State, who shall make the watch-word known to any person not entitled to receive it, according to the rules and discipline of war, or shall presume to give the parade or watch-word different from what he received, shall suffer death, or such other punishment, as shall be ordered by the sentence of a general court-martial.

Article 22. Whosoever belonging to the forces in the service of this State, shall relieve the enemy with money, victuals or ammunition, or shall knowingly harbour or protect an enemy, shall suffer such punishment as by the sentence of a court-martial shall be inflicted.

Article 23. If any officer or soldier shall leave his post or colours, to go in search of plunder, he shall, upon conviction thereof before a general court-martial, suffer such punishment as by the sentence of said court-martial shall be inflicted.

Article 24. If any commander of any garrison, fortress or post, shall be compelled by the officers or soldiers under his command, to give up to the enemy, or to abandon it, the commissioned officers, non-commissioned officers or soldiers, who shall be convicted of having so offended, shall suffer death, or such other punishment, as shall be inflicted upon them by the sentence of a court-martial.

Article 25. All sutlers and retainers to the camp, and all persons serving with the troops of this State, in the field, shall be subject to orders according to the rules and discipline of war.

Article 26. A general court-martial shall not consist of less than thirteen commissioned officers; and the president of such court-martial shall not be the commander in chief, nor commanding officer of the troops in service or garrison, where the offender shall be tried, nor under the degree of a field-officer.

Article 27. Every regimental court-martial shall be composed of five members, all commissioned officers, who are to chuse one of their members as president, not under the rank of a captain.

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Article 28. In any court-martial, not less than two thirds of the members must agree in every sentence for inflicting corporal punishment, otherwise the party charged shall be acquitted. Articles of war.

Article 29. All persons called to give evidence in any cause before a court-martial, who shall refuse to give evidence, shall be punished for such refusal at the discretion of such court-martial.

Article 30. No sentence of a court-martial shall be put in execution, until after report shall be made to the commanding officer when the court-martial shall be held, and his orders be issued for carrying such sentence into execution.

Article 31. No officer commanding a guard, or provost martial, shall refuse to receive or keep any prisoner committed to his charge, by any officer belonging to the forces of this State, which officer shall, at the time of commitment, deliver an account in writing, signed by himself, of the crime with which the person is charged.

Article 32. Whatsoever commissioned officer shall be convicted before a general court-martial of behaving in a scandalous or infamous manner, such as is unbecoming the character of an officer, and a gentleman, shall be discharged from the service.

Article 33. All officers, conductors, gunners, matrosses, drivers, or any persons whatsoever, receiving pay or hire in the artillery service of this State, shall be governed by the aforesaid rules and articles, and shall be subject to be tried by court-martials in like manner with other officers and soldiers.

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Article 34. No person shall be sentenced to suffer death, except in the cases expressly mentioned in the foregoing articles; nor shall more than thirty-nine stripes be inflicted on any offender, for any one offence.

Articles of war.

Article 35. All crimes not capital, and all disorders and neglects which officers and soldiers may be guilty of, to the prejudice of good order and military discipline, though not mentioned in the foregoing articles, are to be taken cognizance of by a general or regimental court-martial, according to the nature and degree of the offence, and be punished at their discretion.

SECT. 43. *And be it enacted,* That all laws heretofore made, for the government of the militia of this State, be, and the same are hereby repealed, made null and void.

Passed at Dover, August 13, 1807.

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Chap. 28, vol. 4,
p. 59.

A Supplement to the act, entitled, "An act to incorporate a company to erect a draw-bridge over the river Christiana, at Wilmington, and for other purposes therein mentioned."

Preamble.

WHEREAS it has been represented to the legislature, that the act to which this is a supplement, is defective, and requires certain regulations to be altered, and new provisions to be introduced, for the more convenient and certain execution

of the work undertaken by the company incorporated by the aforesaid act.

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SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That that part of the road directed by the aforesaid act to be laid out from the stake in the fast land near major Peter Jaquett's dwelling house, to Read's, formerly Clark's corner, shall be of the breadth of sixty feet; and the said road, and also all the parts of the roads laid out, or which shall be laid out under the aforesaid act, shall not be liable to be altered or changed by virtue of any orders of the court of General quarter sessions of the peace.

Width of the road to be laid out from Jaquett's, &c.

SECT. 2. *And be it enacted,* That after the bridge, intended by the act to which this a supplement, to be built, shall be erected and rendered passable; and the road intended by the said act to intersect the road leading from the Wilmington ferry to the town of New-Castle, shall be laid out, opened and rendered passable, according to the directions of the act to which this a supplement, it shall and may be lawful for the said company to demand and receive the tolls or pontage allowed by the aforesaid act: *Provided always,* That if the said road to be laid out and opened from major Peter Jaquett's to Read's, formerly Clark's corner, be not opened and made passable within two years from the date of this act, that in such case, the right of the said company to demand and receive tolls or pontage, shall cease and determine, until the said road be opened and made passable as aforesaid.

When tolls may be demanded.

Proviso.

SECT. 3. *And be it enacted,* That in case of the death or resignation of the president of the said company, it shall and may be lawful for the said directors, or a majority of them, to proceed to elect, by ballot, one of their number, to supply the vacancy occasioned by such death or resignation; and in case the said president shall be absent from any meeting

How the place of the president shall be supplied in case of death, &c.

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of the said directors, it shall be lawful for the said directors to appoint by ballot or otherwise, from one of their number, a president pro tempore.

Passed at Dover, August 10, 1807.

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An ACT for arming the quota of Militia required from this State.

Governor authorized to purchase arms, &c.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the governor be, and he is hereby authorized to purchase, for the use of the State, eight hundred muskets, of the size, kind and bore, as are directed by the laws of the United States, with bayonets, belts, and musket-slings; and also the same number of knapsacks and cartridge-boxes, constructed to correspond with the bore of the muskets, with brushes and priming-wires.*

Appropriation therefor.

SECT. 2. *And be it enacted, That ten thousand dollars shall be, and are hereby appropriated, to the purchase of said muskets, bayonets, belts, knapsacks, cartridge-boxes, musket-slings, brushes and priming wires, to be paid by the treasurer of this State to the order or orders of the governor.*

To be paid out of dividends on stock, &c.

SECT. 3. *And be it enacted, That the said sum of ten thousand dollars shall be paid out of the money arising from the dividends of the shares of any bank stock belonging to this State, from interest accruing on the stock of the United States, funded by this State, from all taxes now in arrear and unpaid, and money in the treasury, after the pay-*

ment of the salary of the officers of this State; and the governor is hereby authorized to order the sale of so much of the eight per cent. stock of the United States belonging to this State, as may be necessary to make up the deficiency of the aforementioned funds, and apply the money therefrom arising, to the purchase of the said arms and accoutrements; and that the State treasurer shall not expend any further sum towards the purchase of stock in the funds in the United States of America, than has already been applied to that purpose, agreeably to the act of the General assembly of the last session, until after the application of the said sum of ten thousand dollars, according to the directions of this act.

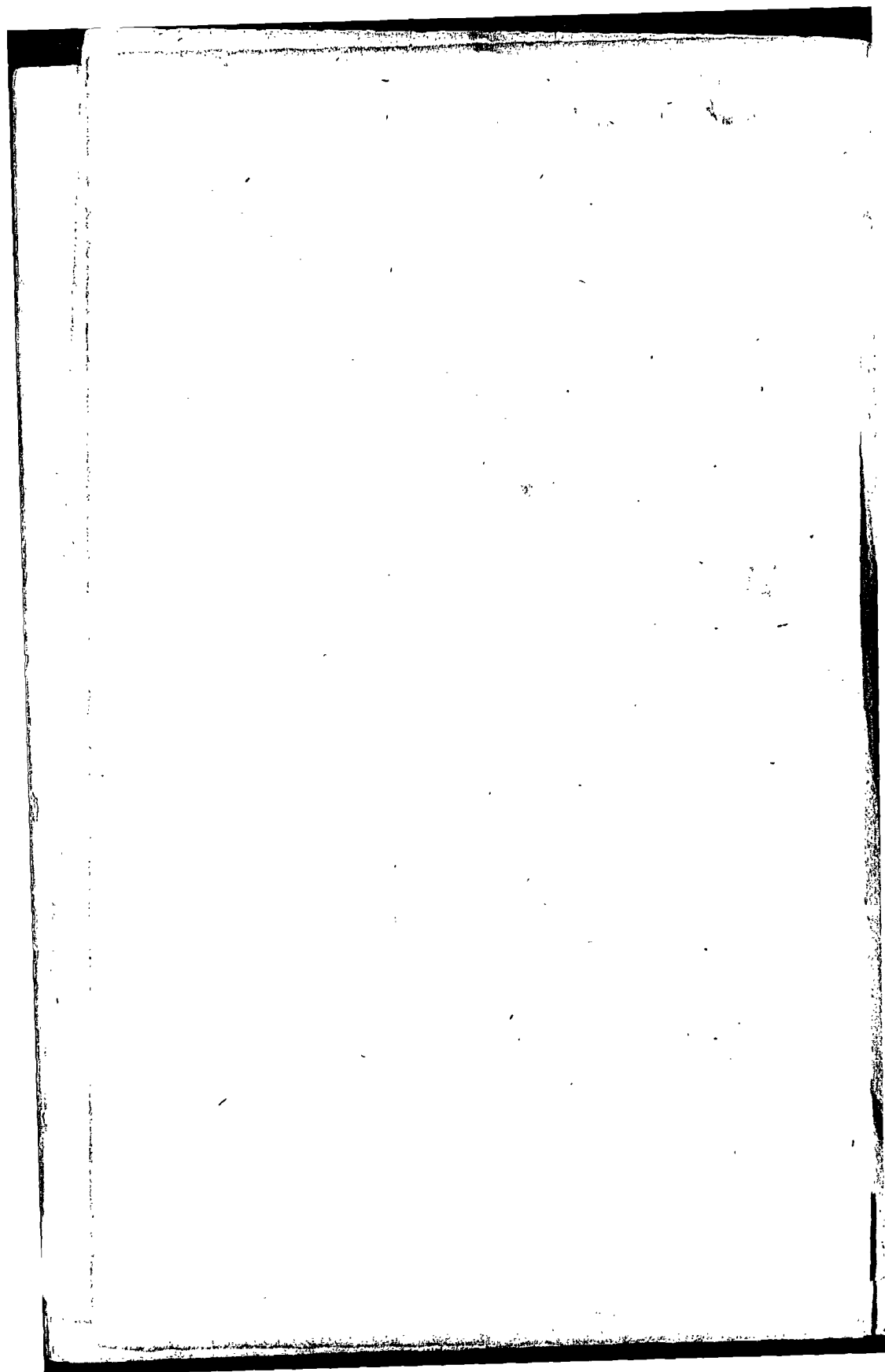
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Treasurer not
 to make any
 further purchase of stock,
 &c.

SECT. 4. *And be it enacted,* That the governor be, and he is hereby required to lay before the General assembly of this State, at their next session, an account of his transactions in the premises.

Governor to report to the legislature.

Passed at Dover, August 12, 1807.



CHAP.
LII.
1808

CHAP. LII.

An ACT to incorporate a School near St. James's Church, in Mill-creek hundred, and county of New-Castle.

WHEREAS it appears to this legislature, that the institution of a school near St. James's church, for teaching the English language, and other branches of knowledge therewith connected, would tend greatly to the advantage of the inhabitants of the vicinity thereof, and tend to promote the general welfare of the State;

Preamble.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That there be established at the aforesaid place, a school for the education of youth in the English language, and such necessary branches, as may be thought expedient for completing a useful education, the name, style and title of which said school, and the constitution, powers and capacity thereof, shall be as are herein after mentioned and defined, that is to say,

School established near St. James' church.

1. The said school shall be forever hereafter called and known by the name and style of "Saint James's School."

Style.

Trustees.

2. The said school shall be under the management, direction and government of eight trustees, or a quorum or board thereof, as herein after mentioned.

Trustees appointed and

3. The first trustees of the said school, shall consist of the following persons, viz. Joseph Ball, Humphrey Hill, Joseph Burn, William Reynolds, Andrew Reynolds, David Morrison, Caleb Harlin and Edward Marshall, which said trustees and their successors, to be elected in manner herein after mentioned, shall forever hereafter be established and declared to be one body politic, with perpetual succession in deed and in law, to all intents and purposes whatsoever, by the name, style and title of "The trustees of Saint James's School," by which name and title, they the said trustees and their successors, shall be able and capable in law and equity, to take to themselves and their successors, for the use of the said school, any estate, in lands, tenements and hereditaments, goods, chattels, monies, or other effects, by the gift, grant, bargain, sale, conveyance, assurance, devise or bequest, of any person or persons, or bodies politic whatsoever, and the same lands, tenements and hereditaments, and estate real and personal, to convey, demise and to farm-let, and place out on interest, or otherwise dispose of, or invest for the use of the said school, in such manner, as to them, or a majority of them, shall seem most beneficial for the institution, and to receive the rents, issues, profits, income and interest of the same, and to apply the same to the use and support of the said school; and by the same name to sue, commence, prosecute and defend, implead and be impleaded, in any courts of law or equity, and in all manner of suits and actions whatsoever, and generally, by and in the same name, to do and transact all and every the business touching or concerning the premises, or which shall be incidentally necessary thereto, as fully and effectually as any natural person or body politic or corporate within this State, have power to manage their own

incorporated with certain powers,

Capacity to sue, &c.

concerns; and to hold, enjoy and exercise all such powers, authorities and jurisdictions; as are customary in other schools of the same nature and description in America.

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1808

4. That the said trustees shall cause to be made, for their use, one common seal, with such devices and inscriptions thereon, as they shall think proper, under and by which all deeds, certificates, acts and ordinances of the said corporation, shall pass and be authenticated. Seal.

5. That the said trustees, or a majority of them, shall meet at the school house on the Easter Monday in every year, for the purpose of concerting and agreeing to such business, as in consequence of this act, shall be proper to be laid before them, at the commencement of the work they have undertaken, and shall have power to adjourn from time to time, as they shall see cause, for perfecting the same. First meeting.

6. That there shall be stated meetings of the said trustees, held quarter yearly, in each year, at least, at the school house, at such times as the said trustees, or a majority of them, shall appoint or limit, of which public notice shall be given, after the first meeting, at least ten days before the time of such intended meeting; and there shall be occasional meetings of the said trustees, whenever the president for the time being, to be appointed by them, shall deem it necessary, and cause the secretary, for the time being, to give due notice thereof, which he is hereby authorized to do; and if at such stated or occasional meetings, a majority of the said trustees, shall not be present, then such of them as may be present, shall have power to adjourn the meeting to any other day, but if a majority of the said trustees shall meet at the times of stated, occasional or adjourned meetings, then such majority, or the whole number, if met, shall be a quorum, and a majority of the votes of them, shall be capable of doing and transacting all the business and Stated and occasional meetings.

Quorum of what number to consist.

C H A P.
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1808

concerns of the said school, and particularly for making all deeds, certificates, doing all acts, and enacting ordinances, and causing the common seal to be thereto affixed, of appointing a preceptor or preceptors, tutor or tutors of the said school, of agreeing with them for their salaries or stipends, and removing them for misconduct or a breach of the laws of the institution, of appointing committees of their own body, to carry into execution the resolutions of the board, of appointing a president, treasurer, secretary and other necessary and customary officers, for the taking care of the estate, and managing the concerns of the corporation, and generally, a majority of the voices of the said trustees, or a majority of those convened together, at any of the said meetings, shall determine matters and things that may arise and be transacted by the said trustees: *Provided always*, That no ordinances shall be of force, which shall be repugnant to the constitution and laws of this State.

Proviso.

What persons
may be elected
trustees.

7. Persons of every religious society or denomination among christians, shall be capable of being elected trustees; nor shall any preceptor, tutor or pupil, be refused admittance into the said school, for his conscientious persuasion in matters of religion; provided he demean himself in an orderly manner, and conform to the ordinances, rules and regulations of the school.

Their continu-
ance in office.

8. That the trustees herein before named, shall continue in office for the period of one year, from and after Easter Monday next, and no longer; (unless re-elected) and their succession shall be kept up and continued, by annual elections in each and every year thereafter, and elections shall, at any intermediate period or periods, of any future year, be directed by the trustees, or a majority of them, and held to supply vacancies, that may be occasionally produced or arise, which vacancies may arise or be produced as well by death, resignation, or removal from the vicinity of the school, or by the annual termination of office: *Provided*, That the first an-

Vacancies how
supplied.

annual election for trustees, shall be holden at the school house on Easter Monday next, and so on, in each and every year thereafter, to perpetuate the succession of trustees, and all intermediate elections shall be holden at the same place: *Provided further*, That the trustees of the school for any preceding year, shall continue in office for the subsequent year, in case no annual election should be holden at the time and place prescribed by law, and until such annual election of trustees be held thereafter.

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Proviso.

9. Those free white inhabitants of the vicinity, who shall send a child or children to the school, and be contributors to the amount of ten dollars, to the establishment of the institution, or to the enlargement of the funds thereof, by gift, or otherwise, shall have power, and are hereby authorized to assemble together, and choose, annually, with the original subscribers to the said school, at the time and place herein before prescribed, eight persons as trustees of the said school, for the ensuing year, and also hold intermediate elections at the same place, at any time or times, and as often as may be prescribed, and appointed by the said board of trustees, or a majority of them, who may at any time or times be assembled together.

By whom trustees chosen.

10. No misnomer of the said corporation, shall defeat or annul any gift, grant, conveyance, demise, or bequest, to or from the said corporation, provided the intent of the parties shall sufficiently appear on the face of the gift, grant, will, or other writing, whereby an estate or interest was intended to pass to or from the said corporation; nor shall any mis-user or non-user of the rights, liberties, privileges, jurisdictions and authorities hereby granted to the said corporation, or any of them, create or cause a forfeiture thereof.

Misnomer not to defeat any gift, &c.

11. The said trustees, or a majority of them, shall from time to time, and at all times hereafter, when assembled and met together, have full power and

Trustees may make by-laws.

CHAP.
LIII.
1808

authority to make all necessary ordinances, bye-laws, rules and regulations for the arrangement, regulation and government of the said school, and of and concerning all matters and things, direct or incidental, with respect to the well ordering and support of the said school, and the said trustees shall have all further and other powers requisite to carry into full effect, continue and perpetuate the institution, and for its benefit.

Ordinances, &c.
to be evidence
in certain cases,

12. That the books, acts, ordinances, statutes and minutes of the trustees of the said school, and their successors, shall be received as competent evidence in all courts of justice and elsewhere, of the accounts, matters, things and transactions, which they import, on the face of them, touching and relating to the affairs and business of the said corporation, or to whatsoever their powers may extend, in the same manner as books of private persons are now received as competent evidence under the existing laws of this State.

Passed at Dover, Jan. 20, 1808.

C H A P. LIII.

An ACT authorizing the division of the real estate of Peter Rust, and the real estate of Sally Rust, late of Sussex county, deceased.

Passed at Dover, Jan. 22, 1808.—Private act.

C H A P. LIV.

CHAP.
LV.

1808

An ACT to incorporate the owners of marsh and swamp, on Dragon Run, in Red-Lion hundred, New-Castle county, into a company, by the name or appellation of Dragon Canal Company.

Passed at Dover, Jan. 23, 1808---Private act.

C H A P. LV.

An ACT to exempt stoves, on hire, from being seized for rent.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, no stove which shall bona fide be let or hired, shall be distrained for rent, arrear, due or owing, by the person to whom the said stove shall be let or hired, provided the contract of letting or hiring, be evidenced by an instrument of writing, under the hands of the parties to the said contract, and be subscribed or attested by one or more credible witness or witnesses.

No stoves let or hired, to be distrained.

SECT. 2. *And be it further enacted, That if it shall happen, that any stove, let or hired, as aforesaid, shall be distrained for rent, arrear, due or owing, by the person to whom the same may be let or hired, the person levying the said distress, upon being shown the said contract of letting or hiring, together with the affidavit of a subscribing witness to the same, that he saw the parties execute the said instrument*

If distrained, to be delivered up on proof, &c.

CHAP.
LVI.
1808

of writing, and that he subscribed his name thereto as a witness, at the time when the same bears date, as nearly as he can recollect; or in case of the death of the subscribing witness or witnesses, or of his, her, or their absence from the county in which the distress shall be levied, then upon the proof of the hand-writing of the said witness or witnesses, by the affidavit of one or more credible person or persons, shall upon request, deliver up the said stove to the owner or person having the reversionary interest in the same; and if the said person, levying the said distress, shall refuse so to do, then the said owner, or person having the reversionary interest in the said stove, may prosecute and maintain his action of trover therefor, and recover damages to the double value thereof, with the full costs of his said suit, and upon the trial may give this act in evidence.

Passed at Dover, January 23, 1808.

CHAP. LVI.

Chap. 162. 3 v.
p. 358.

An additional supplement to an act, entitled, "An act to prevent the exportation of flour not merchantable."

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, all Indian corn meal manufactured within the county of New-Castle, shall, upon shipment therefrom for the city of New-York, in the State of New-York, be subject to the same regulations as are provided for the exportation of the like article to the city of Philadelphia, and none other, any thing to the contrary notwithstanding, con-

tained in any act, or supplementary act of the General assembly of this State.

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LVII.
1808

Passed at Dover, Jan. 25, 1808.

CHAP. LVII.

An ACT for devising and establishing a seal to be used by the clerk of the high court of Errors and Appeals.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the clerk of the high court of Errors and Appeals, shall, within four months after the publication of this act, procure a seal of silver, steel or copper, to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the State of Delaware, or such other device, instead thereof, as the chancellor of this State shall order and direct, and a motto or inscription, to describe the office to which such seal belongs, which seal shall be thenceforth taken, adjudged and deemed the seal of the said court, and may and shall be made use of; and affixed to, all writings and copies to which a seal of office ought to be affixed.

Clerk of high court of Errors and Appeals to procure a seal.

SECT. 2. *And be it enacted*, That the said clerk of the high court of Errors and Appeals, his executors or administrators, shall deliver the said seal to his successor in the said office, from time to time, whole and undefaced, common wear excepted, under the penalty of sixty dollars, to be recovered by the person who shall hereafter be lawfully appointed to hold the said office, by action of debt, wherein not more than one imparlance shall be al-

To be delivered over to his successor.

And original
expense thereof
to be repaid.

lowed; and that the successor or successors in the said office, shall, upon the delivery of the said seal, in manner aforesaid, re-imburse and pay to the former officer, his executors or administrators, the sum the said seal originally cost; which said original cost, shall be, by order of the chancellor, entered among the records of said court at the next term.

Passed at Dover, Jan. 26, 1808.

C H A P. LVIII.

An ACT to establish and regulate a ferry over Nanticoke river, at the village of Seaford, in Sussex county.

Preamble.

WHEREAS public convenience and the better accommodation of individuals, require that a ferry should be established under due and proper regulations, over Nanticoke river, at the village of Seaford:

Proprietors.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Richard Lawrence, John Rust, senior, and John Hooper, esquire, be, and they are hereby appointed proprietors, for the purpose herein after mentioned; and they are hereby authorized and empowered, after the passing of this act, to make a good and sufficient road from the head of Market-street and down said street to Nanticoke river, with good and sufficient landings on both sides of said river, at the places now laid out by an order of court, in the following manner: one on Market-street, and the other opposite to Market-street, and a good and sufficient causeway to fast land; the aforesaid road, landing places and*

causeway, shall be made good and substantial, suitable for footmen, horses and carriages to pass and re-pass; also find a good and sufficient boat or boats, and man or men, to be kept for the use of said ferry.

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1808

To keep boats,
&c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That as soon as the said road, causeways and landing-places shall be erected, and in sufficient order, and the said ferry-boat shall be provided, then the aforesaid Richard Lawrence, John Rust, senior, and John Hooper, their heirs and assigns, shall have the sole and exclusive right of ferrying over the said river Nanticoke, in Sussex county, at the village of Seaford aforesaid, and that no person or persons shall have power or authority to use in any manner whatsoever, the said ferry, unless by license first obtained from the said proprietors or their successors, under the penalty of twelve dollars lawful money of the State of Delaware, for each and every offence, to be recovered of the person or persons so offending, in using the said ferry, or boat thereunto belonging, their executors and administrators; in manner and form as other debts of the like sum are made recoverable before any justice of the peace for the county of Sussex; one third part to go to the informer, and the residue to the said proprietors, their heirs or successors, as the case may be.

Penalty for using
ferry without
license.

SECT. 3. *And be it further enacted,* That the aforesaid proprietors, their heirs and assigns, shall be obliged to keep the said ferry, road, causeways and landing-places in good and sufficient repair, and give all due attendance to every person wanting to pass or cross the same; and in default thereof, or for taking more than the fees or rates herein after mentioned, shall forfeit and pay the sum of twelve dollars for every offence, one half to go to the party grieved, and the residue to the treasurer of the county, for the use of the county, to be recovered before any justice of the peace in Sussex county, as other debts of the like sum are recovered.

Ferry to be kept
in good order.

Penalty for neglect,
and for extortion.

And original
expense thereof
to be repaid.

lowed; and that the successor or successors in the said office, shall, upon the delivery of the said seal, in manner aforesaid, re-imburse and pay to the former officer, his executors or administrators, the sum the said seal originally cost; which said original cost, shall be, by order of the chancellor, entered among the records of said court at the next term.

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causeway, shall be made good and substantial, suitable for footmen, horses and carriages to pass and re-pass; also find a good and sufficient boat or boats, and man or men, to be kept for the use of said ferry.

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LVIII.

1808

To keep boats,
&c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That as soon as the said road, causeways and landing-places shall be erected, and in sufficient order, and the said ferry-boat shall be provided, then the aforesaid Richard Lawrence, John Rust, senior, and John Hooper, their heirs and assigns, shall have the sole and exclusive right of ferrying over the said river Nanticoke, in Sussex county, at the village of Seaford aforesaid, and that no person or persons shall have power or authority to use in any manner whatsoever, the said ferry, unless by license first obtained from the said proprietors or their successors, under the penalty of twelve dollars lawful money of the State of Delaware, for each and every offence, to be recovered of the person or persons so offending, in using the said ferry, or boat thereunto belonging, their executors and administrators, in manner and form as other debts of the like sum are made recoverable before any justice of the peace for the county of Sussex; one third part to go to the informer, and the residue to the said proprietors, their heirs or successors, as the case may be.

Penalty for using
ferry without
license.

SECT. 3. *And be it further enacted,* That the aforesaid proprietors, their heirs and assigns, shall be obliged to keep the said ferry, road, causeways and landing-places in good and sufficient repair, and give all due attendance to every person wanting to pass or cross the same; and in default thereof, or for taking more than the fees or rates herein after mentioned, shall forfeit and pay the sum of twelve dollars for every offence, one half to go to the party grieved, and the residue to the treasurer of the county, for the use of the county, to be recovered before any justice of the peace in Sussex county, as other debts of the like sum are recovered.

Ferry to be kept
in good order.

Penalty for neglect,
and for
extortion.

Rates of ferry-
age.

SECT. 4. *And be it further enacted,* That any person or persons who shall keep the said ferry, shall have, take and receive for ferryage over the same, the rates and prices following, to wit: for every foot passenger, six cents; for every single man and horse, twelve and one half cents; for every led horse, ox or cow, six cents; for a chair or sulkey, horse and rider, twenty-five cents; for a coach or other four wheel carriage and pair of horses, sixty cents; for a cart, one horse and driver, laden, thirty-three cents, unladen, twenty-five cents; for a waggon, two horses and driver, laden, sixty-seven cents; unladen, fifty cents; for every other horse, in a cart, waggon or other carriage, six cents.

Property in ferry
transferrable.

SECT. 5. *And be it enacted,* That the right hereby vested in the proprietors, shall and may be transferrable to any person or persons, under the regulations before mentioned.

Passed at Dover, Jan. 27, 1808.

C H A P. LIX.

An ACT to incorporate a company, for the purpose of making an artificial road from the Philadelphia and Lancaster turnpike road, in Lancaster county, at or near the Gap tavern, to the line of the State of Delaware, and to extend the same artificial road from thence by the nearest and best practicable course, to Newport, on Christiana creek, in the same State.

Preamble.

WHEREAS the General assembly of the commonwealth of Pennsylvania, by an act

passed the seventh day of April, in the year of our Lord, One thousand eight hundred and seven, entitled, "An act to authorize the governor to incorporate a company for making an artificial road from the Philadelphia and Lancaster turnpike road, in Lancaster county, at or near the Gap tavern, to the line of the State of Delaware," did, by the twenty-sixth section of the same act, enact, "That the same act should commence and take effect from and immediately after the legislature of the State of Delaware should authorize and empower the making of a like artificial road, by the same company, from where the road therein authorized, would strike the line of that State by the nearest and best practicable route, to Newport, on Christiana creek, in said State." And whereas important interests of this State will be promoted by incorporating the said company, and authorizing and empowering the same company to make a like artificial road, as herein before recited and described, from where the road authorized by the herein before in part recited act of the legislature of Pennsylvania, which may strike the line of this State, by the nearest and best practicable route to Newport aforesaid.

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SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That it shall be lawful for the commissioners named in the said act of the legislature of Pennsylvania, or one or more of them, or the survivors or survivor of them, or either of the said survivors, or of other commissioners, or either of them, that may be appointed for the like purpose by a future act of the said legislature, to open at any time hereafter, at the town of New-Castle, and in Newport aforesaid, or at either of those places, the books provided by them, pursuant to the power and authority given by the same act, for receiving, and then and there receive in the manner and form therein prescribed, subscriptions for shares of stock in the said company, and keep the same books open, adjourning from time to time, until a competent

Commissioners
to open books
for subscription

Proviso.

number of shares of stock in the said company, be subscribed: *Provided always, and be it enacted*, That all money received by the president, managers and company of the Gap and Newport turnpike road, in virtue of the said subscriptions, shall be applicable, as well to the opening, making and completing the said artificial road, where it may pass through any part of the territory of the State of Delaware, as where it may pass through any part of the territory of Pennsylvania.

Subscribers incorporated.

SECT. 2. AND WHEREAS it hath been represented to this General assembly, that four hundred shares and upwards, of the said stock, have been subscribed by various persons in books heretofore opened under the provision of the said act of the legislature of Pennsylvania: *Be it enacted*, That the said subscribers, and if the said subscriptions be not full at the time of passing this act, then also those who shall afterwards subscribe to the number of shares provided and prescribed by the same act of the legislature of Pennsylvania, shall be and are hereby declared to be created, erected and formed into one body politic and corporate in deed and by law, by the name, style and title of "The president, managers and company of the Gap and Newport Turnpike company." And by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form, as they shall think proper, if such enlargement shall be found necessary, to fulfil the intent of this act, and of purchasing, taking and holding to themselves and their successors and assigns, and of selling, transferring and conveying, in fee simple, or for any lesser estate, all such lands, tenements, hereditaments, and estate real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and

Style, powers and privileges.

every other matter and thing which a corporation or body politic may lawfully do.

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1808

SECT. 3. *And be it further enacted*, That the commissioners aforesaid, as soon as conveniently may be, after the passing of this act, and their creation and erection into a body politic and corporate, agreeably to the provisions of this act, and pursuant to the act of the legislature of the State of Pennsylvania, shall give notice in two of the public papers of Lancaster, one of which, shall be in the German language; and also in the Philadelphia and Wilmington papers, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place, the said subscribers shall proceed to organize the said corporation, and shall choose, by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president and twelve managers, one treasurer, and such other officers, as they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen, and shall and may make such bye-laws, rules, orders and regulations, neither inconsistent with the constitution and laws of the State of Pennsylvania, nor with the constitution and laws of the State of Delaware, as shall be necessary for the well ordering the affairs of the said company: *Provided always*, That no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to, and that each person shall be entitled to one vote for every share by him held under that number: *Provided nevertheless*, That all future annual elections of the said corporation, shall be held with such notice, and in manner and form aforesaid, at such places as the managers aforesaid shall direct and appoint.

Commissioners
to give notice of
time and place
of choosing officers.

Power to make
bye-laws.

Votes limited.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said company shall meet on the

Annual, and

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1808

Special meet-
ings of the
company.

first Monday of January, in every year, at such place as shall be fixed by their bye-laws, for the purpose of choosing officers as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their bye-laws, at which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such bye-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Certificates of
shares.

SECT. 5. *And be it further enacted by the authority aforesaid,* That the president and managers first to be chosen as aforesaid, shall procure certificates to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed, and held, he paying to the treasurer, in part of the sum due thereupon, the sum of ten dollars for each share; which certificate, shall be transferrable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for the purpose, shall be a member of the said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Transferrable.

Meeting of the
president and
managers.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers, shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business; at which meeting, seven members shall form a quorum, who, in the absence

Quorum.

of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, superintendants, artists and officers, as they shall judge necessary to carry on the intended works; and to fix their salaries or wages; to ascertain the times and manner, and proportions when, and in which the stock-holders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work; which orders shall be entered, or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations of the company, shall be committed to them.

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May appoint
surveyors, &c.

Further powers.

SECT. 7. *And be it further enacted, by the authority aforesaid,* That if any stockholder, whether original subscriber or assignee, after thirty days notice in two of the public papers in Lancaster, one of which shall be in the German language; and also in the Philadelphia and Wilmington papers, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion, at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums before paid, in part and on account of such share, the same may be forfeited by, and to the said company,

Shares how for-
feited.

And may be sold

Or suit be brought.

Proviso.

Further proviso.

and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the said president and managers, may, at their election, cause suit to be brought, in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always*, That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same share. *And provided also*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged, as aforesaid.

President and managers may enter upon and examine any lands, &c. over which intended road will run.

Route.

SECT. 8. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the said president and managers, their superintendants, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and enclosures, in, through and over which, the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road; and to survey, lay down, and ascertain, mark and fix, such route or track for the same road; as in the best of their judgment and skill, will combine shortness of distance with the most practicable ground, from the place where the contemplated artificial road to lead from the Philadelphia and Lancaster turnpike road, at or near the Gap tavern aforesaid, to the line of the State of De-

laware, shall strike that line; and to extend thence the nearest and best practicable course to Newport, on Christiana Creek, in the said State.

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SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggon, wains, and other carriages, and beasts of draught or burthen, to enter upon the lands, in, over, contiguous and near to which, the route and track of the said intended road, shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing, mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of New-Castle county, in this State, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, sand, earth, or other materials there, being most conveniently situated for making or repairing the said road.

And may enter adjacent lands.

Damages how ascertained.

May take timber, stone, &c.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall have power to erect permanent bridges over all the creeks and waters crossed by the said route or track, whereon the same shall be found necessary; and shall cause a road to be laid out, not exceeding one hundred feet in width, from the Gap to Newport, by the aforesaid route, and shall cause twenty feet thereof in breadth, at least, to be made an artificial road; which shall be bedded with wood,

Bridges.

Width of road, and of what materials to be made.

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stone, gravel, clay, or other proper and convenient materials, well compacted together, a sufficient depth, to secure a solid foundation for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or other small hard substance, in such manner, as to secure a firm, and as nearly as the nature of the country, and the materials will admit, an even surface rising towards the middle, by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: *Provided*, That no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to and from any place of public worship, or funeral, on days appointed for that purpose.

Proviso.

And when completed, the governor to license toll gates to be erected.

SECT. 11. *And be it further enacted*, That as soon as the said president, managers and company, shall have perfected the said road, from the aforesaid place, where the contemplated artificial road to lead from the Philadelphia and Lancaster turnpike road, at or near the Gap tavern aforesaid, to the line of the State of Delaware, shall strike that line any distance not less than five miles, and so, from time to time, any distance not less than five miles progressively, towards Newport aforesaid, they shall give notice thereof to the governor of this State, who shall thereupon, forthwith, nominate and appoint three skilful and judicious persons, to view and examine the same; and to report to him, whether the road is so far executed, in a complete and workmanlike manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license, under his hand and the great seal of this State, permit and suffer the said president, managers and company, to erect and fix such, and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all parties travelling on the same, with horses, cattle and carriages.

SECT. 12. *And be it further enacted by the authority aforesaid,* That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding; leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, waggon, sleigh, sled or other carriage of burthen or pleasure, from passing through the said gates or turnpike, until they shall have respectively paid the same: that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep or cattle: to wit, for every score of sheep, four cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen, with his rider or leader, three cents; for every sulkey, chair, chaise, with one horse and two wheels, six cents, and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage, waggon, coachee or light-waggon, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, accordingly to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or waggon, or other carriage of burthen, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or waggon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches,

Toll-gatherers.

Rates of toll.

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and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage, as aforesaid, shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule, as equal to one horse, in charging the aforesaid tolls.

Penalty for attempt to evade the payment of toll.

SECT. 13. *And be it further enacted by the authority aforesaid,* That if any person or persons owning, riding in, or driving any carriage of burthen or pleasure, as aforesaid, or owning, riding, leading, or driving any horse or mule, or driving any hogs, sheep, or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected, in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast, or cattle of draught or burthen, from any carriage of burthen or pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner aforesaid, shall for every such offence, respectively forfeit and pay to the president, managers and company of the Gap and Newport turnpike road, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and

How recoverable.

regulations, as debts of equal amount are or may be by law recoverable.

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SECT. 14. *And be it further enacted by the authority aforesaid,* That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of the proper county, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition not to be in such good order and repair, as herein is required, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth, the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair, as aforesaid; and if any of the keepers of the gates aforesaid, shall take, or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keeper shall forfeit and pay, to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are, or may be by law recoverable.

Road whether in repair how to be ascertained.

If not in repair, tolls to cease.

Penalty.

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but if the same road shall not be put into good and perfect order and repair, before the next ensuing court of Quarter Sessions, of the proper county, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be found defective, as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons intrusted, as aforesaid, and upon conviction, shall give such judgment, according to the nature and aggravation of the neglect, as the said court, in their discretion, shall judge proper; provided the fine, in no instance, shall be less than twenty dollars, nor exceeding one hundred dollars, and the fines to be imposed, shall be recovered in the same manner, as fines for misdemeanors are usually recovered in the said county, and shall be paid to the supervisors of the highways of the place wherein the offence was committed, to be applied to repairing such highways as the hundred or county is bound to repair, at the public expense thereof.

Limited.

How applied.

Accounts of receipts and expenses to be kept.

And laid before the stockholders.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company, shall keep fair and just accounts of all monies, which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited, as aforesaid, and also of all monies by them to be expended in the prosecution of their said work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and

the aggregate amount of such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president and managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own bye-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties, as are herein before provided for the original subscriptions, or as shall be provided by the bye-laws.

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When the number of shares may be increased.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall also keep a just and true account of all and every the monies to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every five miles, after the said road is completed from the beginning to the end thereof, or such part thereof as shall from time to time be completed as aforesaid, and after the said road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved) among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Accounts to be kept of money received by the toll-gatherers, &c.

Dividend to be declared.

An abstract of the accounts of the company to be laid before the General assembly.

When tolls may be increased.

Profits not to exceed nine per cent.

Index-posts to be set up.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General assembly of this State, an abstract of their accounts, shewing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits thereof, for the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said company so expended, then it shall be lawful to and for the said president, managers and company, to increase the tolls herein above allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum: and at the end of every ten years after the said road shall be completed, they shall render to the General assembly, a like abstract of their accounts for three preceding years, and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company, will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as to reduce the said dividend down to nine per centum per annum.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the said company shall cause posts to be erected at the intersection of every road falling into and leading out of the said turnpike road, with boards and index-hand, pointing to the direction of such road, on both sides, whereon

shall be inscribed, in legible characters, the name of the town or place to which such road leads, and the distance thereof in measured or computed miles; and shall also cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon; and also shall cause to be affixed on the gates to be erected for the information of travellers and others using the said road, a printed list of the rates of toll which from time to time may be lawfully demanded.

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Mile-stones, and

List of rates of toll.

SECT. 19. *And be it further enacted by the authority aforesaid,* That if any person or persons shall, wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this act, at the intersection of any road, as aforesaid, or the board, or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, or deface, or obliterate the letters, figures or other characters, marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole, or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively, forfeit and pay to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in manner aforesaid.

Penalty for pulling down or injuring mile-stones, &c.

SECT. 20. *And be it further enacted by the authority aforesaid,* That all waggoners, carters, and drivers of carriages of all kinds, whether of burthen

Persons travelling this road, to keep on the right hand side.

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Penalty for neglecting to do so.

or pleasure, using the said road, shall, except when overtaking and passing by a carriage of heavier draught, keep their horses and carriages on the right-hand side of the said road, in the passing direction, leaving the other side of the said road free and clear, for other carriages to pass and re-pass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person, who shall by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered with costs in like manner aforesaid.

Penalty for extorting more toll than is allowed by this act.

SECT. 21. *And be it further enacted by the authority aforesaid,* That if any toll-gatherer on the said road, shall demand from any person or persons using the said road, any greater rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars, for every such offence, one half to the use of the supervisors of the roads or highways of the hundred in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace of the county where such offence shall have been committed.

Redress for vexatious prosecutions under this act.

SECT. 22. *And be it further enacted,* That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of Common Pleas of the proper county, (if such prosecution had been instituted before the general Quarter Sessions of the peace) such sum not exceeding the amount of the penalty for which the suit or prosecution

shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

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SECT. 23. *And be it further enacted,* That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act in evidence, and that the same was done in pursuance and by the authority of this act.

Limitation of actions for penalties.

And this act may be given in evidence.

SECT. 24. *And be it further enacted,* That if the said company shall not proceed to carry on the said work within three years after this act comes into operation, or shall not within ten years thereafter, complete the said road, according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, privileges and franchises, by this act granted to the said company.

The work to be begun within three years, and to be completed within ten years thereafter.

SECT. 25. *And be it further enacted by the authority aforesaid,* That if the legislature should, at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president and managers of the said company, and three by the judges of the Supreme court, who are hereby required to appoint the same, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this State, who shall cause the same to be laid before the legislature, at their next session, and whenever the amount, so certified, shall be paid by the State to the said company, their right to take toll on the

What proceedings to take place in case the legislature after the year 1830, shall choose to take the said road.

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said road, together with all their right, title, claim and interest therein, shall cease and determine.

Proceedings to ascertain damages done to persons owning land over which road may run.

SECT. 26. *And be it further enacted*, That if the said road shall be laid out and founded over and upon any land whereby the owner thereof shall suffer damage, the person or persons sustaining such damage, may make application to the court of Common Pleas of New-Castle county, and thereupon the court shall appoint six fit and disinterested persons to view and adjudge the amount of the damage done, which, if approved of by the court, shall be paid by the company: *Provided always*, That it shall be the duty of the viewers, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant, and that when the said road shall happen to be laid out and founded on any former laid out and confirmed road, the owner or owners of such lands, shall not be entitled to receive compensation from the company for any damages sustained thereby.

Proviso.

When any future turnpike road shall be made to intersect this, toll-gates shall be erected immediately below the junction of the two roads.

SECT. 27. *And be it further enacted*, That the said turnpike company shall, at all times after the passing of this act, as soon as any turnpike road or roads shall be established by law, and incorporated, to intersect and join the aforesaid company's road, cause a gate or gates to be erected and fixed immediately below the junction of said road or roads.

No obstructions shall be made to prevent such junction.

SECT. 28. *And be it further enacted*, That it shall not be lawful for the aforesaid company to put, cause or suffer to be put, any let, hindrance or obstruction whatever, with intent to obstruct or prevent such incorporated company, from forming a junction with the aforesaid Gap and Newport turnpike road, or in any manner to prevent the passing or re-passing to and from the same, nor to prevent any such incorporated company hereafter to be established by law, in case the company hereby incorporated, shall neglect to do so, to repair, or in

any manner improve that part of the said Gap and Newport turnpike road, which may be opposite to the place where any such future turnpike may join the same.

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CHAP. LX.

An ACT for the relief of Joseph Harrison, a non-resident insolvent debtor.

Passed at Dover, Jan. 28, 1808.—Private act.

CHAP. LXI.

An ACT to vest the estate of Henry Higgins, deceased, which has escheated to this State, in his daughter Susanna Higgins.

Passed at Dover, Jan. 28, 1808---Private act.

CHAP. LXII.

An ACT to authorize the owners and possessors of the swamp, branch or lowground, commonly known by the name of Dick's Savanna, at the head of Indian Branch; and the low lands thereto adjoining, in Dagsborough hundred, in Sussex county, to ditch and drain the same.

PRIVATE ACT.

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C H A P. LXIII.

A supplement to an act entitled, "An act to authorize the owners and possessors of Ingram's Branch, and low grounds adjacent, situate in the forest of Mispillion hundred, in Kent county, to cut a ditch or drain through the same."

Passed at Dover, Jan. 29, 1808---Private act.

C H A P. LXIV.

An ACT to incorporate a company for making a turnpike road from the borough of Wilmington, to the line between this State and Pennsylvania, or to communicate with the artificial road contemplated from the Gap to Newport.

Commissioners
appointed.

Shall open
books for sub-
scription.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That James Bryan, John Warner, Jacob Broom, James Lea, and William Poole, be, and hereby they are appointed commissioners for the purposes herein after mentioned, that is to say, they shall on or before the first Monday in April next, procure one or more book or books, and therein enter as follows: "We whose names are hereunto subscribed, do promise to pay to the Wilmington turnpike company, the sum of fifty dollars for every share of stock in the said company, set opposite to our respective names; in such manner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the General

assembly of this State, entitled, "An act to incorporate a company for making a turnpike road from the borough of Wilmington, to the line between this State and Pennsylvania, or to communicate with the artificial road contemplated, from the Gap to Newport." Witness our hands, the day of in the year of our Lord, one thousand eight hundred and

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" And shall thereupon give notice in one or more of the public papers printed at Wilmington, or other reasonable and sufficient public notice, for one calendar month, at least, of the time and place when and where the said book or books shall be opened to receive subscriptions for the stock of the said company, at which time and place, some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age who shall offer to subscribe in the said book or books, in their own name, or names of other persons who shall duly authorise the same for any number of shares in the said stock, and the said book or books shall be kept open for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until two hundred shares shall be subscribed; and if at the expiration of the said six days, two hundred (the whole number of shares) shall not be subscribed, the said commissioners, respectively may adjourn from time to time, and transfer the said book or books, from place to place, until the whole number of shares shall be subscribed, of which adjournments and transfer the commissioners aforesaid, shall give such public notice as the occasion may require; and when the whole number of shares subscribed as aforesaid, shall amount to two hundred, the said book or books shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own name or any other name, shall previously pay to the attending commissioners, the sum of ten dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as

And give notice of the time and place of receiving subscriptions.

And may adjourn from time to time, &c.

Proviso.

Ten dollars on each share to be paid.

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Subscribers in-
 corporated.

Style, powers
 and privileges.

soon as the same shall be organized, and the officers chosen as hereinafter mentioned.

SECT. 2. *And be it further enacted*, That when, and so soon as the said two hundred shares shall or may be subscribed, in manner aforesaid, the subscribers and their heirs and assigns, shall be, and they are hereby declared to be incorporated, by the name, style and title, of "The Wilmington Turnpike Company." And by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them and their successors and assigns, and of selling, transferring and conveying in fee-simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Commissioners
 to give notice of
 time and place
 of choosing offi-
 cers.

SECT. 3. *And be it further enacted by the au-
 thority aforesaid*, That the commissioners aforesaid, as soon as conveniently may be, after the whole number of shares shall be subscribed as aforesaid, shall give notice in one of the Wilmington newspapers, or other reasonable and sufficient public notice, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice, at which time and place, the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers present, by ballot, to be delivered in person or by proxy, duly authorized, one president and nine managers, one treasurer, and such other officers, as

they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary, for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held, under the said number: *Provided nevertheless*, That all future annual elections of the said corporation, shall be held with such notice, and in manner and form aforesaid, at such places, as the managers aforesaid, shall direct and appoint.

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Power to make
bye-laws.

Votes limited.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said company shall meet on the first Monday of January, in every year, at such place as shall be fixed by their bye-laws, for the purpose of choosing officers as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form as shall be prescribed by their bye-laws, at which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such bye-laws, rules, orders and regulations as aforesaid; and to do and perform any other corporate act.

Annual, and

Special meet-
ings of the
company.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the president and managers first to be chosen as aforesaid, shall procure certificates to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every

Certificates of
shares.

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Transferable.

share by him subscribed, and held, he paying to the treasurer, in part of the sum due thereupon, the sum of ten dollars for each share; which certificate shall be transferable at his pleasure, in person or by attorney, in the presence of the president or treasurer, subject however to all payments due and to grow due thereon, and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of said corporation; and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid at the meetings thereof.

Meeting of the
 president and
 managers.

Quorum.

May appoint
 surveyors, &c.

Further powers.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers, shall meet at such times and places, and be convened in such manner as shall be agreed on for transacting their business; at which meeting, five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with and appoint all such surveyors, superintendants, artists and officers, as they shall judge necessary to carry on the intended works; and to fix their salaries or wages; to ascertain the times, manner, and proportions when, and in which the stock-holders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work; which orders shall be entered, or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations of the company, shall be committed to them.

SECT. 7. *And be it further enacted, by the authority aforesaid,* That if any stockholder, whether original subscriber or assignee, after thirty days public notice in one of the Wilmington newspapers, or if there be no such paper published, after thirty days public notice in any other manner, which may be deemed reasonable and sufficient, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion, at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums before paid, in part and on account of such share, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the said president and managers, may, at their election, cause suit to be brought, in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always,* That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same share. *And provided also,* That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged, as aforesaid.

Shares how forfeited.

And may be sold

Or suit be brought.

Proviso.

Further proviso.

President and managers may enter upon and examine any lands, &c. over which intended road will run.

Route.

SECT. 8. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, their superintendants, surveyors, engineers, artists and chain bearers, to enter into and upon all and every the lands, tenements and enclosures, in, through and over which, the said intended turnpike road, may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road; and to survey, lay down, ascertain, mark and fix, such route or track for the same road, as in the best of their judgment and skill, will be most practicable, from the borough of Wilmington to the line between this State and Pennsylvania, or to communicate with the artificial road contemplated from the Philadelphia and Lancaster turnpike road, to Newport, on Christiana creek, in this State, by an act of the General assembly of the commonwealth of Pennsylvania, approved the seventh day of April, anno Domini, one thousand eight hundred and seven, and entitled, "An act to authorize the governor to incorporate a company for making an artificial road from the Philadelphia and Lancaster turnpike road, in Lancaster county, at or near the Gap tavern, to the line of the State of Delaware."

And may enter adjacent lands.

SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous to, and near to which the route and track of the said intended road, shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto as possible, and repairing any breaches they may make in the enclosures

thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing, mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county of New-Castle, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, sand, earth, or other materials there, being conveniently situated for making or repairing the said road.

Damages how
ascertained.

May take tim-
ber, stone, &c.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall have power to erect permanent bridges over all the waters crossed by the said route, whereon the same shall be found necessary; and shall cause a road to be laid out, not exceeding one hundred feet in width, from Wilmington aforesaid, to the said line between this State and Pennsylvania, or to the contemplated artificial road aforesaid, by the route aforesaid, and shall cause twenty feet thereof in breadth, at least, to be made an artificial road; which shall be bedded with wood, stone, gravel, clay, or other proper and convenient materials, well compacted together, a sufficient depth, to secure a solid foundation for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or other small hard substance, in such manner, as to secure a firm, and as nearly as the nature of the country, and the materials will admit, an even surface rising towards the middle, by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: *Provided*, That no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to and from any place of public worship, or funeral, on days appointed for that purpose.

Bridges.

Width of road,
and of what ma-
terials to be
made.

Proviso.

And when completed, the governor to license toll gates to be erected.

SECT. 11. *And be it further enacted by the authority aforesaid,* That so soon as the said president, managers and company, shall have perfected the said road, contemplated by this act, any distance, not less than two miles, and so, from time to time, any distance not less than one mile progressively, they shall give notice thereof to the governor of this State, who shall thereupon, forthwith, nominate and appoint three skilful and judicious persons, to view and examine the same; and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license, under his hand and the great seal of the State, permit and suffer the said president, managers and company, to erect and fix such, and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages.

Toll-gatherers.

SECT. 12. *And be it further enacted by the authority aforesaid,* That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpike, until they shall have respectively paid the same: that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or

for any greater or less number of hogs, sheep or cattle : to wit, for every score of sheep, four cents ; for every score of hogs, six cents ; for every score of cattle, twelve cents ; for every horse or mule, laden or unladen, with his rider or leader, three cents ; for every sulkey, chair or chaise, with one horse and two wheels, six cents, and with two horses, nine cents ; for every chair, coach, phaeton, chaise, stage, waggon, coachee or light-waggon, with two horses and four wheels, twelve cents ; for either of the carriages last mentioned, with four horses, twenty cents ; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same ; for every sleigh or sled, two cents for each horse drawing the same ; for every cart or waggon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same ; for every cart or waggon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same ; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, two cents for each horse drawing the same ; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and a half for each horse drawing the same ; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same ; and when any such carriage, as aforesaid, shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule, as equal to one horse, in charging the aforesaid tolls.

Rates of toll.

SECT. 13. *And be it further enacted by the authority aforesaid,* That if any person or persons own-

Penalty for attempt to evade the payment of toll.

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How recoverable.

Road whether in repair how to be ascertained.

ing, riding on, or driving any carriage of burden or pleasure, as aforesaid, or owning, riding, leading, or driving any horse or mule, or driving any hogs, sheep, or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of any of the tolls or duties as aforesaid, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected, in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast, or cattle of draught or burden, from any carriage of burden or pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner aforesaid; shall for every such offence, respectively forfeit and pay to the Wilmington turnpike company, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

SECT. 14. *And be it further enacted by the authority aforesaid,* That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of New-Castle county, aforesaid, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause

an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition not to be in such good order and repair, as herein is required, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth, the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair, as aforesaid; and if any of the keepers of the gates aforesaid, shall take, or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keeper shall forfeit and pay, to the person who will prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are, or may be by law recoverable, but if the same road shall not be put into good and perfect order and repair, before the next ensuing court of general Quarter Sessions of the peace for New-Castle county, aforesaid, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be found defective, as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons intrusted, as aforesaid, and upon conviction, shall give such judgment, according to the nature and aggravation of the neglect, as the said court, in their discretion, shall judge proper; provided the fine, in no instance, shall be less than twenty dollars, nor exceeding one hundred dollars, and the fines so to be imposed, shall be recovered in the same manner, as fines for misdemeanors are usually recovered in the said county, and shall be applied to

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If not in repair,
tolls to cease.

Penalty.

Limited.

How applied.

and for the benefit of the public roads and common highways in the county of New-Castle aforesaid.

Accounts of receipts and expenses to be kept.

And laid before the stockholders.

When the number of shares may be increased.

Accounts to be kept of money received by the toll-gatherers, &c.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company, shall keep fair and just accounts of all monies, which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in the payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their said work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own bye-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties, as are herein before provided for the original subscriptions, or as shall be provided by their bye-laws.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall also keep a just and true account of all and every the monies to be received

by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every two miles, after the said road is completed from the beginning to the end thereof, or such part thereof as shall from time to time be completed as aforesaid, and after the said road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved) among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly.

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Dividend to be declared.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General assembly of this State, an abstract of their accounts, shewing the whole amount of their capital expended in prosecution of the said work, and of the income and profits arising from the said toll for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits thereof, for the said two years, that the said clear income and profits thereof will not bear a dividend of six per centum per annum on the whole capital stock of the said com-

An abstract of the accounts of the company to be laid before the General assembly.

When tolls may be increased.

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Profits not to
 exceed nine per
 cent.

pany so expended, then it shall be lawful to and for the said president, managers and company, to increase the tolls herein above allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum : and at the end of every ten years after the said road shall be completed, they shall render to the General assembly, a like abstract of their accounts for three preceding years, and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company, will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as to reduce the said dividend down to nine per centum per annum.

Index-posts to
 be set up.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the said company shall cause posts to be erected at the intersection of every road falling into and leading out of the said turnpike road, with boards and index-hand, pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town or place to which such road leads, and the distance thereof in measured or computed miles ; and shall also cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon, and also shall cause to be affixed on the gates to be erected for the information of travellers and others using the said road, a printed list of the rates of toll which from time to time may be lawfully demanded.

Mile-stones, and

List of rates of
 toll.

Penalty for pulling
 down or injuring mile-
 stones, &c.

SECT. 19. *And be it further enacted by the authority aforesaid,* That if any person or persons shall, wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in

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pursuance of this act, at the intersection of any road, as aforesaid, or the board, or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface, or obliterate the letters, figures or other characters, marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole, or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively, forfeit and pay to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in manner aforesaid.

SECT. 20. *And be it further enacted by the authority aforesaid,* That all waggoners, carters, and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road, in the passing direction, leaving the other side of the said road free and clear, for other carriages to pass and repass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person, who shall by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered with costs in like manner aforesaid.

Persons travelling this road, to keep on the right hand side.

Penalty for neglecting to do so.

SECT. 21. *And be it further enacted by the authority aforesaid,* That if any toll-gatherer on the said road, shall demand from any person or persons using the said road, any greater rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty

Penalty for exacting more toll than is allowed by this act.

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dollars, for every such offence, to be for the use of the person aggrieved, to be recovered before any justice of the peace of New-Castle county, aforesaid, in such manner as other debts are before them recoverable.

Redress for vex-
atious prosecu-
tions under this
act.

SECT. 22. *And be it further enacted by the authority aforesaid,* That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of Common Pleas of New-Castle county, aforesaid, (if such prosecution had been instituted before the court of general Quarter Sessions of the peace) such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Limitation of
actions for pe-
nalties.

SECT. 23. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

And this act
may be given in
evidence.

The work to be
begun within
three years, and
to be completed
within ten years
thereafter.

SECT. 24. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the said work within three years after this act comes into operation, or shall not within ten years thereafter, complete the said road, according to the true intent and meaning of this act, then in either of those cases, it shall and may

be lawful for the legislature of this State, to resume all and singular the rights, liberties, privileges and franchises, by this act granted to the said company.

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SECT. 25. *And be it further enacted by the authority aforesaid,* That if the legislature shall, at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the governor; and three by the president and managers of the said company, and three by the judges of the Supreme court, who are hereby required to appoint the same, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor, who shall cause the same to be laid before the legislature, at their next session, and whenever the amount, so certified, shall be paid by the State to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

What proceedings to take place in case the legislature after the year 1830, shall choose to take the said road.

SECT. 26. *And be it further enacted by the authority aforesaid,* That if the said road shall be laid out and founded over and upon any land whereby the owner thereof shall suffer damage, the person or persons sustaining such damage, may make application to the court of Chancery of New-Castle county, aforesaid; and thereupon the Chancellor shall appoint six fit and disinterested persons to view and adjudge the amount of damages so done, which, if approved of by the court, shall be paid by the company: *Provided always,* That it shall be the duty of the viewers, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant, and that when the said road shall happen to be laid out and founded on any former laid out and confirmed road, the owner or owners of such lands, shall not be entitled to receive compensation from the company for any damages sustained thereby.

Proceedings to ascertain damages done to persons owning land over which road may run.

Proviso.

So soon as the Gap and Newport company shall have erected a toll-gate, &c Wilmington company may erect one, &c.

SECT. 27. *And be it further enacted by the authority aforesaid;* That so soon as the Gap and Newport turnpike company shall have completed and erected a gate for the reception of toll cross the said company's road, immediately below the junction of the aforesaid Wilmington turnpike road, in conformity with the twenty-seventh section, of an act incorporating a company to make an artificial or turnpike road, from the Gap tavern to Newport, the aforesaid Wilmington turnpike company shall erect, or cause to be erected and fixed, a toll-gate across the said road immediately at, or near the junction of the same.

When any future turnpike road shall be made to intersect this, toll-gates shall be erected immediately below the junction of the two roads.

SECT. 28. *And be it further enacted,* That the said turnpike company shall, at all times after the passing of this act, as soon as any turnpike road or roads shall be established by law, and incorporated, to intersect and join the aforesaid company's road, cause a gate or gates to be erected and fixed immediately below the junction of said road or roads.

No obstructions shall be made to prevent such junction.

SECT. 29. *And be it further enacted,* That it shall not be lawful for the aforesaid company to put, cause or suffer to be put, any let, hindrance or obstruction whatever, with intent to obstruct or prevent such incorporated company, from forming a junction with the aforesaid Wilmington turnpike road, or in any manner to prevent the passing or re-passing to and from the same, nor to prevent any such incorporated company hereafter to be established by law, in case the company hereby incorporated, shall neglect to do so, to repair, or in any manner improve that part of the said Wilmington turnpike road, which may be opposite to the place where any such future turnpike road may join the same.

Passed at Dover, February 1, 1808.

C H A P. LXV.

CHAP.

LXV.

1808

An ACT for the better securing personal liberty, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all petitions preferred by insolvent debtors imprisoned within this State, may be exhibited to the Supreme court, or court of Common Pleas, and the said courts shall have concurrent jurisdiction in such cases.

Petitions of insolvent debtors may be exhibited to Supreme court or court of Common Pleas.

SECT. 2. *And be it enacted by the authority aforesaid,* That in case of an application by an insolvent debtor, to the Supreme court, or court of Common Pleas, and the petitioner shall signify his or her willingness to deliver up all his or her effects, towards the discharge of his or her debts, and make satisfaction for the residue, by servitude, and the courts shall be of opinion that the prisoner, upon the circumstances and equity of his case, ought to be adjudged, then, and in such case, and no other, the court shall and may adjudge the prisoner to serve his or her creditors: *Provided always,* That in every case where the court shall remand the prisoner, the same, or any other court having jurisdiction, may on application, re-hear, and discharge, or adjudge, or remand the said prisoner, in the same manner as if no such application had been previously made.

In what case an insolvent debtor may be adjudged.

Proviso.

SECT. 3. *And be it enacted by the authority aforesaid,* That if upon original or other process, any poor person shall be imprisoned for debt, or in any civil suit, within this State, it shall and may be lawful for the person or persons so imprisoned, in vacation time, by petition, to apply to any judge of the Supreme court or court of Common Pleas, where he, she or they shall be so imprisoned, setting forth his or her condition, and containing a

Any poor person imprisoned for debt, may apply for relief in vacation.

What his petition shall contain.

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In what case the judge may order the creditor to enter into recognizance, &c.

just and true state of his or her affairs; whereupon the said judge is hereby authorized and empowered to examine into the allegations set forth in the said petition, by such ways and means as to him shall seem most likely for discovering the truth thereof; and after such examination, if it shall appear to the said judge, that the said petitioner hath not estate sufficient to maintain him or herself in prison, and his or her family, or that they are likely to become chargeable to the hundred or county whereof he or she is an inhabitant, that in such case, the said judge, in his discretion, may and shall direct and order the creditor or creditors, at whose suit the said petitioner is arrested and imprisoned, on original or other process, forthwith to enter into a recognizance, in the name of the treasurer of the said county, with one good and sufficient surety, at the least, to indemnify such hundred or county of and from all costs and charges that may arise by reason of such imprisonment, either for the maintenance, or by the sickness of the person so imprisoned, or of his or her family; and the said recognizance shall be taken by the clerk or prothonotary; and the said petition and order be filed in the clerk or prothonotary's office.

In case of refusal by creditor, prisoner shall be discharged.

SECT. 4. *And be it enacted by the authority aforesaid,* That upon the refusal or neglect of such creditor or creditors complying therewith, within twenty days next after such order, and ten days notice thereof to the plaintiff or plaintiffs, his, her or their agents or agent, attorneys or attorney, and producing a certificate thereof under the hand of the said clerk or prothonotary, (who is hereby required and enjoined, upon request, to give the same gratis) to the sheriff or jailor of the county where such person shall be imprisoned; then, and in such case, the said sheriff or jailor may and shall release, discharge and set at liberty such prisoner.

Common bail may be filed.

SECT. 5. *Provided always, and be it further enacted by the authority aforesaid,* That common bail may

be filed in all and every action or actions depending in the Supreme court or court of Common Pleas, or before any justice of the peace, against such prisoner, and that notwithstanding the discharge of the person of the prisoner, as aforesaid, all and every debt and debts due, or owing from the said prisoner, and all and every judgment or judgments had and taken, and decree obtained against him or her, shall stand and be good and effectual in law, to all intents and purposes, against the property of the said prisoner, and a new execution may be taken out for the same, in-like manner as if the person of the prisoner so discharged, had not been taken in execution.

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Judgments, &c.
obtained, shall
be good, and

new execution
may be issued,
&c.

SECT. 6. *Provided also, and be it enacted by the authority aforesaid,* That nothing in this act shall extend to discharge out of prison any person imprisoned by authority of the United States. *Proviso.*

SECT. 7. *And be it enacted by the authority aforesaid,* That if any person or persons convicted, or who shall hereafter be convicted of any offence cognizable in a court of Oyer and Terminer and general jail delivery, or a court of General Quarter Sessions of the peace and jail delivery, within this State, or who may or shall be liable in either of the said courts, for costs or jail fees, shall be unable to pay the fines, forfeitures, restitution-money, costs or jail fees, he, she or they, shall be adjudged by the court to be disposed of as a servant, by the sheriff, for the payment thereof, for any term or time not exceeding seven years: *Provided always,* That nothing herein contained, shall extend to alter or repeal any former act of assembly, directing or prescribing the sale of insolvent criminals in certain cases.

Persons convicted in court of Oyer and Terminer or Quarter Sessions, unable to pay costs, &c.

how to be disposed of.

Proviso.

SECT. 8. *And be it enacted by the authority aforesaid,* That process for summoning creditors to appear before the court, in the case of an application by an insolvent prisoner, may be served on the agent or attorney of the creditor or creditors where he, she

Creditor residing out of the State, his agent or attorney may be summoned.

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Questions of bail
may be decided,
in vacation, &c.

or they reside out of the State, and such notice shall be deemed sufficient.

SECT. 9. *And be it enacted by the authority aforesaid,* That upon process in civil cases, issued out of the Supreme court, or court of Common Pleas, any judge of either of the said courts, in vacation time, may, on application, and reasonable notice to the plaintiff or plaintiffs, his, her or their agent or attorney, without regarding from which of the said courts the said process issued, hear and decide questions of bail and order, special or common bail, as to the said judge may seem proper and consonant to the rules of law.

Passed at Dover, Feb. 1, 1808.

CHAP. LXVI.

An ACT making provision for the support of government, for the year one thousand eight hundred and eight, and for other purposes.

12,500 dollars,
to be raised and
paid into the
treasury.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of twelve thousand five hundred dollars, shall be raised, and paid into the treasury of this State, within the time and in the manner directed by an act of the General assembly, entitled, "An act for the better ordering, assessing, levying and collecting of taxes; and making provision for the support of government for the year of our Lord, one thousand seven hundred and ninety-eight;" and shall be assessed and levied in the several counties of this State, in the following proportions; that is to say, for the county of New-Castle, the sum of four

Each county's
proportion.

thousand seven hundred and sixty-one dollars and ninety cents; for the county of Kent, the sum of four thousand one hundred and sixty-six dollars and sixty-seven cents; and for the county of Sussex, the sum of three thousand five hundred and seventy-one dollars and forty-three cents.

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SECT. 2. *And be it enacted,* That the aforesaid sums of money shall be appropriated and applied to, and in the following manner; that is to say, so much thereof, as may be necessary, shall be applied to the payment of the salaries due, and to become due to the governor, chancellor, judges of the Supreme court and court of Common Pleas, attorney-general, secretary and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and nine; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General assembly, their clerks, and other expenses, and for printing the laws passed at this session of the General assembly, and the votes and proceedings of the two branches thereof, and the residue, if any there be, shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

Appropriation
for the payment
of salaries.

For the expen-
ses of the Gene-
ral assembly.

For the payment
of debts due to
citizens.

Passed at Dover, Feb. 2, 1808.

C H A P. LXVII.

An ACT authorizing the State treasurer to refund to David Lockwood, esquire, the sum of money therein mentioned.

WHEREAS it hath been made manifest to this General assembly, that on the first day of

Preamble.

CHAP.
LXVII.
1808

January, in the year of our Lord, one thousand eight hundred and six, the State treasurer received from David Lockwood, Esq. the sheriff of Kent county, the sum of one thousand and twenty-one dollars and sixteen cents, out of money arising from the sale of a certain Joseph David's lands, by the said sheriff, in part satisfaction of a judgment recovered by the State against the said Joseph David, and a certain Daniel Wright Newnam, and that there existed, at that time, unknown to the said sheriff and treasurer, a judgment in favour of Vincent Loockerman, junior, deceased, due and unsatisfied, and which had been recovered against the said Joseph David, previously to the said judgment, in favour of the State, and toward satisfaction of which a part of the said money ought to have been applied.

State treasurer
to refund to D.
Lockwood,
\$ 371 53.

BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer be, and he is hereby authorized and required to refund to the said David Lockwood, Esq. out of any money in the treasury, not otherwise appropriated, the sum of three hundred and seventy-one dollars and fifty-three cents, that being the balance of the principal, interest and costs of the said judgment in favour of the said Vincent Loockerman, the younger, deceased, against the said Joseph David.

Passed at Dover, February 2, 1808.

C H A P. LXVIII.

CHAP.
LXIX.
1808

An additional supplement to an act, entitled, "An act for the better regulation of the roads in the county of Sussex."

Ch. 100, c. 2
vol. p. 1277.
ch. 6, 3 vol. p.
20.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of the fourth section of an act, entitled, "A supplement to the act entitled, an act for the better regulation of the roads in the county of Sussex," passed the twenty-third day of January, one thousand seven hundred and ninety-eight, as requires the overseers of the roads, respectively, to estimate labour done on the roads, at the rate of fifty cents for a good and sufficient day's work, as an able, faithful and industrious man would perform, be, and the same is hereby repealed, made null and void.

Passed at Dover, Feb. 2, 1808.

C H A P. LXIX.

An ACT to repeal an act, entitled, "An act for the better regulation of free negroes and free mulattoes."

Ch. 42, 4 vol.
p. 108.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the act of assembly, entitled, "An act for the better regulation of free negroes and free mulattoes," passed on the sixth day of February, in the year of our Lord, one thousand eight hundred and seven, be, and the same is hereby repealed, made null and void.

Passed at Dover, Feb. 2, 1808.

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1808

C H A P. LXX.

Ch. 158. 3 vol.
p. 348. see ch.
12. 3 vol. p. 32.

An ACT to repeal an act, entitled, "An act to prevent swine running at large within the village of Milford, and certain bounds therein prescribed."

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That an act, entitled, "An act to prevent swine running at large in the village of Milford, and certain bounds therein prescribed," passed at Dover, the twenty-fifth day of February, one thousand eight hundred and four, be, and the same is hereby repealed, made null and void, any thing to the contrary notwithstanding.

Passed at Dover, Feb. 2, 1808.

C H A P. LXXI.

An ACT for incorporating the members of the New-Castle Presbytery.

Preamble.

WHEREAS the Presbytery of New-Castle, agreeably to a recommendation of the General assembly of the Presbyterian church in the United States of America, have devised means for raising a fund for the education of poor and pious youth; for the gospel ministry, and for other religious purposes, and for the better disposal thereof, and such other aids which they may from time to time receive:

The New-Castle
Presbytery in-
corporated.

SECTION 1. ²¹¹ *Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all persons, who at*

the time of passing this act, and all those who shall hereafter be, and become members of the New-Castle Presbytery, be now, and hereafter shall be, one body politic and corporate in deed and in law, to all intents and purposes, and be known as such, by the name and style of "The New-Castle Presbytery."

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1808

SECT. 2. *And be it enacted,* That the members of the said corporation, or so many of them as constitute a presbytery, according to the rules and discipline of the Presbyterian church, shall meet on the fourteenth day of June next, in the town of New-Castle, and then and there proceed to elect by ballot, a president, and any number of trustees, not less than nine, nor exceeding thirteen, a secretary, treasurer, and such other officers, as the said corporation may deem requisite for the management of the affairs thereof, who shall continue in office for the space of one year, and until a new election of officers shall be made by the said corporation: and it shall and may be lawful for the members of the said corporation, or so many of them as constitute a presbytery as aforesaid, to meet at such other times and places, as the members of the said corporation, when convened, shall appoint and direct, or as shall, in their recess, be prescribed and directed by the moderator of the said presbytery, agreeably to the powers in him vested by the constitution of the Presbyterian church; and at any such meeting, may supply such vacancies as may have happened by the death, or refusal to act, of the trustees or officers aforesaid; or if they deem it expedient and necessary, may proceed to a new election; by ballot, of president, trustees and other officers aforesaid, from time to time, as occasion may, in their opinion, require; and likewise may, at any such meeting, as aforesaid, make, ordain and establish such rules, regulations and bye-laws, as may be necessary for the government of the said corporation, and its officers, and to amend, alter and change the same, as may be requisite and proper: *Provided,* That nothing herein contained, shall be construed to

President, trustees, &c. to be elected.

Their continuance in office.

Meetings of the corporation.

Vacancies supplied.

Bye-laws.

Proviso.

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authorize the said corporation to exercise any power repugnant to the constitution or laws of this State.

Powers of the
president, trus-
tees and officers.

SECT. 3. *And be it enacted,* That the president, trustees and officers of the said corporation, shall be capable of exercising such powers, for the management of the affairs of the said corporation, as may be prescribed and determined by the rules, regulations or bye-laws of the said corporation.

May hold pro-
perty to the
amount of
\$ 20,000 ;

SECT. 4. *And be it enacted,* That the said corporation, are hereby declared and made capable in law and equity, to hold, take, purchase, receive, possess and enjoy, any lands, tenements and hereditaments, goods, chattels, rights, credits and effects, of what nature, kind and quality soever, to the amount of twenty thousand dollars, lawful money of the United States of America, and no more ; and to sell, grant, dispose, alien or demise the same in such manner and form, and to such use, as they shall and may deem proper, to and for the purposes in this act expressed, and to no other purpose whatsoever.

and dispose of
the same again.

Powers and pri-
vileges of the
corporation.

SECT. 5. *And be it enacted,* That the said corporation be, and shall hereafter be, capable and able to do and execute all and singular such matters and things, as bodies politic and corporate, may or can lawfully do, and to sue and to be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, and otherwise howsoever ; and to have and use a common seal, and to break and alter the same, and to establish another, with such device or devices thereon, as they shall or may deem proper.

Treasurer to
give bond.

SECT. 6. *And be it enacted,* That the treasurer to be appointed by this act, shall enter into a bond, with one or more good and substantial freeholders, in a sum equal to double the amount of the stock in

hand, at his appointment, for the faithful performance of his office, and payment over of any money that may be in his hands, to his successor in office, and for the delivery over of all such books and papers that may be in his possession, belonging to the said corporation.

C H A P.
LXXII.
1808

Passed at Dover, Feb. 3, 1808.

C H A P. LXXII.

A supplement to the act, entitled, "An act directing the manner of choosing commissioners to regulate, repair and light the streets of Milford, and for other purposes." Ch. 40. 4 vol. p. 103.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from henceforth, in all elections within the town of Milford, for commissioners, assessor and treasurer, it shall not be lawful for any person or persons to vote at the said elections, other than white male house keepers, or possessors of lands or tenements, who reside in the said town, of the age of twenty-one years; nor shall it be lawful hereafter to assess and levy any tax upon any person or persons, other than persons holding real property within the said town, either as owner or tenant thereof.

For whom it shall be lawful to vote.

SECT. 2. *And be it further enacted,* That on the first Monday in March annually hereafter, the persons authorized by this act, to vote for commissioners, assessor and treasurer, for the said town, shall vote for, and elect some person residing in the said town, of integrity, diligence and capacity, who shall be styled, *The inspector of accounts*; and that it shall

Inspector of accounts to be elected.

Draught of commissioners not to be paid until allowed by him.

not be lawful for the said commissioners, to draw any money out of the hands of the treasurer, nor for the said treasurer to pay any money to the said commissioners, until the said inspector of accounts shall have examined and ascertained, that the money to be drawn, is really necessary to defray just expenses incurred by said commissioners, or a majority of them, in the execution of the duties of their office ; in which case, and not otherwise, the said inspector shall endorse upon the order or draft of the said commissioners, "allowed," together with the day of the month and year of the said endorsement, and sign his name thereto ; and the said draft or order, thus endorsed, shall be forthwith discharged by the said treasurer, out of the funds of the said town in his hands.

Commissioners hereafter to be elected, to give bond.

SECT. 3. *And be it further enacted,* That the commissioners of said town, hereafter to be elected, shall, within twenty days after their election, jointly and severally, enter into an obligation, in the penalty of one thousand dollars, to the said inspector of accounts, conditioned for the faithful discharge of the duties of their office, and for the faithful application of all sums of money which shall, by virtue of this act, or of the act to which this is a supplement, come to their hands.

Treasurer to pay over to his successor, money remaining in his hands.

SECT. 4. *And be it further enacted,* That it shall be the duty of the treasurer of said town, to pay over to his successor, twenty days after his election, the money remaining in the treasury, at the expiration of the term of his office.

Notice of place of holding elections to be given.

SECT. 5. *And be it further enacted,* That it shall be the duty of the present assessor, or in the case of his death, resignation or removal, the inspector or treasurer, and those hereafter to be elected, to appoint some suitable and convenient place for the holding of the annual elections in the said town, and he or they shall give at least ten days notice thereof, by three advertisements, in the most public places in

the said town; and the said assessor, inspector or treasurer, as the case may be, shall call to his or their assistance, two discreet and judicious freeholders, of the said town, who shall, together with the said assessor, inspector or treasurer, be the judges of the elections holden in the said town.

Judges of elections.

SECT. 6. *And be it further enacted*, That so much of the said act to which this is a supplement, as authorizes and empowers the said commissioners to cause such of the streets in the said town, as they may from time to time think proper to be lighted in time of night, and as authorizes the raising of a tax to pay the expenses thereof, shall be, and the same is hereby repealed, made null and void.

Repeal.

C H A P. LXXIII.

An ACT to enable the persons therein named, to raise a sum, not exceeding two thousand dollars, by a lottery, for the purpose of finishing the Roman Catholic church, of Saint Peter's, in the town of New-Castle.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the persons herein after named and appointed managers, to institute, carry on, and draw a lottery, for raising a sum, not exceeding two thousand dollars, clear of all expenses: and the said sum, when so raised, shall be applied to the sole purpose of finishing the Roman Catholic Church, of Saint Peter's, in the town of New-Castle, and erecting a brick wall around the same, in such manner as the trustees or superintendants of the said church shall direct.

\$ 2,000 to be raised and applied to the finishing of St. Peter's church, in New-Castle.

Managers

shall give bond :

which shall be
lodged in the
secretary's of-
fice ;Who shall give
notice thereof.

SECT. 2. *And be it enacted*, That John Bird, John Janvier, Samuel Barr, James M'Callmont and Evan Thomas, be, and are hereby appointed managers of the said lottery ; who shall jointly and severally, before they enter on the duties required by this act, give bond in the name of the State, in the sum of ten thousand dollars, conditioned for the faithful discharge of the trust reposed in them respectively, by this act ; which bonds, shall be lodged in the office of the secretary of this State, who shall thereupon give six weeks notice in the Museum of Delaware, or in two newspapers printed in the city of Philadelphia, that such bonds were executed, and lodged in his office, pursuant to the directions of this act, and are hereby declared to be in trust for, and may be sued by, all or any of the persons aggrieved by the managers of the said lottery, in conducting and carrying on the same.

When the draw-
ing shall com-
mence.Prizes, when
payable.

SECT. 3. *And be it enacted*, That the said managers, or the survivors of them, shall, on or before the first Tuesday in May next, if at that time a sufficient number of tickets shall have been sold, and if not, then as soon after as conveniently may be, proceed to the drawing and finishing the said lottery ; and the fortunate adventurers, shall be paid the prizes drawn against their numbers, on demand, at any time within six months after the drawing of said lottery ; but if not demanded within that time, (of which notice shall be given in the Museum of Delaware aforesaid, or in two newspapers printed in the city of Philadelphia,) the said prizes shall remain in the hands of the said managers, to be applied to the use of the church aforesaid.

Managers shall
superintend the
expenditure of
the money rais-
ed ;

SECT. 4. *And be it enacted*, That the managers, or the survivors of them, shall superintend and direct the expenditure of the said sum of two thousand dollars, or so much thereof, as they may deem necessary for the purposes of discharging the debts already due on account of building the said church,

and of finishing and erecting a brick wall around the same as aforesaid. And after the same shall have been completed, the said managers, or the survivors of them, shall exhibit their accounts relating to the raising and expenditure of the said two thousand dollars, to the trustees of the said church, or a committee by them to be appointed, for the purpose of finally adjusting the same.

and exhibit their accounts to the trustees of the said church.

SECT. 5. *And be it enacted*, That the managers shall have, for their trouble in the discharge of the duties assigned them by this act, the sum of five per centum on the whole sum which shall be raised by the said lottery, and expended, as aforesaid.

Their compensation.

Passed at Dover, Feb. 3, 1808.

C H A P. LXXIV.

A supplement to the act, entitled, "An act to establish an uniform militia throughout this State."

Ch. 49. 4 vol.
p. 123.

WHEREAS the time limited in the seventh section of the act, to which this is a supplement; has been found too short to effect the good purposes thereby intended :

Preamble.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the time limited for the purposes mentioned in the said seventh section of the act to which this is a supplement, be, and is hereby extended to the first Tuesday in May next; and all things done by virtue of and in obedience to the said seventh section of the said act within the time, so extended as aforesaid, shall be as good and effectual in law as if the same had been done and performed within the time appointed in

Time limited for classing militia, extended.

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LXXV.
1808

the said seventh section of the said act, any thing therein contained to the contrary notwithstanding; and the said seventh section, shall be deemed and taken to be in full force and virtue.

Passed at Dover, Feb. 4, 1808.

CHAP. LXXV.

Ch. 44. 4 vol.
P. 114.

*A further additional supplement to an act, entitled,
"An act authorizing the distribution of certain
public papers relating to lands in this State."*

Preamble.

WHEREAS by the first section of an act, entitled, "An additional supplement to an act, entitled, An act authorizing the distribution of certain public papers relating to lands in this State," passed at Dover, on the sixth day of February, one thousand eight hundred and seven, it was among other things, enacted, that the time limited for recording the public papers directed to be recorded by the first supplement to the aforesaid act, should be, and thereby was, extended for and during the term of one year from the time limited in said act; and whereas it is found that the time so extended as aforesaid; by the said additional supplement, is too short to effect the good purposes thereby intended.

Time limited
for recording
papers, further
extended.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the time so extended as aforesaid, for recording the said public papers, by the said additional supplement to an act, entitled, "An act authorizing the distribution of certain public papers relating to lands in this State," be, and is hereby further extended for and during*

the term of one year from the time limited in said additional supplement to said act : and all papers recorded within the time extended as aforesaid, by this act, shall be as good and effectual in law, as if such papers had been recorded within the time appointed in said first supplement to the act, entitled, "An act authorizing the distribution of certain public papers relating to lands in this State," or within the time extended by the second supplement thereto, any thing therein, or in any other of the laws of this State, contained, to the contrary notwithstanding.

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LXXVI.
1808

Passed at Dover, Feb. 4, 1808.

C H A P. LXXVI.

An ACT authorizing the appointment of an additional number of justices of the peace in the county of Kent.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met—Two thirds of the members of each house consenting to, and approving thereof,—That the number of justices of the peace shall be increased, so that there shall not be more than fourteen in the county of Kent, at the same time in commission.

C. H. A. P.
LXXXVII

1808

C. H. A. P. LXXXVII.
An ACT authorizing the State treasurer to pay certain claims therein mentioned.

State treasurer
authorized to
pay to D. Lock-
wood;

To John Clarke;

To Kendal
Batson;

To W. P. Rus-
sel;

To J. Pettigrew;

And to the wit-
nesses summon-
ed to give evi-
dence on the tri-
al of Robert Ha-
milton.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer be, and he is hereby authorized and directed to pay to David Lockwood, of Kent county, or his order, the sum of fifteen dollars, for his attendance on the High court of Errors and Appeals, as sheriff of Kent county; to John Clarke, of Kent county, or to his order, for his expenses in going to Philadelphia, to purchase stock for the use of the State, the sum of twenty-five dollars; to Kendal Batson, of Sussex county, or his order, for fees due him for services as sheriff of said county, the sum of seventeen dollars and one cent; to William P. Russel, clerk of the High court of Errors and Appeals, or to his order, for dockets, and transcribing therein certain records of the said court, for the use of the judges thereof, the sum of sixteen dollars; to John Pettigrew, former military commissary of Kent county, or to his order, for expenses incurred in endeavouring to recover certain military fines, the sum of thirty-five dollars and twenty-eight cents; and to the following named persons, for their attendance as witnesses on the impeachment of Robert Hamilton, that is to say, to Daniel Lowber, or his order, the sum of thirteen dollars; to John Reynolds, or his order, the sum of thirteen dollars; to John Jones, or his order, the sum of thirteen dollars; to John Dixon, or order, the sum of thirteen dollars; to Samuel Wood, or order, the sum of eleven dollars; to Richard Moland, or his order, the sum of thirteen dollars; to Robert Squibb, or his order, the sum of thirteen dollars; to Isaac Solomon, or order, the sum of thirteen dollars; to John Huff, or order, the sum of thirteen dollars; to Eliakim Garretson, or order, the sum of thirteen dollars; to Joseph B.

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Shipley, or order, the sum of thirteen dollars; to Abraham Gist, or order, the sum of thirteen dollars; to Abner Otley, or order, the sum of thirteen dollars; to William Pryce, or order, the sum of thirteen dollars; to Charles Hamilton, or his order, the sum of thirteen dollars; and to Isaac M'Cally, or order, the sum of thirteen dollars; which said sums, the State treasurer is hereby authorized to pay out of such public monies as now are, or hereafter may come into the treasury of this State, not otherwise appropriated by law.

Passed at Dover, Feb. 5, 1808.

THE NEW

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THE NEW

THE NEW

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C H A P. LXXVIII.

An ACT for the relief of John C. Laws, a non-resident insolvent debtor.

Passed at Dover, Jan. 11, 1809.—Private act.

C H A P. LXXIX.

An ACT to revive and continue in force, an act, entitled, "An act to enable the trustees of the college of Wilmington, to raise a certain sum of money, by lottery, for the purposes therein mentioned."

Passed at Dover, Jan. 11, 1809.—Private act.

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C H A P. LXXX.

An ACT authorizing the Orphan's court to order a sale of the real estate of James Marshall.

Passed at Dover, Jan. 20, 1809.—Private act.

C H A P. LXXXI.

An ACT more effectually to secure the payment of public claims, and for other purposes.

State treasurer,
&c. not to buy
or offer to buy
claims for less,
&c.

Penalty.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, if the State treasurer, or the treasurer of either of the counties of this State, or any collector of taxes in this State, or the treasurer of the poor of either of the counties of this State, or any person whose duty it is, or shall be, to pay any claims or debts due, or hereafter to become due, from this State, or either of the counties thereof, or the trustees of the poor of either of the said counties, shall buy, or offer to buy, for less than the sum due or claimed, or shall pay, or offer to pay, any claim, debt or demand, against this State, or either of the counties of this State, or the trustees of the poor of either of said counties, with a less sum than the sum actually due, or claimed, or demanded; then, and in such case, every person so offending as aforesaid, shall, for every such offence, forfeit and pay, for the use of the State, any sum, not less than one hundred dollars, nor exceeding five hundred dollars, to be recovered by indictment, in the court of general Quarter

Sessions of the peace and gaol delivery, to be held for the county in which such offence shall be committed.

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SECT. 2. *And be it further enacted by the authority aforesaid,* That from and after the passing of this act, if any person, as the agent of the State treasurer, or the treasurer of either of the counties of this State, or the treasurer of the poor of either of the counties of this State, or of any collector of taxes in this State, or of any person, whose duty it is, or shall be, to pay any claims or debts due, or hereafter to become due, from this State, or either of the counties thereof, or the trustees of the poor of either of the said counties, shall buy or offer to buy, any claim, debt or demand, against this State, or either of the counties of this State, or the trustees of the poor of either of the counties of this State, for less than the sum due, or claimed, or shall, as agent aforesaid, pay or offer to pay any claim, debt, or demand, against this State, or either of the counties of this State, or the trustees of the poor of either of the counties of this State, with a less sum, than the sum actually due, or claimed or demanded; then and in such case; every person so offending, as aforesaid, shall, for every such offence, forfeit and pay, for the use of this State, any sum, not less than one hundred dollars, nor exceeding five hundred dollars, to be recovered, by indictment, in the court of general Quarter Sessions of the peace and goal delivery, to be held for the county, in which such offence shall be committed.

Agents of State
treasurer, &c.
not to buy, &c.

Penalty.

SECT. 3. *And be it enacted by the authority aforesaid,* That the Levy court and court of Appeals, of the respective counties of this State, shall, after the term of office of the present county treasurers shall expire, and annually thereafter, nominate and appoint one good and substantial freeholder, in each county, as county treasurer, who shall act as such, give bond, and govern himself conformably to the

County treasurers after the expiration of their present terms, to be appointed annually.

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laws heretofore made, or which hereafter shall be made, relating to the said office.

Passed at Dover, Jan. 21, 1809.

C H A P. LXXXII.

An ACT for the division of the real estate of Warner Mifflin, deceased, of Elizabeth Mifflin, deceased, and of the other lands held by the children of the said Warner Mifflin, and Elizabeth, and their legal representatives.

Passed at Dover, Jan. 23, 1809—Private act.

C H A P. LXXXIII.

An ACT authorizing the partition of certain lands, tenements and hereditaments in the counties of New-Castle and Kent, among James Fisher and William Fisher Corbit.

Passed at Dover, Jan. 23, 1809—Private act.

C H A P. LXXXIV.

C H A P.
LXXXV.
[1809]

An ACT for the relief of Morgan Jones, of New-Castle county.

Passed at Dover, Jan. 24, 1809---Private act.

C H A P. LXXXV.

An ACT to incorporate a company for making an artificial road from the town of New-Castle, in New-Castle county, to the line of this State, in the route or direction to French-town, on Elk river, in Cecil county, in the State of Maryland.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That George Read, James Riddle, Kensey Johns, James M'Callmont and Jesse Higgins, be, and they hereby are appointed commissioners, to do and perform the several things herein after mentioned, that is to say: they shall, on or before the first Monday in April next, procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, of the New-Castle and French-town turnpike road, the sum of fifty dollars for every share of stock in the said company, set opposite to our respective names; in such manner and proportions, and at such times as shall be determined by the president and managers of the said company," and shall thereupon give notice in one of the public papers printed in this State, and in one or more of the public papers

Commissioners appointed.

To open books of scription.

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printed in Philadelphia, for one calendar month, at least, of the time and place when and where the said books shall be opened, to receive subscriptions for the stock or the said company; at which time and place, some two of the said commissioners, shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said books, in their own name, or names of any other persons who shall duly authorize the same, for any number of shares in the said stock; and the said books shall be kept open for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said books shall have six hundred shares therein subscribed; and if, at the expiration of the said six days, the books aforesaid, shall not have the number of shares, as aforesaid therein subscribed, the said commissioners may adjourn from time to time, until the whole number of shares shall be subscribed; of which adjournment, the commissioners aforesaid, shall give such public notice, as the occasion may require; and when the whole number of shares shall amount to six hundred, the books shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioners, the sum of ten dollars, for every share to be subscribed; out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges; and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereafter mentioned.

Proviso.

Subscribers in-
corporated.

Style, powers
and privileges.

SECT. 2. *And be it enacted*, That when fifty persons or more, shall have subscribed six hundred shares of the said stock, they shall be created and erected into one body politic and corporate, in deed and in law, by the name, style and title, of "The president, managers and company, of the New-Castle and French-town Turnpike Company;" and by the same name, the said subscribers shall have perpetual

succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them, their successors and assigns, and of selling, transferring and conveying, in fee-simple, or of any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary for them in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

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SECT. 3. *And be it enacted*, That the commissioners aforesaid, as soon as conveniently may be, after the said number of shares shall be subscribed, shall give notice in one of the public papers printed in this State, and one or more of the public papers printed in Philadelphia, of the time and place by them to be appointed, not less than twenty days from the publication of the first notice; at which time and place, the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president and twelve managers, one treasurer, and such other officers, as they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he

Commissioners
to give notice of
time and place
of choosing officers.

Power to make
bye-laws.

Votes limited.

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may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number: *Provided nevertheless*, That all future annual elections of the said corporation, shall be held, with such notice, and in manner and form aforesaid, at such places, as the managers aforesaid shall direct and appoint.

Annual, and

Special meet-
ings of the
company.

SECT. 4. *And be it enacted*, That the said company shall meet on the first Monday of January, in every year, at such place as shall be fixed by their bye-laws, for the purpose of choosing officers, as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form, as shall be prescribed by their bye-laws: At which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such bye-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Certificates of
shares.

Transferable.

SECT. 5. *And be it enacted*, That the president and managers, first to be chosen, as aforesaid, shall procure certificates, to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed, and held, he paying to the treasurer, in part of the sum due thereupon, the sum of ten dollars, for each share: which certificate, shall be transferable, at his pleasure, in person, or by attorney, in the presence of the president or a treasurer, subject, however, to all payments due, and to grow due, thereon: And the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of the said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates

and emoluments of the company, and to vote as aforesaid, at the meetings thereof.

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SECT. 6. *And be it enacted*, That the said president and managers, shall meet, at such times and places, and be convened in such manner, as shall be agreed on, for transacting their business; at which meetings, seven members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendents, artists, and officers, as they shall judge necessary, to carry on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work; which orders, shall be entered or registered in the book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations, of the company, shall be committed to them.

Meeting of the president and managers.

Quorum.

May appoint surveyors, &c.

Further powers.

SECT. 7. *And be it enacted*, That if any stockholder, whether original subscriber or assignee, after thirty days notice in one of the public papers printed in this State, or one or more of the public papers printed in Philadelphia, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the said work, shall neglect to pay such proportion, at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the

Shares how forfeited.

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And may be sold

Or suit be
brought.

Proviso.

Further proviso.

instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums before paid, in part and on account of such share, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the said president and managers, may, at their election, cause suit to be brought, in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always*, That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same shares. *And provided also*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged, as aforesaid.

President and managers may enter upon and examine any lands, &c. over which intended road will run

SECT. 8. *And be it enacted*, That it shall and may be lawful for the said president and managers, their superintendants, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and enclosures, in, through and over which, the said intended turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road; and to survey, lay down, ascertain, mark and fix, such route or track for the

same road; as in the best of their judgment and skill, will combine shortness of distance with the most practicable ground, from the town of New-Castle, aforesaid, through New-Castle county, to the line of the State of Maryland, so as to communicate with a contemplated artificial road, to extend thence the nearest and best practicable course to French-town, on Elk river, in the State of Maryland, aforesaid, to be authorized by a law of that State.

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Route;

SECT. 9. *And be it enacted*, That it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of draught or burthen, to enter upon the lands, in, over, contiguous to, and near to which the route and track of the said intended road, shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto, as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing, mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace for New-Castle county, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, sand, earth, or other materials there, being most conveniently situated for making or repairing said road.

And may enter adjacent lands.

Damages how ascertained.

May take timber, stone, &c.

SECT. 10. *And be it enacted*, That the said president, managers and company, shall have power to erect permanent bridges over all creeks, as well as over all the waters crossed by the said route, or

Bridges.

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Width of road,
and of what ma-
terials to be
made.

Proviso.

And when com-
pleted, the gov-
ernor to license
toll-gates to be
erected.

track, whereon the same shall be found necessary; and shall cause a road to be laid out, not exceeding one hundred feet in width, from the town of Newcastle, aforesaid, by the aforesaid route, and shall cause twenty feet thereof in breadth, at least, to be made an artificial road; which shall be bedded with wood, stone, gravel, clay, or other proper and convenient materials, well compacted together, a sufficient depth, to secure a solid foundation for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or other small hard substance, in such manner, as to secure a firm, and as nearly as the nature of the country, and the materials will admit, an even surface, rising towards the middle, by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: *Provided*, That no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to or from any place of public worship, or funerals, on days appointed for that purpose.

SECT. 11. *And be it enacted*, That so soon as the said president, managers and company, shall have perfected the said road, from the town of Newcastle, aforesaid, any distance, not less than five miles, and so, from time to time, any distance not less than five miles, progressively, towards Frenchtown, aforesaid, they shall give notice thereof to the governor of this State, who shall thereupon, forthwith, nominate and appoint three skilful and judicious persons, to view and examine the same; and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license, under his hand, and the great seal of the State, permit and suffer the said president, managers and company, to erect and fix such, and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect

the tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages.

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SECT. 12. *And be it enacted*, That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding; leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulkey, chair or chaise, phaeton, cart, waggon, wain, sleigh, sled, or other carriage of burthen or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same: that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep or cattle: to wit, for every score of hogs, six cents; for every score of sheep, four cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen, with his rider or leader, three cents; for every sulkey, chair or chaise, with one horse and two wheels, six cents, and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage, waggon, coachee or light-waggon, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or waggon, or other carriage of burthen, the wheels of which do not in breadth exceed four inches, four cents for each horse drawing the

Toll-gatherers.

Rates of toll.

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Proviso.

Road whether in
repair how to be
ascertained.

same; for every cart or waggon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage, as aforesaid, shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated as equal to one horse, and every ass or mule, as equal to one horse, in charging the aforesaid tolls. *Provided always,* That it shall not be lawful for the said turnpike company to erect or cause to be erected, any toll-gate or gates, on either of the roads leading through New-Castle county, over which the said turpike road shall pass, any thing in this act to the contrary notwithstanding.

SECT. 13. *And be it enacted,* That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of the county, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and

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If not in repair,
tolls to cease.

Penalty.

Limited.

perfect order and repair as aforesaid ; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders ; and if the said road shall be found by the said inquisition not to be in such good order and repair, as herein is required, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth, the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair, as aforesaid ; and if any of the keepers of the gates aforesaid, shall take, or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keeper shall forfeit and pay, to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are; or may be by law recoverable, but if the same road shall not be put into good and perfect order and repair, before the next ensuing court of Quarter Sessions of the peace of the said county, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons *instructed* by the company with the care and superintendence of such part of the said road as shall be found defective, as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons *instructed*, as aforesaid, and upon conviction, shall give judgment, according to the nature and aggravation of the neglect, as the court, in their discretion, shall judge proper : *Provided*, The fine, in no instance, shall be less than twenty dollars, nor exceeding one hundred dollars, and the fines so to be imposed, shall be re-

How applied.

covered in the same manner, as fines for misdemeanors are usually recovered in the said county, and shall be paid to the commissioners of the roads of the place, wherein the offence was committed, to be applied to repairing such roads, as the county is bound to repair at the public expense thereof.

Accounts of receipts and expenses to be kept.

And laid before the stockholders.

When the number of shares may be increased.

SECT. 14. *And be it enacted*, That the president and managers of the said company, shall keep fair and just accounts of all monies, which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders, until said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own bye-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies received for such shares, in like manner and under the like penalties, as are herein before provided for the original subscriptions, or as shall be provided by their bye-laws.

SECT. 15. *And be it enacted,* That the said president, managers and company, shall also keep a just, and true account of all and every the monies to be received by their several and respective collectors of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every five miles, after the said road is completed from the beginning to the end thereof, or such part thereof, as shall from time to time be completed as aforesaid, and after the said road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved) among all the subscribers to the stock of the said company, and shall on the first Monday in the month of March and September in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Accounts to be kept of money received by the toll-gatherers, &c.

Dividend to be declared.

SECT. 16. *And be it enacted,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General assembly of this State, an abstract of their accounts, shewing the whole amount of the capital stock expended in prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof, may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear

An abstract of the accounts of the company to be laid before the General assembly.

When tolls may be increased.

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Profits not to
exceed nine per
cent.

from the average profits thereof, for the said two years, that the said clear income and profits thereof, will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, then it shall be lawful to and for the said president, managers and company, to increase the tolls herein allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum per annum: and at the end of every ten years after the said road shall be completed, they shall render to the General assembly, a like abstract of their accounts for three preceding years; and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company, will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as to reduce the said dividend down to nine per centum per annum.

Index-posts to
be set up.

SECT. 17. *And be it enacted*, That the said company shall cause posts to be erected at the intersection of every road falling into and leading out of the said turnpike road, with boards and index-hands, pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town or place to which such road leads, and the distance thereof in measured or computed miles; and shall also cause mile-stones to be placed on the side of said road, to designate the distances to and from the principal places thereon, and also shall cause to be affixed on the gates to be erected for the information of travellers and others using the said road, a printed list of the rates of toll which from time to time may be lawfully demanded.

Mile-stones, and

List of rates of
toll.

Penalty for pulling down or injuring mile-stones, &c.

SECT. 18. *And be it enacted*, That if any person or persons, shall wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed

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thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this act, at the intersection of any road, as aforesaid, or the board, or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters, marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole, or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively, forfeit and pay to the said president, managers and company, a sum not exceeding twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in manner aforesaid.

SECT. 19. *And be it enacted*, That all waggoners, carters and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right-hand side of the road, in the passing direction, leaving the other side of the said road free and clear, for other carriages to pass and repass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars, to any person, who shall by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered with costs in like manner aforesaid.

Persons traveling this road, to keep on the right-hand side.

Penalty for neglecting to do so.

SECT. 20. *And be it enacted*, That if any toll-gatherer on the said road, shall demand from any person or persons using the said road, any greater rate of toll than by this act is authorized and allow-

Penalty for exacting more toll than is allowed by this act.

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ed, such toll-gatherer shall forfeit and pay the sum of twenty dollars, for every such offence, one half to the use of the commissioners of the roads in the hundred in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace of the county where such offence shall have been committed.

Redress for vexatious prosecutions under this act.

SECT. 21. *And be it enacted*, That if in the case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuting as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of Common Pleas of the county, (if such prosecution had been instituted before the court of General Sessions of the peace) such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Limitation of actions for penalties.

SECT. 22. *And be it enacted*, That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

And this act may be given in evidence.

The work to be begun within three years, and to be completed within ten years thereafter.

SECT. 23. *And be it enacted*, That if the said company shall not proceed to carry on the said work within three years after this act comes into operation, or shall not within ten years thereafter,

complete the said road, according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, privileges and franchises, by this act granted to the said company.

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SECT. 24. *And be it enacted*, That if the legislature should at any time after the year one thousand eight hundred and thirty-one, think proper to take possession of the said road, three persons shall be appointed by the governor, and three by the president and managers of the said company, and three by the judges of the Supreme court, who are hereby required to appoint the same, who, or any six or more, of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the governor of this State, who shall cause the same to be laid before the legislature, at their next session; and whenever the amount, so certified, shall be paid by the State to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine.

What proceedings to take place, in case the legislature after the year 1830, shall choose to take the said road.

SECT. 25. *And be it enacted*, That if the said road shall be laid out and founded over and upon any land whereby the owner thereof shall suffer damage, the person or persons sustaining such damage, may make application to the Supreme court of New-Castle county, and thereupon the court shall appoint six fit and disinterested persons to view and adjudge the amount of the damages so done, which, if approved of by the court, shall be paid by the company: *Provided always*, That it shall be the duty of the reviewers, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant, and that when the said road shall happen to be laid out and founded on any former laid out and confirmed

Proceedings to ascertain damages done to persons owning land over which road may run.

Proviso.

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road, the owner or owners of such lands, shall not be entitled to receive compensation from the company for any damages sustained thereby.

Company not to obstruct any other incorporation, &c.

SECT. 26. *And be it enacted,* That it shall not be lawful for the said company to put, cause or suffer to be put, any let, hindrance or obstruction whatever, with intent to obstruct or prevent any other incorporated company, for a similar purpose, from forming a junction with the aforesaid New-Castle and French-town turnpike road, or in any manner to prevent the passing or re-passing to and from the same, nor to prevent any such incorporated company hereafter to be established by law, in case the company hereby incorporated, shall neglect to do so, to repair, and improve that part of the said turnpike road, which may be opposite to the place where any such future turnpike road may join the same, nor to prevent the Chesapeake and Delaware canal company, or any other canal company, from cutting and making a canal across said New-Castle and French-town turnpike road.

When to commence.

SECT. 27. *And be it enacted,* That this act, with its provisions and limitation, shall commence and take effect, from and immediately after the legislature of the State of Maryland shall authorize and empower the making of a like artificial road by the same company, from where the road herein authorized, would strike the line of that state, by the nearest and best practicable route to French-town, and not otherwise.

Passed at Dover, January 24, 1809.

C H A P. LXXXVI.

C H A P.
LXXXVI.
1808

An ACT authorizing the senators and representatives in Congress, from this State, to cede to the United States, the jurisdiction which this State has over such places whereon the United States may choose to erect forts, batteries and fortifications, on certain conditions therein mentioned.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the senators and representatives of this State, in the Congress of the United States, be, and they hereby are, authorized and empowered to cede to the United States, all the right, title and claim, which this State has to the jurisdiction and-soil of such places as the government of the United States may choose, at or near Wilmington, at or near New-Castle, at or near Port-Penn, in the county of New-Castle, and at or near Lewes, in the county of Sussex, or elsewhere, on the bay or river Delaware, for the purpose of erecting forts, batteries or fortifications, for the protection of the bay or river Delaware, and the adjacent country, upon these express conditions nevertheless, that the said forts, batteries or fortifications, shall be erected, at the expense of the United States, within three years from the date of this act, and be continued and kept up forever thereafter, for the public use; and also, that all process, civil and criminal, issuing under the authority of this State, may be executed and served within the places, the jurisdiction of which shall be ceded, as aforesaid, in the same manner as if no such cession had been made.

Passed at Dover, Jan. 25, 1809.

C H A P.
LXXXVII.

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C H A P. LXXXVII.

An ACT to compel clerks of the peace to find sureties for the faithful performance of the duties of their office, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That every clerk of the peace now in commission, shall; at the court of general Quarter Sessions of the peace and gaol delivery, to be held in the respective counties, next after the passing of this act; and every clerk of the peace hereafter to be appointed and commissioned, shall, at the court of general Quarter Sessions of the peace and gaol delivery, held in the county, next after his appointment, enter into a recognizance, in open court, jointly and severally, with two or more good and substantial freeholders of the county, to be approved by the said court, in the sum of three thousand dollars, lawful money of the United States of America, upon condition, that if the said clerk shall and do from time to time, and at all times during his continuance in office, well and faithfully execute the said office, and perform, in every thing, the trust in him reposed, then the said recognizance to be void, otherwise to be and remain in full force and virtue: which said recognizance, shall be, and is hereby declared to be in trust, to and for the use and benefit of the State; or of any person or persons who may be injured by any breach or neglect of duty in such clerks of the peace, respectively; whereupon, the State, or the person or persons aggrieved, may proceed, by scire facias, or other legal process, and upon proving what damage hath been sustained, and verdict found therefor, the court, in such case, shall give judgment for so much as the jury or inquest shall then find, with the costs, and no more, and shall award execution for the same; and the

Clerks of the peace to enter into recognizance with surety.

Condition.

Remedy thereon.

To remain cautionary.

said recognizances are hereby declared still to remain cautionary for the State, or such others, as shall prove themselves damnified, and recover their damages, as aforesaid, by due course of law.

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SECT. 2. *And be it further enacted by the authority aforesaid,* That henceforth, the court of general Quarter Sessions of the peace and gaol delivery, shall not recommend any person to the governor, for a license to keep any inn, tavern, ale-house, ordinary, victualling-house, or other public house of entertainment, unless the person applying therefor, shall have first paid into the hands of the clerk of the peace of the county in which such application shall be made, for the use of the State, the sum of twelve dollars: for which said sum, the party, if recommended, shall be entitled to a license: And it shall be the duty of the said clerk, to pay over to the secretary, for the use of the State, without delay, the said several sums of money so by him received; and if he shall neglect to do so, for the space of sixty days after the rising of the said court, he shall, ipso facto, forfeit his office; and shall be immediately liable to a suit for the recovery of the said fees; and if the party applying, do not obtain the recommendation of the said court, the said clerk shall, upon request, restore to him the sum by him paid into his hands, as aforesaid.

No person to be recommended for a license to keep tavern, unless he shall have first paid 12 dollars.

Penalty on clerks neglecting to pay over money.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the said court, shall, during their sitting, in the several counties, cause a list of the persons recommended, by them, to be made out; which they shall subscribe, and cause to be delivered to the secretary, as soon as the same may be conveniently done.

Court to transmit a list of persons recommended to the secretary.

SECT. 4. *And be it further enacted by the authority aforesaid,* That in future, all licenses for hawkers, peddlars and petty chap-men, shall be dispensed at the rate of six dollars each.

All licenses for peddlars, &c to be sold at six dollars. Vol. 5, p. 118

Venders of tin,
&c. to take out
license.

Penalty.

SECT. 5. *And be it further enacted by the authority aforesaid,* That from and after the first day of June next, no person or persons, whatsoever, shall follow, or employ him, her, or themselves, in the business or employment of a vender of tin or japanned wares, by travelling in or through this State, with a horse or horses, or other beasts of burthen or otherwise; or carry, to sell, or expose to sale, any tin or japanned wares, within this State, until such person or persons shall have obtained a license, as directed by the laws of this State, for hawkers, peddlars and petty chap-men: For which license, the person or persons obtaining the same, shall pay the sum of six dollars, to be applied, as the money paid for licenses, granted to hawkers, peddlars and petty chap-men, is now applied: And any person or persons, so travelling through or in this State, with tin or japanned wares for sale, without having such license, shall forfeit the sum of thirty dollars, to be recovered before any justice of the peace, one half of which, to be paid to the State treasurer, for the use of the school fund, and the other half to him or her who will prosecute for the same.

Passed at Dover, Jan. 25, 1809.

C H A P. LXXXVIII.

An additional supplement to an act, entitled, "An act for the better regulation of distresses for rent, and for other purposes therein mentioned."

Rent reserved to
be paid in grain,
&c. either in
certain quanti-
ties, or certain
shares, may be
distrained for.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That whenever any messuages, lands or tenements, shall be demised, or let, upon any demise, lease or contract, wherein the rent reserved, is to be paid in

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any sort of grain, grass, hay, fodder, hops, roots, fruits, cyder, brandy, pulse or any other produce, whatsoever, either in certain quantity or quantities, or in a certain share or shares of one or more of the said articles or produce, it shall and may be lawful for every lessor or land-lord, lessors or land-lords, his, her or their bailiff, receiver, or other person or persons, authorized by him, her or them, to take, seize, distrain and sell, for such rent due upon any such demise, lease or contract, as fully as if a certain rent had been reserved in money, and due upon any such demise, lease or contract, in like manner, and under the same conditions, restrictions, limitations and proceedings, and right of replevy, in every particular, as is directed by the act to which this is a supplement : and when no sum of money has been specified in any such demise, lease, or written contract, for which distress and sale may be made, in case of the non-payment of the rent, in order to ascertain for what amount of money such distress and sale may be made, as aforesaid, the sheriff, under-sheriff, or constable, who shall cause the goods and chattels, so distrained, to be appraised, as is directed by the aforesaid act of the General assembly, shall, at the same time that he summons the freeholders to appraise the goods and chattels, distrained, as aforesaid, summon three other reputable and disinterested freeholders ; and immediately after the goods and chattels are appraised, as is directed by the act, to which this is a supplement, the said three freeholders, summoned as aforesaid, and the said freeholders, summoned as appraisers, shall then take the following oath or affirmation : I, A. B. will well and truly, according to the best of my understanding, and the evidence which may be given, ascertain the value of the rent claimed by C. D. : for which the goods and chattels of E. F. have been distrained : which oath or affirmation, such sheriff, under-sheriff or constable, is hereby empowered and required to administer, and the said five free-holders shall thereupon proceed to ascertain

How the value
thereof to be as-
certained.

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the value of the rent claimed for which such distress hath been made; and the finding of the said five free-holders, or a majority of them, signed by them, or a majority of them, shall be deemed, taken and held, to be the true value of the rent for which such distress shall have been made, and for which value and the costs, sale may be made; and the said five free-holders shall have and receive, for their trouble, in ascertaining such value, twenty cents each.

Goods and chattels taken in execution, liable to the payment of one year's rent, although the same may not be due.

When one year's rent is already due, then that rent to be paid, and no more.

Notice to be given to the land-lord, of the taking of goods, & chattels in execution.

SECT. 2. *And be it enacted by the authority aforesaid,* That the goods and chattels, lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or otherwise, for a rent reserved, payable in money, taken by virtue of any execution or attachment, shall be liable to the payment of all such sum or sums of money as shall or may become due for rent, for the premises, at any time after the taking such goods and chattels, by virtue of such execution, or attachment, not exceeding one year's rent; and the said sheriff or other proper officer, shall, after sale of the said goods and chattels, pay to the land-lord or other person, empowered to receive the same, such rent, so to become due, if so much shall be in his hands, and if not, so much as shall be in his hands, and apply the overplus thereof, if any, towards satisfying the debt and costs in such execution or attachment mentioned: *Provided always,* That when one year's rent hath already become due, that then the said sheriff, or other proper officer, shall pay to the said land-lord the year's rent, so due, according to the directions of the fourth section of the act, to which this is a supplement; so that the said land-lord shall only receive one year's rent from said sheriff, or other proper officer; and when any such goods and chattels, shall be taken by virtue of any such execution or attachment, the sheriff, or other proper officer, shall, within twenty days after the taking such goods and chattels, give notice thereof to the

and-lord: *Provided*, the land-lord lives in the same county where the said goods and chattels shall be so taken in execution, or attached; for which notice, the sheriff, or other proper officer, shall have twenty cents, and mileage to and from the house of the land-lord, to be counted from the court-house of the respective counties, two cents per mile, to be paid by the land-lord.

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SECT. 3. *And be it enacted by the authority aforesaid*, That whenever any messuage, lands or tenements, shall be demised, or let upon any demise, lease or contract whatsoever, wherein the rent reserved, is to be paid in any sort of grain, grass, hay, fodder, hops, roots, fruits, cyder, brandy, pulse, or any other produce whatsoever, either in a certain quantity or quantities, or in a certain share or shares, of one or more of the said articles, or produce; and the goods and chattels, lying or being in or upon any such messuage, lands or tenements, shall be taken, by virtue of any execution or attachment, the sheriff, or other proper officer, who shall sell the said goods and chattels, by virtue of any such execution or attachment, or proceedings thereon, shall sell the said grain, grass, hay, fodder, hops, roots, fruits, cyder, brandy, pulse, or other articles, or produce whatsoever, subject to the land-lord's rent, for one year: and when the rent shall become due, the land-lord may proceed to take, seize, distrain, and sell, for such rent, the said grain, grass, hay, fodder, hops, roots, fruits, cyder, brandy, pulse, or other articles or produce whatsoever, in the same manner, and under the same regulations, as are provided in the first section of this act.

Where rent is reserved, to be paid in grain, &c. taken in execution, to be sold, subject to land-lord's rent for one year.

And when rent becomes due, land-lord may distrain, &c.

SECT. 4. *And be it enacted by the authority aforesaid*, That any goods and chattels lying or being in or upon any messuage, lands or tenements, which are or shall be leased for life or lives, term of years, or otherwise, which may be taken, by virtue of any execution or attachment, may be taken, seized, distrained, and sold at any time after the rent shall

Goods taken in execution, may be distrained and sold.

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Notice of such
distress to be
given to the
plaintiff.

have become due, notwithstanding said execution or attachment, in the same manner as if there had been no such execution or attachment; provided that the land-lord shall give notice of such distress to the plaintiff or plaintiffs in said execution or attachment, if he, she or they be in the county six days, at least, before he sells said goods and chattels so distrained, at the proper costs of the land-lord.

Tenants remov-
ing straw, &c.
from the premi-
ses, liable to be
sued.

SECT. 5. *And be it enacted by the authority aforesaid,* That it shall not be lawful for the tenant of any demised premises, to remove, or carry off from the same, any straw or corn-husks, or any kind of manure whatsoever; but the same shall be used and consumed upon such demised premises: And in case any tenant shall remove and carry off from said demised premises, any straw or corn-husks, or any kind of manure whatsoever, he or she shall, therefor, be liable to be sued; and shall pay such damages as shall be assessed by a jury, upon an action brought in the Supreme court, or court of Common Pleas, to be held in the county where the land lies.

Costs to be le-
vied.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the land-lord shall, upon every distress and sale, be authorized to levy and raise, over and above his rent, the sum of two dollars, and at the rate of two cents per dollar, on the amount of the sale of the goods distrained, for his costs and charges, in and about his distress, sale, and every other matter and thing relating thereto, and no greater sum than the said two dollars, and at the rate of two cents per dollar, on the amount of the sale of the goods distrained; which shall be in full satisfaction of his costs, charges, expenses and trouble, in relation to said distress and sale, and all other proceedings relating to, or concerning the same.

Passed at Dover, Jan. 26, 1809.

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CHAP.
XC.
1809

An ACT to separate Deborah Belcher, the wife of Gilbert Belcher, from the bed and board of the said Gilbert Belcher, and for other purposes.

Passed at Dover, Jan. 26, 1809—Private act.

C H A P. XC.

An ACT to encourage the raising of sheep.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, all and every person or persons, being the owner or owners of sheep within this State, shall and may hold and possess the same free and exempt from any assessments hereafter to be made; and that no owner or owners of sheep within this State shall hereafter be taxed for any sheep by him, her or them held or possessed.

Sheep exempt
from taxation,

SECT. 2. *And be it further enacted by the authority aforesaid,* That from and after the first day of June next, all and every person or persons, being the owner or owners of sheep within this State, shall and may hold and possess any number not exceeding ten, free and exempt from all process, for any debt or debts contracted by such owner or owners, after the said first day of June next.

Not exceeding
ten, to be ex-
empt from sei-
zure for debt.

SECT. 3. *And be it further enacted by the authority aforesaid,* That this act shall be and continue in

Act limited.

C H A P.
XCI.
1809

force for and during five years, and from thence until the next sitting of the General assembly.

Passed at Dover, Jan. 27, 1809.

C H A P. XCI.

An ACT, making provision for the support of government for the year one thousand eight hundred and nine, and for other purposes.

12,500 dollars
to be raised and
paid into the
treasury.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of twelve thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time and in the manner directed by an act of the General assembly, entitled, "An act for the better ordering, assessing, levying and collecting of taxes, and making provision for the support of government, for the year of our Lord, one thousand seven hundred and ninety-eight;" and shall be assessed and levied in the several counties of this State, in the following proportions: that is to say, for the county of New-Castle, the sum of four thousand seven hundred and sixty-one dollars and ninety cents; for the county of Kent, the sum of four thousand one hundred and sixty-six dollars and sixty-seven cents; and for the county of Sussex, the sum of three thousand five hundred and seventy-one dollars and forty-three cents.

Appropriation
thereof.

SECT. 2. *And be it enacted*, That the aforesaid sums of money shall be appropriated and applied to, and in the following manner; that is to say, so much thereof, as may be necessary, shall be applied to the

payment of the salaries due, and to become due to the governor, chancellor, judges of the Supreme court and court of Common Pleas, attorney-general, secretary and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and ten; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General assembly, their clerks; and other expenses, and for printing the laws passed at this session of the General assembly, and the votes and proceedings of the two branches thereof, and the residue (if any there be) shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

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Passed at Dover, Jan. 30, 1809.

C H A P. XCII.

An ACT to change the name of Rock-Hole-Mills to Millsborough.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the village, situate in Indian-river hundred, in Sussex county, now called and known by the name of Rock-hole-mills, shall from and after the passing of this act, be called, taken and known by the name of Millsborough, and that all acts of the General assembly of this State, deeds and other instruments of writing, in which Rock-hole-mills aforesaid, is named, shall be construed and taken to relate to the said village, hereby called Millsborough; and that in all legal proceedings which may have relation to the said village, or in which it may hereafter be necessary

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to use the name of the same, it shall be called Millsborough, instead of Rock-hole-mills, any law, usage or custom to the contrary notwithstanding.

Passed at Dover, Jan. 30, 1809.

CHAP. XCIII.

Chap. 145. a. 1
vol. 342. et seq.

A supplement to an act, entitled, "An act concerning written and nuncupative wills."

All wills to be in writing, and signed in the presence of two witnesses, or else void.

How to be revoked.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the first day of May, in the year of our Lord, one thousand eight hundred and nine, all last wills and testaments, made by any inhabitant or other person having his or her domicile or fixed place of abode in this State, whereby any goods, chattels or personal estate, of whatsoever nature or kind the same may be, shall be devised, bequeathed, given or disposed of, shall be in writing, and signed, by the testator or testatrix, or by some other person in his or her presence, and by his or her express direction, and shall be attested and subscribed in the presence of the said testator or testatrix, by two or more credible witnesses, or else they shall be utterly void and of none effect: And no such last will or testament, concerning any goods or chattels or personal estate, nor any clause or part thereof, shall at any time after the said first day of May, be recoverable, otherwise than by some other will or codicil, in writing, or other writing, declaring the same, or by burning, tearing or obliterating the same, by the testator or testatrix, or in his or her presence, and by his or her directions and consent: But all such devises, bequests, gifts and

dispositions, of any goods, chattels or personal estate whatsoever, shall remain, and continue in force, until the same be burnt, cancelled, torn or obliterated, by the testator or testatrix, or by his or her directions, in manner aforesaid, or unless the same be altered, by some other will or codicil in writing, or other writing of the testator or testatrix, signed in the presence of two or more credible witnesses, declaring the same, any former law or usage to the contrary notwithstanding.

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SECT. 2. *Provided nevertheless, and be it enacted by the authority aforesaid,* That where no such last will and testament, concerning any goods, chattels or personal estate hath been made in writing, according to the directions of this act, any nuncupative will, made in manner and form as is directed in the act to which this a supplement, shall be good and available, and may be received, and proved, according to the directions of the said act : and nothing in this act, shall be construed to repeal or alter the fourth, fifth, sixth, and seventh sections, of the act to which this is a supplement, except only in case where written will hath been made, as aforesaid.

Not to affect nuncupative wills, where no written will has been made.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any such testator or testatrix shall not bequeath or dispose of the whole of his or her goods and chattels, or personal estate, by any such last will and testament, in writing, or nuncupative will, the said goods and chattels, or personal estate, so not bequeathed or disposed of, shall be distributed in the same manner as the goods and chattels of a person dying intestate, are to be distributed by the laws for settling intestates' estates.

Undisposed residuum, to be distributed as intestate property.

SECT. 4. *And be it enacted by the authority aforesaid,* That the eldest son, or his lawful issue, (if any be) or their representatives, of any person, who shall die intestate, being owner of lands, tenements or hereditaments, within this State, at the

The eldest son, or his representative, to be entitled to no more than an equal share of his intestate father's lands.

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time of his death, shall have or receive an equal share or proportion of the real or landed estate of such intestate, with the other children of such intestate, and no more.

Repeal.

SECT. 5. *And be it enacted*, That so much of the act, entitled, "An act for the better settling intestates' estates," passed in the twenty-fourth year of the reign of George the second, as is hereby altered, shall be, and is hereby repealed: and that the act entitled, "A supplementary act to an act entitled, An act for the better settling intestates' estates, shall be, and is hereby repealed.

Passed at Dover, Jan. 30, 1809.

C H A P. XCIV.

An ACT to authorize the governor to purchase arms for the use of the State.

Governor to purchase arms, &c whenever militia shall be called into actual service.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the governor, be, and he is hereby authorized and required to purchase, for the use of the State, such number of muskets, bayonets, belts, musket-slings, knap-sacks, cartridge-boxes, priming-wires and brushes, of the kind and description required by the laws of the United States; and also, such number of field-pieces, rifles and blankets, as may be necessary to arm and furnish the quota of militia required from this State, or any part thereof, whenever the said quota, or any part thereof, may be called into actual service.

25,000 dollars appropriated for that purpose.

SECT. 2. *And be it further enacted by the authority aforesaid*, That the sum of twenty-five thousand

dollars, be, and is hereby appropriated, for the purpose of enabling the governor to make said purchase, whenever the said quota, or any part thereof, may be called into actual service, as aforesaid; and that he be, and is hereby authorized to borrow from the Farmer's bank of the State of Delaware, the said sum, or so much thereof, as may be necessary to make the said purchase, and that the same shall be re-paid from the treasury of this State.

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Which the governor is authorized to borrow.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the act, entitled, "An act for arming the quota of militia, required from this State, be, and the same is hereby repealed.

Repeal.

Passed at Dover, Jan. 31, 1809.

C H A P. XCV.

A supplement to an act, entitled, "An act to establish a bank, and incorporate a company, under the name of the Farmers' Bank of the State of Delaware.

Chap. 39. 3 vol.
87. et seq.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, a general meeting of the stock-holders of said bank shall be annually held at the town of Dover, on the first Wednesday after the first Tuesday in every year, to perform the duties enjoined upon them by the act to which this is a supplement.

Time of meeting of stock-holders.

SECT. 2. *And be it enacted by the authority aforesaid*, That so much of the act to which this is a

Repeal.

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supplement, as directs a general meeting of the stock-holders on the third Tuesday of January, in every year, as is hereby altered and supplied, and the fourteenth rule of the twelfth section of said act to which this is a supplement, be, and the same are hereby repealed, made null and void.

Passed at Dover, Jan. 31, 1809.

C H A P. XCVI.

Chap 98. a. 1
vol. 247.

An additional supplement to an act, entitled, "An act for the appointing a corder, or measurer of fire-wood, in each of the towns and villages within this government."

Penalty on persons in Smyrna, buying fire-wood without measuring.

How recovered.

Penalty on wood corder refusing to measure wood.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That if any person or persons within the village of Smyrna, shall, when there is any wood-corder or measurer appointed and sworn, buy any fire-wood, which is not measured, or to be measured by the wood-corder of the village, the person purchasing the same, shall forfeit and pay for every parcel of wood, so bought, the sum of two dollars, to be recovered before any justice of the peace of the county, by any person or persons, who will sue for the same, in such manner as debts under forty shillings are recoverable.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if any measurer or corder of wood in the village of Smyrna, shall neglect or refuse, upon application of any person, to attend in person or by deputy forthwith, for the purpose of measuring wood, unless he can give some good and

sufficient reason for such neglect or refusal, shall forfeit and pay for every such offence, the sum of one dollar and fifty cents, to be recovered as before mentioned. How recovered.

SECT. 3. *And be it further enacted by the authority aforesaid,* That John Russel, be, and he is hereby appointed wood-corder for the village of Smyrna, to continue in office until the May-term of the court of General Sessions of the peace, and until a successor shall be appointed by said court. John Russel appointed wood-corder.

SECT. 4. *And be it further enacted by the authority aforesaid,* That if the said John Russel, or his successor or successors, shall die or remove from the village of Smyrna, before the expiration of the time for which he or they shall be appointed, it shall and may be lawful for the justice of the peace, who has for the longest time been in commission, and at the time of such vacancy, reside in the said village of Smyrna, to appoint under his hand and seal, some fit person to act as corder or measurer of wood, until a successor may or shall be appointed by the court of Quarter Sessions. In case of death of wood-corder, how vacancy to be filled.

Passed at Dover, Jan. 31, 1809,

C H A P. XCVII.

An ACT to alter and re-establish the charter of the borough of Wilmington.

WHEREAS the corporate officers, and other Preamble.
inhabitants of the borough of Wilmington, in the county of New-Castle, have, by their memorial represented, that the charter incorporating the said borough, and granted in the year one

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thousand seven hundred and thirty-nine, hath from the increased population of the said borough, and from various other causes, been found incompetent to the good government and well-being of the same, and by their petition, prayed for redress in the premises.

When the powers, &c. granted by the former charter shall cease.

SECT. 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the organization of the powers and authorities hereinafter specified, the powers, rights and privileges, granted by, or arising from, the said charter, otherwise than herein after reserved, shall cease and determine, and the said borough of Wilmington be governed as follows :

Limits of the borough.

SECT. 2. The said borough shall be bounded as follows, viz. beginning at the mouth of Brandywine creek, on the easterly side of the same, thence along the eastern and north-eastern side thereof, about two miles and a half, to the old ford, above the head of the tide water ; thence crossing the Brandywine, westwardly, and passing along the old king's road, according to the several courses thereof, to the present State road leading from Wilmington to Lancaster ; thence, in a direct line, south-easterly, passing over the mouth of the rivulet, called Stalcup's gut, to the opposite side of Christiana river ; thence down that side of the same, until south-west of the lower point of the mouth of Brandywine ; thence north-east to the place of beginning.

Who shall be citizens thereof.

SECT. 3. All free white male citizens of this State, of the age of twenty-one years, and upwards, residing within the borough, assessed for, and having paid a borough tax, shall be taken and deemed citizens thereof, and shall enjoy all the rights and privileges arising under this act.

The officers.

SECT. 4. The officers of the borough, shall consist of two burgesses, viz. a first and second burgess,

thirteen members of council, one high constable, one treasurer, and one assessor, and such other officers as may be deemed necessary by the corporation, to carry into effect the powers hereby granted, *Provided*, that no person shall be capable of serving as burgess, member of council, high constable, treasurer, or assessor, who shall not, at the time of his election, be a citizen of this State, and a freeholder and resident in said borough.

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Incorporated.

SECT. 5. That the said burgesses and borough council, of the said borough, and their successors, forever hereafter, shall be one body politic and corporate, in deed and in law, by the name and style of "The Burgesses and borough Council, of the borough of Wilmington:" and by that name, shall be, and are hereby made able and capable, in law, to have, take, purchase, receive, possess, enjoy and retain, to them and their successors, lands, tenements, hereditaments, goods, chattels, and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of, to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in all courts of law and equity, or any other place, whatsoever; and also to make, have, and use a common seal, and the same to break, alter and renew, at their pleasure; and generally, shall have all the privileges and franchises incident to a corporation or body politic.

SECT. 6. The burgesses, members of council, high constable, treasurer and assessor, shall be elected, annually, by ballot, on the first Tuesday of May, and the first election, under this act, shall take place on the first Tuesday of May next ensuing the date hereof.

Officers to be
elected annually

SECT. 7. Any person duly elected to the office of burgess, as aforesaid, who shall neglect or refuse to serve as such, within the said borough, shall forfeit and pay any sum, not exceeding twenty dol-

Penalty on those
elected, not
serving.

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lars : and each and every person elected, as aforesaid, to the office of a member of council, who shall neglect or refuse to serve as such, shall forfeit and pay any sum not exceeding fifteen dollars : And each and every person elected as aforesaid, to serve as high constable, or as treasurer or assessor, to the said borough, who shall neglect or refuse to perform the duties of the said respective offices, shall forfeit and pay any sum not exceeding ten dollars : And the amount of all fines accruing hereby, shall be recovered for the use of the said borough, as other debts of like amount are recoverable in this State : *Provided*, That no person or persons shall be liable to a fine or fines, for any two years in succession, for neglect or refusal to serve in any of the offices aforesaid.

Borough council
to constitute
the legislative
body.

Quorum.

SECT. 8. The burgesses and members of council, shall constitute the legislative body for the said borough of Wilmington ; and shall be denominated, when assembled, the Borough Council. The sittings of this council shall be public. In this assembly, the first burgess, or in case of his absence, the second burgess, shall preside and keep order, subject to such rules and regulations as may be established by ordinance of the borough council. Nine members shall constitute a quorum, to do all manner of business arising under this act : *Provided*, That no ordinance shall pass the council, unless the same shall have the concurrence of a majority of all the members of the borough council, and have had, at least two readings, at a previous stated meeting or meetings thereof. Nor shall any ordinance, that may hereafter be passed by the said borough council, be repealed, unless notice shall have been given, and entered upon the minutes of the council, at a stated meeting thereof, that at the next succeeding stated meeting, a motion would be made for the repeal aforesaid.

Majority of voices to determine all questions.

SECT. 9. A majority of voices in the council shall determine and decide upon all cases that may

come before it; and when it is required by two members, the question shall be taken by ayes and nays, which shall be entered in the minutes; and all elections for any officer or officers, to be appointed by the same, shall be by ballot; and by a majority of all the votes of the members of the council.

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SECT. 10. The burgesses of the said borough shall constitute the executive power thereof, and shall be, and they are hereby constituted conservators of the peace, within the same, and authorized, empowered and required to do, and to execute all those matters and things in the said borough of Wilmington, which justices of the peace for the said county of New-Castle may and can lawfully do; and shall further be invested with authority, in all lawful cases of commitment, to commit persons guilty of a breach of the peace, to such place or places as may be provided by the borough, until they can be conveniently removed to the common gaol of the county; and in like manner, on complaint made by any two house-keepers, they shall have power to disperse or commit, as aforesaid, any assemblage of minors who may be collected, by night or by day, in any of the streets, lanes or alleys, unless they have with them the written permission of their parents, masters or guardians, but such permission shall in no wise protect them from commitment and prosecution for any overt act charged on them. And the said first burgess shall have the custody of the seal of the borough, and the right of affixing the same.

Burgesses, their
powers.

SECT. 11. The borough council, constituted as aforesaid, shall have power to enact ordinances to preserve the health of the borough, and prevent the introduction of infectious or contagious diseases; and for this purpose, their jurisdiction shall extend to any distance within one mile of the boundaries of the same; and in such ordinances may organize a board of health for the said borough, which board

Powers of the
borough council.

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shall be vested with all the powers and authorities which the council might or could exercise, relative to the object of their institution. "Of this board, or of the borough council, when sitting as a board of health, the health-officer of Wilmington, shall always be a member; but shall enjoy no other right in the decision of any case that may come before the said board or council, than any other member thereof; any law, usage or custom to the contrary notwithstanding:—And the said borough council may pass ordinances to define and remove nuisances, whether in the public streets, lanes or alleys, or elsewhere, within the borough; to provide night watches, and erect lamps; to ascertain the boundaries of streets, lanes and alleys, and establish new ones; or alter streets, lanes and alleys, and repair and amend all streets, lanes and alleys within the said borough, making adequate compensation to the party injured, to be ascertained by three men, or the majority of them, to be appointed by the court of Common Pleas, upon the application of the corporation, or of the party complaining: *Provided*, That nothing in this act shall be construed to extend to those who may conceive themselves injured by the completion of the ground-plan of the streets, as already established by law, or of any other ground-plan which may hereafter be legally established; to provide for the regulation of auctions and auctioneers; for cleaning the docks, and regulating the wharves; to provide for the safe keeping of standards of weights and measures, and for the infliction of penalties on those who use false weights or measures; to regulate public amusements; to fix and declare the weight of bread, and size of brick; to regulate the cordage of wood and bark, and to determine what may be esteemed merchantable; to appoint wood-corders, and establish their fees; to regulate party walls; to erect market-houses, and to regulate the markets; to regulate the sweeping of chimnies, and establish the rates; to erect pumps, or any other apparatus, for supplying the citizens with good and wholesome wa-

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ter; to repair and amend the same, and to assess and receive a tax therefor: *Provided*, no interference be made with any of the property, works or emoluments of the Wilmington spring-water company, without their consent being first had and obtained thereto—to appoint gaugers, inspectors of flour, inspectors of salted provisions, and inspectors and measurers of lumber, and to establish their fees; to provide for the weighing of hay, and for the measuring or weighing of coal, lime, grain, or any other matter, sold in the said borough; to regulate the storage of gun-powder, or any other dangerously combustible matter. And the said council shall have the power of fining illegal vendors of spirituous liquors within the borough; they shall have power to lay and collect fines, on the owners or harbourers of any dog, or hog, which may be found at large in any of the streets, lanes or alleys of the borough aforesaid; which fines, when collected, shall be paid and applied as, by the laws of this State, the like fines are now paid and applied; they shall have the power to appoint and commission constables, who shall possess like powers within the said borough, as are possessed by the constables of the aforesaid county of New-Castle; and in general, shall have power to do all those matters and things, for the well-being of the said borough, which shall not be in contravention of any existing laws of this State, or the constitution thereof.

SECT. 12. The said borough council shall meet on the first Tuesday in June, in each year, or within ten days of the same, and estimate and fix the sum and sums of money necessary to be raised on the persons and estates in the said borough, for the public uses of the year ensuing; and thereupon the first burgess, or in case of his absence, the second burgess, shall issue his precept, counter-signed by the clerk of the council, directed to the assessor of the said borough, requiring him, within sixty days from the date thereof, to make out a true and impartial list of all the persons and estates within the

Annual meetings thereof.

Assessment.

Rate thereof.

Court of appeals

Order to the collector.

How he shall proceed.

same, together with the sum and sums of money, in dollars, which it shall appear to him, the said persons or property ought to be rated at: assessment on property shall be made according to the annual interest, at six per centum, the several properties would probably produce, on the amounts, or on the estimated value thereof, if sold for ready money; and the said list and assessment, shall be laid before the council to be examined, and being approved, a fair copy or copies thereof, shall be made out by the clerk of the council, and published, for the information of all concerned, for at least two weeks previous to the time, then to be appointed, for holding a court of Appeals (of which notice shall be given, as aforesaid;) and the said council shall be, and they are hereby constituted a court of Appeals, for the hearing and redressing of such as may appear to be aggrieved, with power, in concurrence with the assessor, to assess such as may have been left off the list: *Provided*, notice thereof shall be given to the person, or the representative of an estate, so assessed, so that he, she or they, may have an opportunity of appearing before the court of Appeals; and after the said council shall have held a court of Appeals, as aforesaid, they shall estimate and fix how many cents to the dollar will be necessary to raise the sum or sums of money required, as aforesaid, and the clerk shall thereupon make out, or cause to be made out, a true list agreeably to the proceedings aforesaid, certify the same under his hand and the seal of the borough, and deliver the same into the hands of the collector, within ten days from the time the dollarage was laid, as aforesaid, with an order, under the hands of at least one of the said burgesses, and two of the said council, (which they are hereby authorized to make,) requiring the said collector, forthwith to collect and receive from the persons and estates assessed, the several sums in the said list mentioned; and in case any person or persons, so rated or assessed by virtue of this act, shall neglect or refuse to pay the sum or sums so assessed, for the space of six days

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after demand made, the said collector shall, by a warrant, under the hand and seal of one of the burgesses, for that purpose, (which he is hereby authorized to grant,) levy the same by distress and sale of the delinquent's goods and chattels, rendering the overplus, if any, after reasonable charges deducted, to the owner or owners thereof; but if no distress can be found by the collector, and the party refuses or neglects to show him goods or chattels of his own forthwith, to satisfy the money due, with reasonable charges, then the said collector shall make return, on oath or affirmation, of such want of goods, to the person who may have issued such warrant, and the person to whom such return shall be made, shall and may by warrant, under his hand and seal, commit the said delinquent to the common gaol of the county, there to remain until discharged by due course of law; or the same may be levied on the goods and chattels of any of his tenants, if such there be, and the delinquent shall be obliged to discount it out of the first rent that shall afterwards accrue from the estate rented; and in case any grounds, buildings, or estate belong to a minor or minors, or absent person or persons, then the same shall be recovered from the person or persons having the care of such grounds, buildings or estate, and the receipt of the said collector shall be a good voucher to all executors, administrators, guardians, trustees or attornies, against their principal; and when any owner or owners of any grounds, buildings or estate, or their executors, administrators, guardians, trustees or attornies, cannot be found, and they shall neglect to pay the assessment, as aforesaid, then it shall and may be lawful for either of the said burgesses, to issue his warrant, authorizing the said collector, to levy the same on the grounds, buildings or estate of such absent owner or owners, or minor or minors, and the said collector is hereby authorized to sell the same at public auction, for the shortest space of time in which the rents and profits will satisfy the said debt and costs; all which said several sums of money,

In default of goods, &c. may commit delinquent.

Or he may levy on the goods, &c. of delinquent's tenants.

Proceedings against minors and absent persons.

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when collected, the said collector shall pay over without delay, to the treasurer of the borough.

High constable and officers appointed by the council.

SECT. 13. The high constable, and the officers appointed by the council, shall assist the burgesses in carrying into effect the ordinances of the borough; and shall perform such duties as are herein after mentioned, or may be prescribed by ordinance.

Treasurer, &c. to give bond.

SECT. 14. The treasurer of the borough shall give security in double the amount that may probably come into his hands, for the true and faithful performance of such duties as may be ordained. And all constables and collectors, appointed under and by virtue of this charter, shall give bond and security, to be approved of by the burgesses of the borough, for the faithful discharge of their duty.

Assessor.

SECT. 15. The assessor shall perform such duties other than those before mentioned, as may be ordained, for the better performance of the duties of his office.

All officers, before they enter on the duties of their offices, to take an oath or affirmation, &c.

SECT. 16. Every officer, elected or appointed, under this act of incorporation, before he enters upon the duties of his office, shall take an oath or affirmation, to support the constitution of the United States, and the constitution of the State of Delaware, and that he will perform the duties of the office, unto which he hath been elected, or appointed, with fidelity.

Salaries, &c. to be established by ordinance.

SECT. 17. The salaries, fees or emoluments of the officers of this corporation, shall be established, by ordinance, provided no salary, fee or emolument, of any officer, shall be reduced or augmented, for and during the period of service for which he may have been elected or appointed: but no ordinance, establishing the salaries, fees or emoluments of any elective officer, shall, at any time, take place, previous to the annual election then next ensuing, and unless it shall have been published, with the ayes and nays thereon, at least two weeks before the said election.

SECT. 18. The council shall meet at least once in every month, at such time and place, as may be from time to time agreed upon. Special meetings may be called by the first burgess, upon his own motion, or shall be called, when five members may request or demand a meeting.

Stated meetings of the council.

Special meetings.

SECT. 19. In case of the death, absence, resignation or refusal to act, of either of the burgesses, any member of the council, high constable, treasurer or assessor, or either or any of them; the members of council, who meet, shall have the right to appoint a president, pro tempore; and the presiding member, at a stated or special meeting of the council, shall issue his writ, by order of the council, to the high constable, or in case of his death, absence, resignation or refusal to act, to a high constable, to be appointed by the council, to act, pro tempore, requiring him to hold an election on the day therein specified, to fill up the vacancy or vacancies occasioned by such absence, death or deaths, resignation or resignations, refusal or refusals: and the said high constable shall give public notice, for at least two weeks previous to the time in the said writ appointed, that an election will be held, at a certain time and place mentioned in the said writ, for the purpose of filling up the vacancy or vacancies, occasioned as aforesaid: which election, the said high constable shall conduct, together with all other elections; and make returns thereof, as may be established by ordinance: provided that all elections shall be opened between the hours of ten and twelve o'clock, in the forenoon, and closed at six o'clock in the afternoon of the same day.

The manner of supplying vacancies, occurring by death or otherwise.

Proviso.

SECT. 20. In all cases, wherein the presence, or act of the first burgess, is demanded or required to any act or duty or duties, or otherwise, when he shall neglect or refuse, or be incapable to attend to the same, his place shall be supplied by the second burgess; or, in case of his neglect, refusal or incapacity, by one of the members, selected for that purpose, by the council, to act, pro tempore, who shall exercise all and every the duties and powers of

Second burgess to act in the place of the first burgess, in case of his inability to attend.

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the first burgess, until one of the burgesses first elected, shall be able and willing to act, or a new election can be held, as aforesaid.

How officers
to be qualified.

SECT. 21. The first burgess shall be qualified into office by any justice of the peace for the county of New-Castle; and when thus qualified, shall within ten days of the time of such qualification, issue his writ, under his hand and seal, directed to the high constable, requiring him to summon the second burgess, the members of council, high constable, treasurer and assessor, chosen at the late election, to be and appear at a certain time and place therein mentioned, for the purpose of being qualified into their several offices; and upon failure thereof, shall forfeit and pay such penalties, as may be established by ordinance; and the said burgesses, or either of them, being qualified, shall administer the necessary oath or oaths, affirmation or affirmations, upon being required thereunto by the council, to any of the other officers of this corporation.

Recovery and
appropriation of
fines and forfei-
tures.

SECT. 22. All fines and forfeitures accruing under this act, or by any ordinance of the said borough of Wilmington, may be recovered before either of the burgesses, in the name of the said borough, as other debts of like amount are recoverable in this State; and when recovered, shall be and remain for the use of the borough, except fines for the illegal vending of spirituous liquors, as before excepted in section the eleventh.

Powers of the
corporation, not
to cease, by
omission to
elect.

SECT. 23. In case it should happen, that the election-day should pass over without an election being held, or in case of omission of the execution of any authority delegated by this act, the powers of this corporation shall not cease, but the authority of each and every the officers thereof, shall continue until a new election can be legally held, by resolve of the council, and notice as aforesaid: and the officers chosen thereat, duly qualified; provided at the first meeting of the council, a writ shall be issued, as in the case of vacancies, as aforesaid; but

Proviso.

if it shall happen that the first burgess chosen as aforesaid, shall fail to present himself to a proper officer, to be duly qualified into the said office, for a longer period of time than five days after his election, as aforesaid, the governor of the State may appoint another person in his room, who shall be invested with all the power and authority which the said first burgess, duly elected, might or could have exercised.

Governor to appoint first burgess, in case first burgess elect, shall omit to take the oath of office, for a longer space than five days.

SECT. 24. *And be it further enacted by the authority aforesaid,* That all the powers, privileges, rights or jurisdictions, granted to the borough of Wilmington, under its former charter, not hereby supplied, shall be and remain in full force and virtue, as they regard the said borough of Wilmington; and also, all debts and obligations binding on, or due, or property or other things of value, belonging to the said borough, under its former charter, shall be equally binding on, or due to, and be the property and right of, and be vested in, the said borough, under its present charter; and that all and every part of the laws of this State, as it regards the said borough, hereby amended or supplied, and no more, shall be, and they are hereby repealed, made null and void.

All debts and obligations due from or to the borough of Wilmington, under its former charter, to remain in force.

SECT. 25. *And be it further enacted by the authority aforesaid,* That all the powers and authorities, granted by the acts of the General assembly of this State, to the burgesses under the former charter, are hereby transferred to the burgesses under the present charter.

All authority vested in the burgesses, under the former charter, transferred to burgesses under present charter.

SECT. 26. *And be it further enacted,* That the first election to be held under this law, shall be held before the same persons, and conducted in the same manner, as the election would have been held and conducted, by virtue of the existing law, for the officers of the said borough; and a return of the said election shall be made by the proper officer, to the existing burgesses, who shall ascertain and publish the result of the said election.

First election, before whom held.

Meeting of the citizens of Wilmington, to take this charter into consideration.

If accepted, certificate thereof to be deposited in secretary's office, &c.

Public act.

SECT. 27. *And be it further enacted,* That within thirty days after the passing of this act, a meeting of the citizens of the borough aforesaid, shall be called by the burgesses, and the present charter shall be submitted to the said meeting for acceptance, or for rejection; when, if it shall appear that a majority of the said meeting is in favour of an acceptance of it, such acceptance shall be certified by the chairman and secretary of the meeting, and by the chief burgess, who shall seal it with the seal of the corporation, and cause it to be deposited in the office of the secretary of State; but, should the charter now granted, be rejected by a majority of the meeting aforesaid, then such rejection shall be certified and deposited as before directed, and the old charter, in that case, shall in all respects continue and be in full force and virtue, as if the same had not been surrendered, and this present law had not been enacted, any thing herein contained to the contrary notwithstanding.

SECT. 28. *And be it further enacted,* That this act shall be deemed and taken to be a public act, and shall be judicially taken notice of as such by all judges and justices, and all other persons whatsoever, without the same being specially pleaded; and that every matter and thing herein contained, shall be construed and taken most favourably and beneficially for the said corporation.

Passed at Dover, Jan. 31, 1809.

C H A P. XCVIII.

An ACT authorizing the treasurer of this State, to pay certain claims therein mentioned.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the treasurer of

this State be, and he is hereby authorized and directed to pay to Jesse Green, esquire, or his order, the sum of one hundred and fifty dollars, for blanks and forms, by him furnished, as the adjutant-general of this State; to Thomas Clayton, esquire, or his order, the sum of four dollars, for cash paid by him for repairing the screw belonging to the State; to Joseph Jones, or his order, the sum of eight dollars and sixty-two and an half cents, for publishing a proclamation of the elections of James M. Broom and Nicholas Vandyke, esquires, and for publishing an advertisement, relative to a bond given by the managers, of St. Peter's church lottery; to Peter Robinson, late secretary of State, or his order, the sum of fifty dollars, for making an index to the third volume of the laws of Delaware, and for travelling charges and expenses in getting the journals of the Senate and House of Representatives of this State bound; and Asahel Phelps, or his order, the sum of one hundred and six dollars and thirty-eight cents, in part for his services in teaching martial music, this sum having been paid into the State treasury by the late military commissary for militia fines.

To Jesse Green.

To T. Clayton.

To J. Jones.

To P. Robinson.

To A. Phelps.

Passed at Dover, February 1, 1809.

C H A P. XCIX.

An ACT authorizing the treasurer of this State, to make sale of stock belonging to this State, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the treasurer of this State shall, immediately hereafter, invest the sum of fifteen thousand dollars, part of the money now in the treasury of this State, in stock of the Farmers' Bank of the State of Dela-

15,000 dollars
to be invested
in stock of the
Farmers' bank
of the State of
Delaware.

ware, out of the shares reserved for the use of this State, in the stock of the said bank.

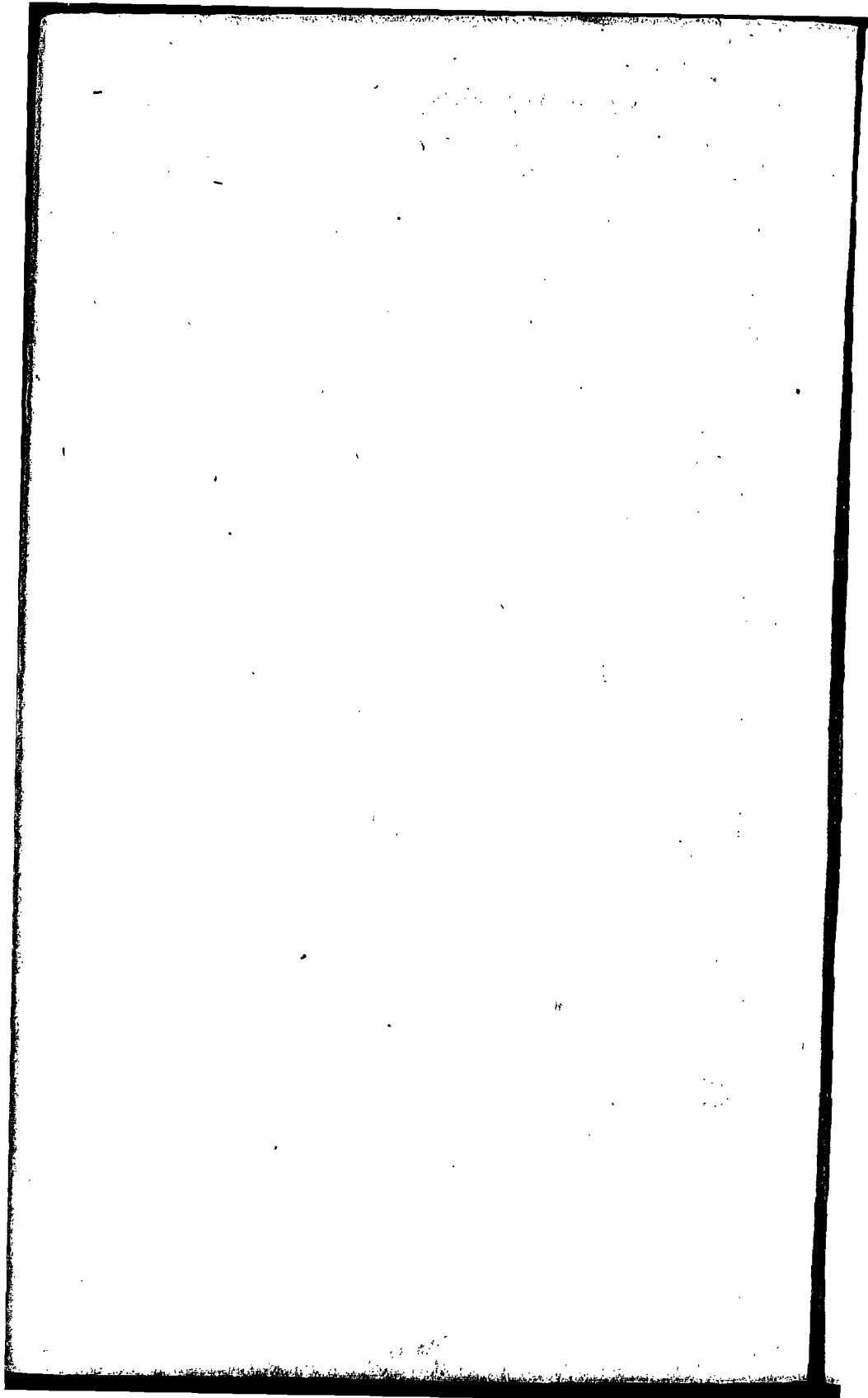
Three per cent. stock, stock in bank of Pennsylvania and bank of United States to be sold, and proceeds invested as aforesaid.

SECT. 2. *And be it enacted by the authority aforesaid,* That the treasurer of this State, shall, immediately after the passing of this act, make sale of the three per cent. stock of the United States, belonging to this State; and also, the stock of the bank of Pennsylvania, and the stock in the bank of the United States, belonging to this State, and invest the proceeds thereof in the stock of the Farmer's Bank of the State of Delaware, out of the shares reserved in the stock of the said last mentioned bank, for the use of this State.

Treasurer's commissions.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the said treasurer shall have and receive, as commissions for selling said stock, and investing the money herein directed to be invested, one half per centum, and no more, on the whole amount by him sold, and invested, agreeably to the directions of this act.

Passed at Dover, February 1, 1809.



CHAP.

C.

1810

CHAP. C.

An ACT to authorize the register for the probate of wills and granting letters of administration, in and for Kent county, to transcribe certain records belonging to his office.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the governor of this State, as soon as conveniently may be, after the passing of this act, to appoint two commissioners, and when so appointed, the said commissioners are hereby authorized and required to examine the record books belonging to the office of the register for the probate of wills and granting letters of administration, in and for Kent county aforesaid, and to make out a certificate under their hands, stating therein which and how much of the said records it is proper and necessary to transcribe, and shall deliver the said certificate to the said register, who is thereupon hereby authorized and required, within twelve months thereafter, to transcribe, or cause such records to be transcribed, in one or more well bound books, by him to be provided for that purpose, and to make an alphabetical reference to such records in proper

Commissioners to be appointed to examine and certify what records shall be transcribed.

Register to transcribe them accordingly.

Further duty of
commissioners.

form; and after the said register shall have transcribed the said records, it shall be the duty of the said commissioners to be appointed as aforesaid, to compare and correct the same, by and with the original records, if to be found, and the record books so transcribed as aforesaid, and after so doing, to certify thereon, that they have collated the same with, and corrected them by the original records or the books so transcribed as aforesaid; and that they are true copies thereof; and the book or books whereon the said papers are so recorded, shall thereafter be deemed and taken as public records, and it shall be lawful for the register to make out exemplifications thereof, which shall be taken and received as exemplifications, in the same manner as exemplifications from the original have heretofore been taken and received, and for each and every copy or exemplification made from said records, the said register may ask and receive the same fees that he is entitled to receive for similar services by the act, entitled, "An act for regulating and establishing fees."

Books in which
such records
shall be transcribed,
to be deemed records.

Fees for copies
thereof.

Register's compensation
for transcribing;
and how paid.

Commissioners
compensation;

And oath.

SECT. 2. *And be it enacted*, That the said commissioners shall make such legal and reasonable allowance or compensation to the said register for transcribing said records, and the cost of said book or books, as they shall deem just and right, and shall draw an order on the treasurer of said county of Kent, for the payment thereof, which shall by him be paid and discharged out of the monies in his hands. And the said commissioners to be appointed as aforesaid, shall have and receive for their services in performing the duties of them required by this act, for each and every day's attendance, a sum not exceeding three dollars per day, to be allowed by the Levy court of Kent county aforesaid; and they and each of them, shall before they enter upon the duties hereby required of them, take an oath or affirmation, before some judge or justice of the peace, faithfully and diligently to perform the trust reposed in them by this act.

SECT. 3. *And be it enacted*, That, if any of the said commissioners to be appointed as aforesaid, should die, or refuse, or neglect to perform the duties herein required of him or them, it shall be lawful for the governor to appoint some other person or persons in his or their place and stead.

In case of death, &c. of any commissioner, another to be appointed.

C H A P. CI.

An ACT to incorporate the Cherry-Island marsh company.

PRIVATE ACT.

C H A P. CII.

An ACT to procure certain papers or copies thereof from the land-office of the State of Maryland.

WHEREAS, from the former limits of the State of Maryland, as to jurisdiction and government, many of the warrants, surveys, patents and grants for lands now within the State of Delaware, were filed and recorded in the land office of Maryland, whereby many of the inhabitants of this State sustain great hardships and expense in procuring authenticated copies of such original papers and records ;

Preamble.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the governor of this

Governor authorized to appoint an agent to procure from Maryland, copies of all warrants, &c. which relate to lands in this State.

And the originals where they can be obtained.

And deposite them in the recorder's office at Dover.

How agent to be compensated.

State, be, and he is hereby required to appoint an agent on behalf of this State, to repair to the State of Maryland, and permission being first-obtained, from the said State, to transcribe and copy, or procure to be transcribed and copied, under his care and direction, in one or more well bound books in folio, all such warrants, surveys, re-surveys, patents, grants and other original papers, as may be found in the land-office, or in any other office of the State of Maryland, which in any-wise relate to, or make the title, or part of the title, to any lands, tenements or hereditaments in this State, and which cannot be removed without injuring or spoiling the records or other papers in the said office or offices; and the said agent is hereby required carefully and diligently to compare such transcripts and copies with the originals in the said office or offices; and also to select and obtain from the said state, all such original warrants, surveys, re-surveys, patents, grants, and other original papers, which can be taken and separated from other records and papers in said land-office, or other offices of the State of Maryland, whole and undefaced as they now remain, without injuring or defacing other records in the said office or offices, and the said transcripts, copies and original warrants, surveys, re-surveys, patents, grants and other original papers, to bring into this State, to the end that the same, being first examined and approved by the legislature of this State, may be deposited in the office for recording of deeds; in Dover, as public records:

SECT. 2. *And be it enacted*, That the governor be, and he is hereby authorized and empowered to draw an order or orders on the State treasurer in favour of the person; so to be appointed, for any sum not exceeding four hundred dollars, as a compensation for his services in the said business: *Provided always*, That no order or orders, so to be drawn, shall exceed the sum of one hundred dollars, until the said agent shall make appear to the governor

that he can obtain such warrants and other papers as are herein before mentioned.

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SECT. 3. And be it further enacted, That such agent, his assistant or assistants, if any, be necessary, shall, before he or they, or either of them, enter upon the duties required by this act, take an oath or affirmation, before some person lawfully qualified to administer the same, that he or they will faithfully and diligently discharge the trust reposed in him or them.

His oath.

Passed at Dover, January 9, 1810.

C. H. A. P. CIII.

An additional supplement to, an act, entitled, "An act for the valuation of real and personal property within this State."

2 vol. 1247.

WHEREAS it hath been represented to this General assembly, that the assessors in several hundreds of the respective counties of this State, have not yet made and completed their valuation of real and personal property, agreeably to the directions of the act to which this is an additional supplement :

BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the time of making such valuation, shall be, and hereby is extended to the first Tuesday of February next; at which time the commissioners of the tax shall meet at the court-houses of their respective counties; and the said assessors shall then and there attend on the said commissioners, and return to them their several

C H A P.
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valuations of real and personal property; and the said commissioners shall then arrange the said valuations, and do and perform every act and thing required of them; under the like penalties; and in as full and ample manner, as the same were required of them to be done and performed on the first Tuesday in December; and the clerk of the peace shall set up and publish in the manner directed by the act of the General assembly, passed the nineteenth day of January, seventeen hundred and ninety-seven, immediately after such arrangements, alphabetical lists, with notice, as is by the said act directed, and for neglect or refusal so to do, to be punished as the said act prescribes; and in case the said assessors shall not have completed their several valuations, by the first Tuesday of February next, as aforesaid, the commissioners of the tax in each county respectively, shall and may adjourn their sitting, from time to time, from the said first Tuesday of February next, until the assessors shall have made and returned their said several valuations, in manner aforesaid: *Provided*, That such adjourned meeting shall not be extended beyond, nor held after the last Tuesday of February next; and in case the said commissioners shall adjourn their said meeting until the last Tuesday in February next, the commissioners of the Levy court and court of Appeals for the present year, shall meet on the last Tuesday in March next, and then and there do and perform the services required of them by the act above mentioned, and the act to which this is an additional supplement.

Passed at Dover, January 13, 1810.

C H A P. CIV.

CHAP.
CV.
1810.

An ACT to enable the owners of a certain parcel of marsh, meadow and cripple, on the south side of Port-Penn, in St. George's Hundred, and county of New-Castle, fronting on the River Delaware, to keep the banks, dams, sluices and flood-gates thereof in repair.

Passed at Dover, Jan. 16, 1810.—Private act.

C H A P. CV.

*A supplement to an act to provide for the erection of 3 vol. 4.
a public bridge across Broad-creek, in the county of Sussex.*

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of the act to which this is a supplement, as requires that the bridge, abutments, causeways and roads, specified in said act, shall be maintained, repaired and kept up at the joint expense of the hundreds of Broad-creek and Little-creek, shall be, and is hereby repealed; and that hereafter the said bridge, abutments, causeways and roads, specified in said act, shall be deemed and taken as a public bridge, abutments, roads and causeways, and shall be maintained, kept up and repaired, at the expense of the county of Sussex, in the same manner as other county bridges; abutments, roads and causeways are maintained; repaired and kept up.

Passed at Dover, Jan. 17, 1810.

CHAP.
CVII.
1810

CHAP. CVI.

An ACT authorizing the partition of certain lands and tenements, devised by Thomas Ludenam, late of Sussex county, deceased, to his eight grand-sons, they being sons of Zadock and Eben Ludenam, deceased.

Passed at Dover, Jan. 19, 1810—Private act.

CHAP. CVII.

An ACT for improving the navigation of Murderkill creek and Spring-creek, in Kent county.

Preamble.

WHEREAS it is represented to this General assembly, that the navigation of Murderkill-creek and of Spring-creek, that empties in the said Murderkill-creek, may be greatly improved :

Commissioners appointed to cut canals, and improve the navigation ;

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That* Walter Douglass, McKimmey Smack, Moses Sipple, Michael Hall Bonwell and Andrew Barratt, be, and they are hereby appointed commissioners for the purpose aforesaid, and they, or any three of them, are hereby authorized and required to go upon, and view the grounds adjoining the said creeks, between the mouths and the head of the tide waters of said creeks, and to mark, lay out and cut canals in such manner, and in such places, as they, or any three of them, shall think most proper and convenient for shortening the distance, and avoiding the shoals in said creeks, or in either of them ; and also to order

and direct such ways and means to be taken and used as they or any three of them, may deem and judge most effectual to remove obstructions, and to prevent them in future, in order to improve and secure the navigation of the said creeks; and the said commissioners, or any three of them, are hereby further directed and required to enquire into and award to all and every person or persons, through whose lands the said canals, or other improvements, may pass, such damages as they shall think the said person or persons may have sustained by reason of the cutting and making such canals, or other improvements, as aforesaid; which said damages, so as aforesaid assessed and awarded, shall be paid or tendered before any such canals shall be cut, or improvements made.

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And award damages to persons who may sustain injury thereby.

SECT. 2. *And be it further enacted,* That the said commissioners be, and they are hereby authorized and empowered to open subscriptions for the purpose of carrying on the improvement of the navigation of the said creeks, as aforesaid, and to sue for, and recover, all such sums of money as shall be subscribed for the said purpose.

Subscriptions to be opened.

SECT. 3. *And be it further enacted,* That in case the said commissioners, or any of them, should die, remove out of the county, or be otherwise incapable, or refuse to serve, it shall and may be lawful for the governor of this State, for the time being, to appoint others in their place or stead.

How vacancies to be filled.

SECT. 4. *And be it further enacted,* That if any person or persons shall fill up, or designedly, or intentionally, injure or obstruct any canal already cut, between the waters of the said creeks, or either of them, or shall injure or obstruct the navigation of the said creeks, or either of them, or of any canal already cut, or hereafter to be cut, between the waters of the said creeks, or either of them, by wears, hedges, or in any other manner whatsoever, he, she or they so offending, shall severally forfeit and pay any sum not

Penalty for obstructing the navigation;

And how recovered.

exceeding one hundred dollars, one moiety thereof to the use of the State, and the other moiety thereof to the use of him, or her, who will sue for the same, in any court of record in this State, by action of case, debt, bill, plaint, or information.

Commissioners to settle with the Levy court.

SECT. 5. *And be it further enacted*, That the said commissioners, their executors or administrators, shall settle their accounts with the Levy court of Kent county, and if, on the settlement of such accounts, any sum of money, subscribed for the purpose aforesaid, shall remain unappropriated, the same shall be refunded to the subscribers, in proportion to the amount by them subscribed respectively.

Authorized to erect a draw-bridge.

SECT. 6. *And be it further enacted*, That the said commissioners, or any two of them, be, and they hereby are authorized, empowered and required to build and erect, or cause to be built and erected, a draw-bridge across Spring-creek, aforesaid, where the State-road leading from Dover to Frederica, across the said creek, and where the old bridge now stands.

Its dimensions and construction.

SECT. 7. *And be it enacted*, That there shall be left clear, in the place between the abutments, wings, and other works, erected for the use, support and preservation of said bridge, the space of nineteen feet at least, at all times, for the waters of the said creek to pass through, over which shall be erected and placed a draw or platform, of the breadth of eighteen feet at least, so constructed as to roll off, or be raised up, for the accommodation of all such persons as may have occasion to pass with any vessel through the said bridge, who are hereby obliged to roll off and on, or raise and lower, (as the case may be) the said draw or platform, so that the same receive no damage thereby, under the penalty of fifty dollars, for every neglect therein, to be recovered, with cost, in the name of the State of Delaware, in the court of general Quarter Sessions of the peace, and gaol delivery in and for Kent county.

Penalty for injuring same.

SECT. 8. *And be it further enacted,* That for the purpose of building and erecting the said bridge, the said commissioners are hereby empowered and authorized to purchase materials and employ labourers, and other proper persons, for that purpose, and any two justices of the peace of Kent county aforesaid, are hereby directed and required to examine and adjust the accounts of the said commissioners, after the said bridge shall be so built and erected; and after such settlement, the said justices shall draw an order on the treasurer of said county, to pay out of the public monies in his hands, the said accounts, so adjusted, provided the same shall not exceed the sum of three hundred dollars; and if the said accounts so adjusted as aforesaid, shall exceed the sum of three hundred dollars, then the said order shall be for that sum, and no more; and any money paid by the said treasurer, in pursuance of such order, shall be allowed to the said treasurer, on the settlement of his accounts by the Levy court, or a committee thereof.

Commissioners
to purchase
materials, &c.

Two justices to
settle their ac-
counts, and
draw orders on
county treasur-
er.

SECT. 9. *And be it further enacted,* That the Levy court of Kent county aforesaid, shall, after the said bridge shall be erected and built as aforesaid, cause the said bridge to be supported, maintained and repaired, from time to time, always keeping up a draw or platform as aforesaid, in like manner as other bridges are supported, maintained and repaired in said county; and the said draw-bridge shall be deemed and taken to be a common high-way.

Bridge to be re-
paired and sup-
ported as a pub-
lic bridge.

Passed at Dover, Jan. 22, 1810.

C H A P.

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C H A P. CVIII.

An ACT to incorporate a seminary of learning in the town of Dover.

Trustees incor-
porated.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Thomas Clayton, Andrew Naudain, Cornelius P. Comegys, Richard Cooper, James Harper, John Fisher, Peter Caverly, Willard Hall, James Sykes, William M'Clyment, Nathaniel Smithers, Henry M. Ridgely, and their successors be, and they are hereby declared to be one community, corporation or body politic, to have continuance forever, by the name of "The Trustees of the Dover Academy," and by the same name they shall have perpetual succession.*

To be divided
into three classes.

SECT. 2. *And be it further enacted, That the trustees herein named shall, at the expiration of two years, be divided by lot into three classes; the seats or places of the first class, shall be vacated at the expiration of one year thereafter; the seats or places of the second class, at the expiration of two years thereafter; and the seats or places of the third class, at the expiration of three years thereafter; so that one third may be chosen or appointed annually, as herein after mentioned.*

Vacancies in
the board to be
filled by new
appointments
by the governor.

SECT. 3. *And be it further enacted, That whenever any vacancy shall happen in the said board of trustees, either by death, resignation, refusal to serve, removal from Kent county, expiration of the term of service, or in any other manner, the board of trustees shall, immediately thereafter, give notice in writing of such vacancy to the governor of this State, for the time being, and shall in the said notice, state in what manner the said vacancy happens, and what length of time every trustee whose seat becomes vacant as aforesaid had to serve, and*

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to what class he belonged; and the governor for the time being, shall forthwith, after the receipt of such notice, appoint a person or persons, as trustee or trustees, to fill such vacancy or vacancies, and in the commission or appointment, shall state for what length of time, and in whose place or places, any such person or persons, whom he may appoint as aforesaid, is or are appointed and commissioned; and no person shall be appointed a trustee as aforesaid, or be capable of serving as such, who shall not at the time of his appointment, and during his continuance in office, be resident in Kent county—but any of the trustees, whose terms may have expired, may be re-appointed in manner aforesaid.

SECT. 4. *And be it enacted*, That the trustees of the Dover Academy, and their successors, by the same name, shall be able and capable in law and equity, to have, purchase, possess, hold and enjoy any lands, tenements and hereditaments, goods, chattels, rights, credits and effects of what nature, kind or quality soever, by the gift, grant, bargain, sale, alienation, devise or bequest of any person or persons, or bodies politic or corporate; and to sell, dispose of, alien or demise the same, in such manner and form as they may or shall think most advantageous or beneficial to the said institution; and the said corporation, by the name of "The Trustees of the Dover Academy," shall be able and capable in law to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or in any other place whatsoever; and to do and execute all other matters and things, which bodies politic and corporate may or can lawfully do.

Trustees may acquire and dispose of property.

And sue and be sued.

SECT. 5. *And be it further enacted*, That the said corporation shall have full power and authority to have and use a common seal, and to change, alter or break the same, and establish another or others, with such devices as they shall think proper; and

May have a common seal.

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all acts certified under the seal of the said corporation relating to the affairs thereof, shall have full faith and credit in and before all and every the courts and jurisdictions within this State.

And erect bye-laws;

Appoint professors;

Manage and apply the funds of the corporation;

Appoint a president and other officers;

And further powers.

SECT. 6. *And be it further enacted*, That the corporation aforesaid, or a majority of them, shall have full power and authority to make, alter, repeal and again re-enact all laws, regulations and ordinances, which they may deem necessary and proper for the good government of the said academy, as a seminary of useful learning; to appoint professors, tutors, and such officers or persons as they may deem requisite for the said academy, under such rules and stipulations, and for such pecuniary compensation, as they shall consider adequate and proper; they shall have full power and authority to apply, dispose of, and manage the estate and funds of the corporation and academy, either by themselves or their agents, in such manner as they may deem most beneficial and useful to the said institution; they shall annually choose one of their own body to be president of the board of trustees; and they shall, from time to time, appoint a treasurer, secretary and such other officers as may be requisite, whose duties shall be prescribed by ordinances of the said corporation; but the treasurer shall be required to enter into bond to the corporation for the performance of his trust, before he shall officiate as treasurer: They shall be capable of exercising all such other powers, and of doing all such other acts and things, as may be necessary for the well governing, ordering and conducting the said corporation, and the affairs and business thereof; and of holding such occasional meetings for that purpose, as shall be ordained by the regulations and ordinances of the said corporation;—*Provided*, That nothing herein contained, shall be construed to authorize them to exercise any powers repugnant to the laws or constitution of this State.

SECT. 7. *And be it enacted*, That the " Trustees of the Dover Academy," shall not, on any pretence whatsoever, take or receive any pecuniary reward or compensation for their personal attendance or services, or for their expenses incurred in such attendance, in the discharge of the duties or powers vested in them by this act.

Trustees not to receive any pecuniary compensation.

SECT. 8. *And be it enacted*, That the trustees aforesaid, and their successors, or a majority of them be, and they are hereby appointed commissioners to raise, by one or more lottery or lotteries, any sum of money, not exceeding ten thousand dollars, clear of all expenses, to be applied to the use and benefit of the Dover Academy, in purchasing a lot, and erecting the necessary buildings thereon, or in any other manner or way that the trustees of the Dover Academy may deem most beneficial and useful for the said institution.

Empowered to raise 10,000 dollars by lottery.

SECT. 9. *And be it further enacted*, That each of the said commissioners shall, previous to his entering on the duties of his office, as commissioner aforesaid, take and subscribe an oath or affirmation, diligently, faithfully and honestly to perform the duties entrusted to him, as commissioner of the said lottery; and at least two of them shall attend at the drawing of each day; and when the whole is completed, they shall cause a true and accurate list of the fortunate numbers, in the said lottery or lotteries, to be published in one or more of the news-papers, printed in the city of Philadelphia, and in one or more of the news-papers, printed in Wilmington.

Oath and duty of commissioners of the lottery.

SECT. 10. *And be it further enacted*, That the said commissioners, or a majority of them, be, and they are hereby authorized and empowered to adjust, settle and pay all accounts which may be exhibited by any person or persons, legally employed in carrying in full effect, the said lottery or lotteries; and they the said commissioners, are hereby vested with all such powers as may be necessary for carry-

Further power and duty of commissioners.

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ing into effect, and completing the said lottery or lotteries, and which shall not be repugnant to the laws and constitution of this State.

Scheme to be laid before the governor, and approved.

SECT. 11. *And be it further enacted,* That the said commissioners, or a majority of them, previous to selling any tickets in the said lottery or lotteries, shall lay the scheme or schemes thereof before the governor of this State, for his approbation, and if the said scheme be approved of, then the said commissioners, or a majority of them, shall enter into a bond to the governor, in the penal sum of eighty thousand dollars, for the due performance of their duty as commissioners aforesaid.

Bond to be given by commissioners.

Prizes not demanded within 12 months, forfeited.

SECT. 12. *And be it further enacted,* That all prizes not demanded within twelve months after publication as aforesaid, shall be considered as relinquished for the use and benefit of the said institution.

Act to be construed most beneficially for the corporation.

SECT. 13. *And be it further enacted,* That every matter and thing herein contained, shall be construed and taken most favourably and beneficially for the said corporation.

Passed at Dover, Jan. 23, 1810.

C H A P. CIX.

An ACT to enable James Wroten to alter and change a certain road therein mentioned.

Preamble.

WHEREAS it has been shewn to the General assembly of the State of Delaware, by the petition of a large number of the inhabitants of Kent county, that much good would accrue to James Wroten, of Mispillion hundred, in the county

aforesaid, as well as to the citizens of this State in general, by an alteration of the road leading from Marshyhope bridge, to the State line at Punch-Hall : and whereas the same alteration could be made without the least inconvenience to any person, and the new road would be on much better ground than the old one, and in consequence could be kept in repair at a less expense : therefore,

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SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met;* That the said James Wroten, from and after the passing of this act, shall have power and authority, and he is hereby authorized and empowered to alter the said road leading from Marshyhope bridge, to the State line at Punch-Hall, in the manner and form following : that is to say, the alteration of the road shall begin at the north-west end of the Horse-pond causeway, on said road, and run from thence north sixty-two and a quarter degrees, west eighty-three perches, till it intersects the said old road near a road of Thomas Saulsberry's land, on the road leading from Marshyhope bridge to Punch-Hall.

In what manner
road to be altered.

SECT. 2. *And be it enacted,* That the aforesaid James Wroten, shall make and lay out at his own proper cost and charge, the said road, and put the same in good order, making the said road of the width required by law.

To be made at
the expense of
J. Wroten.

SECT. 3. *And be it further enacted,* That it shall and may be lawful for the said James Wroten, to stop up the old road, beginning at the north-west end of the Horse-pond causeway, on the road leading from Marshyhope bridge to Punch-Hall, and to run from thence north sixty-two and a quarter degrees, west eighty-three perches, till it intersects the said old road near a line of Thomas Saulsberry's land on the last mentioned road.

Old road to be
stopped up.

Passed at Dover, Jan. 23, 1810.

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CHAP. CX.

A Supplement to the act, entitled, "An act for the more easy and speedy recovery of small debts."

Actions of trespass made cognizable before justices of the peace.

Form of proceeding.

Proviso.

Further proviso.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, all actions of trespass vi et armis, for injuries done to real or personal property, where the damages sustained do not exceed the value of thirty-two dollars, shall be, and the same are hereby made cognizable and triable before a justice of the peace, in the same manner as actions for debts to the value of thirty-two dollars are made cognizable and triable before a justice of the peace, by the act to which this is a supplement; and the same forms of proceeding shall be observed and had in conducting and carrying on the said actions to judgment, and in issuing execution, and in executing and returning the same, as are directed by the said act, and as if the said actions had been made cognizable thereby, saving always to either party an appeal, as in the said act is provided: *Provided nevertheless*, That nothing herein contained, shall be deemed, construed, or taken to extend to actions of trespass against officers, for any injuries by them done in an official capacity: *And provided also*, That in all actions of trespass for injuries done to real property, if the defendant pleads that the place in which the trespass is alleged to be committed, is his freehold, or the freehold of any person or persons, under whom he claims, and shall enter into a recognizance before the said justice, with one or more good sureties, to answer and pay the damages and costs which may be recovered, to the plaintiff in the said action, then the said justice shall not proceed further in the said trial, but shall send up his proceedings to the Supreme court or court of Common Pleas, and there the said action shall be tried and determined, under the

same rules and regulations as if it had been originally commenced there.

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SECT. 2. *And be it further enacted by the authority aforesaid,* That where any person or persons is, or are brought before any justice of the peace, by virtue of any legal process, and charged with having committed any assault, or assault and battery, on another, and the party complained against, shall agree to submit the matter to the determination and judgment of the said justice, then he is hereby authorized and empowered to proceed to impose such fine upon the accused, if guilty, as he, in his discretion, may think fit, together with the costs; and the said offender or offenders, shall stand committed until the said fine and costs be paid; but in case the parties, or either of them, should not be ready to proceed to a hearing, then the said justice shall postpone the hearing to a future day, and take a recognizance from the accused, with one or more good sureties, for his, her or their appearance on that day, before the said justice, and that he, she or they shall not depart without the leave of the said justice, at which time the said matter shall be heard and determined as aforesaid.

Assaults and batteries, by consent of accused, may be heard and determined before a justice.

SECT. 3. *And be it further enacted by the authority aforesaid,* That if any person or persons shall have been bound in a recognizance before a justice of the peace, to appear at the court of General Quarter Sessions of the peace and gaol delivery, on a charge of having committed an assault, or an assault and battery, and the parties complaining and complained against, shall have compromised the matter previously to the return of the said recognizance, the said justice may, in his discretion, withhold the said recognizance, and all others touching the said matter, and not return the same to the court, the accused paying all costs.

When recognizances may be withheld.

Passed at Dover, January 24, 1810.

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CHAP. CXI.

An ACT specially authorizing the Levy court of New-Castle county, to adopt measures for the destruction of the crows in said county.

Levy court of New-Castle, to raise a fund for the destruction of crows.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Levy court of the county of New-Castle be, and is hereby authorized and empowered to make such provisions, at their meeting, to assess and calculate a rate for the county rates and levies for said county, as to said Levy court may be thought proper, and advisable, for raising and collecting a fund, and applying the same to the destruction of the crows in said county.

To appoint persons.

SECT. 2. *And be it enacted*, That the said Levy court be, and is hereby further authorized and empowered to appoint all such persons, and make such rules for their government; and from time to time, to do and perform every matter and thing which a majority of the members thereof may deem necessary, for carrying into effect the intent and design of this act, and shall compel such persons as may be charged with the application of any monies belonging to said fund, to settle their account with said Levy court; and said Levy court shall report the same to the auditor of this State, in the same manner as other public disbursements.

Levy court to report to the auditor.

Passed at Dover, January 24, 1810.

C H A P. CXII.

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An additional supplement to the act, entitled, "An act for regulating elections; and ascertaining the number of the members of assembly." 1 vol. 146--500.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That every sheriff, or other person officiating as presiding judge, at any general election in either of the counties of this State, shall within ten days after the close of any general election for a governor, or members of the General assembly, file and deposit in the office of the prothonotary of the court of Common Pleas in Kent county, good and true returns of the said elections, in the same manner and form as the said sheriff, or other person officiating as judges of the said elections, are required by the act to which this is a supplement; and shall also certify to said prothonotary, the names of the persons elected; which returns the said prothonotary, when required, shall deliver to any person returned as a member of the Senate or House of Representatives from the several counties to which they may respectively belong, on the first day of the meeting of every General assembly, after such election as aforesaid, to be by such person laid before the house in which he is elected a member.

Returns of the election of governor & members of the General assembly, to be deposited in the office of prothonotary of Kent county;

Which he shall upon request, deliver to any member elect.

SECT. 2. *And be it enacted,* That every sheriff, or other person officiating as presiding judge, at any general election in either of the counties of this State, not making good and true returns, according to the directions of this act, and of the act to which this is a supplement, shall forfeit for every such offence, the sum of three hundred dollars, to be recovered by indictment, and applied to the use of the State; and moreover the said sheriff, or person

Penalty for neglecting to make returns.

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so offending, shall be guilty of a contempt, and liable to such fine as the Senate or House of Representatives may think proper to impose.

No part of the act to which this is a supplement, repealed.

SECT. 3. *Provided always nevertheless*, That nothing herein contained, shall be construed, deemed or taken to repeal; or make void, any part of the act to which this is a supplement.

Passed at Dover, Jan. 25, 1810.

CHAP. CXIII.

An ACT to enable the owners and possessors of the branch and low-grounds extending from the bridge, in North-street, in Dover, Kent county, near the Methodist meeting-house, through the Westerly and Southerly parts of the town-land of the said Dover, to St. Jones' creek; to cut and support a ditch through the said branch and low-grounds.

Passed at Dover, Jan. 25, 1810---Private act.

CHAP. CXIV.

An ACT to prevent swine running at large within the village of Milford, and the bounds therein prescribed.

Swine not to run at large in Milford, & certain limits.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the fifteenth day of February next, no swine, hog or hogs, shall be permitted or suffer-

ed to run at large by any inhabitant or inhabitants, or other person or persons whatsoever, residing within the bounds and limits herein after mentioned, that is to say, within the circle of one half of a mile of the draw-bridge over Mispillion creek, at Milford, on the Sussex side thereof, and within the circle of three-quarters of a mile from said draw-bridge, on the Kent side of said creek.

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SECT. 2. *And be it enacted*, That if any person or persons, inhabitants within the bounds aforesaid, shall keep, or suffer, any of their hogs or swine, to run at large after the said fifteenth day of February, within the bounds or limits aforesaid, the owner or owners of all such hogs or swine, shall forfeit the same to, and for the use of such person or persons, taking up and securing said swine, hog or hogs, or pay the sum of one dollar, for each and every hog suffered to run at large as aforesaid, to be levied with costs, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of any justice of the peace of the said county of Kent or Sussex, to be paid to the treasurer of the said village of Milford, for the time being, to be applied by the commissioners thereof to the purpose of repairing or lighting the streets of the said village.

Penalty.

Appropriation
thereof.

SECT. 3. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for any person or persons whatsoever, residing within the bounds aforesaid, to shoot, or kill, all such hog, hogs or swine so kept, permitted, or suffered to run at large as aforesaid, within the bounds or limits aforesaid, and to give notice thereof, within three hours thereafter, to the owner or owners, or leave notice at his, or her dwelling, provided the owner or owners be known, and not otherwise.

May be killed.

Notice thereof
to be given to
the owner.

SECT. 4. *And be it enacted by the authority aforesaid*, That nothing in this act contained, shall be taken or construed to affect the hog or hogs of any person or persons, living or residing without the

Not to extend
to hogs of persons
residing
out of Milford,
unless, &c.

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bounds or limits described in this act, unless such hog or hogs, are kept or fed by any person or persons, living or residing within the bounds or limits aforesaid, and suffered to run at large.

In case of suit,
general issue
may be pleaded,
and this act given
in evidence.

SECT. 5. *And be it enacted*, That if any suit or action shall be commenced, brought or prosecuted against any person, residing within the bounds aforesaid, for any act or thing by him, her or them done, in pursuance of this act, it shall and may be lawful to and for the defendant or defendants, in such suit or action, to plead the general issue, and to give this act in evidence on the trial thereof, whereof all justices of the several courts in this State, are hereby strictly required and enjoined to take notice, and govern themselves accordingly.

Passed at Dover, Jan. 26, 1810.

CHAP. CXV.

An ACT, regulating and establishing the fees of collectors of taxes.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, if any collector of county rates and levies, of the poor-tax, and of the road-tax, shall be obliged to enforce the collection of the assessment, by distress and sale, or by execution of the person, the fees of the said collector, for taking and selling the goods and chattels by virtue of his warrant in execution, or making distress, shall be fifty cents, and no more; and for taking the body of any person, and delivering him or her to the sheriff or

gaoler, shall be fifty cents, and no more; any law, usage or custom to the contrary notwithstanding. And any person, whose property shall be liable to the payment of the said assessment, or any part thereof, may discharge the same at any time before the day of sale of the property distrained, and in such case, the collector shall receive for his trouble, twenty-five cents, and no more. And no collector shall take or receive distinct fees for levying by distress and sale, or by taking in execution the body of any person, for the several taxes above mentioned; but he shall have only one fee for the said three several taxes: and if the collectors, or any of them, of the counties, rates and levies, of the poor-tax, and of the road-tax, shall be appointed by the State treasurer, collector in any hundred, of any tax granted for the support of government, every such collector, shall not take or receive any distinct fee for levying by distress and sale, or by taking in execution, the body of any person for any such tax or taxes, but the whole shall be considered, in relation to his execution or distress, as one tax, and he shall take only one fee for the said four taxes.

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Passed at Dover, Jan. 27, 1810.

C H A P. CXVI.

An ACT to prevent swine from running at large within the limits therein mentioned.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the first day of March next ensuing, the passing of this act, no inhabitant or inhabitants, or

Hogs not to run at large within certain limits.

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To be forfeited
to the use of the
poor.

other person or persons whatsoever, residing within the bounds and limits herein after described, shall suffer or permit any of their hogs or swine to run at large within the limits or bounds following, that is to say, beginning in the fork of Murderkill and Spring-creeks, and running up Spring-creek to the division line of the heirs of Matthew Lowber and Thomas Lowber, thence with said division line, to a corner stone, formerly a corner of David Leech and Peter Lowber's land, thence with a direct line to the fork of two roads, one of which leads to Bonwell's mill, the other to Douglass' mill, and running with the latter to, and down a branch which runs into the Murderkill creek, then down said creek, binding therewith, to the beginning. And if any person or persons, shall permit or suffer any of his or her hogs or swine, to run at large within the bounds and limits aforesaid, after the said first day of March next, the owner or owners of all such hogs or swine, shall forfeit the same to the trustees of the poor of Kent county, who shall apply the same to and for the use of the poor of said county.

A receiver to be
appointed by
the court of
Quarter Sessions.

SECT. 2. *And be it enacted*, That it shall and may be lawful for the justices of the court of General Sessions of the peace, and they are hereby authorized, directed and required to appoint one discreet and suitable person, residing within the limits and bounds aforesaid, as a receiver for the purpose of keeping and detaining all such hogs or swine, so permitted and suffered to run at large as aforesaid, within the aforesaid limits.

Penalty for refusing to accept
such appointment.

SECT. 3. *And be it enacted*, That if any person whatsoever, who shall be appointed to serve as receiver, in manner aforesaid, shall refuse to accept of said appointment, or neglect the duties herein after prescribed, for every such person so refusing or neglecting, shall forfeit and pay the sum of twenty dollars, to be recovered as debts under twelve pounds are by the laws of this State recoverable, together with costs thereon, by any person or persons who

will prosecute for the same, one moiety thereof to and for the use of the person or persons prosecuting, and the other moiety to and for the use of the poor of Kent county: *Provided*, That if any person or persons, so appointed receiver, shall refuse to serve, die or be rendered incapable of acting, then and in every such case, it shall and may be lawful for the justice of the peace who shall reside within the nearest distance of the district or limits aforesaid, and he is hereby authorized, directed and required to appoint, in writing, under his hand and seal, some other fit and suitable person, which said person so appointed, is hereby empowered and required to act in the premises as fully as the person so having refused, died, or having been rendered incapable, until the next court of General Sessions of the peace in and for Kent county.

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In case of refusal
how another to
be appointed.

SECT. 4. *And be it enacted*, That it shall and may be lawful for any person or persons, whatsoever, to seize, drive or carry alive all such hogs or swine, so permitted to run at large as aforesaid, within the limits aforesaid, to the receiver, who is hereby authorized, empowered and required to receive and detain the same, and proceed to have them appraised by two freeholders, within the limits aforesaid, on their oaths or affirmations, and to sell the same at public vendue, first giving five days public notice within the said district, to and for the use of the poor of said county, first paying a reasonable compensation to the person or persons driving or conveying such hogs or swine to the receiver, and retaining what may be reasonable for his own trouble, and other necessary expenses arising, to be adjudged of by the freeholders having appraised the said hogs or swine, the said receiver always accounting with the nearest trustee of the poor of Kent county, which said trustee is hereby authorized and required to enquire into and settle the same from time to time with the receiver; and the said trustee, and the said receiver, to keep fair accounts of the proceedings and money arising therefrom.

Hogs permitted
to run at large,
to be taken to
the receiver and
appraised and
sold.

Receiver to set-
tle his accounts
with the nearest
trustee of the
poor.

Hogs to be restored to owner upon payment, &c.

SECT. 5. *Provided nevertheless,* That if any owner of any hog, hogs or swine, shall within three days after the same shall be driven or carried to the receiver aforesaid, pay the sum of fifty cents for each and every hog so driven or carried to the receiver aforesaid, together with such expenses to the person or persons who drove or carried the same, and to the receiver to whom the same shall have been carried as aforesaid, for the keeping thereof, to be adjudged by the freeholders having appraised the same, then and in every such case, such hog, hogs or swine, shall be restored to the owner or owners thereof, on his, her or their application for the same.

In case of suit, defendant may plead the general issue, and give this act in evidence.

SECT. 6. *And be it enacted,* That if any suit or action shall be commenced, brought or prosecuted against any person or persons whatsoever, for any act or thing by him, her or them done in pursuance of this act, it shall and may be lawful to and for the defendant in such suit or action, to plead the general issue, and on the trial to give this act in evidence, whereof all justices of the several courts of law, and all justices of the peace, are hereby strictly required and enjoined to take notice, and govern themselves accordingly.

Passed at Dover, January 29, 1810.

C H A P. CXVII.

An ACT for devising and establishing a seal to be used by the auditor of accounts of this State, and for other purposes.

Auditor to procure a seal.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That

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the auditor of accounts of this State, shall, within four months after the publication of this act, procure a seal of silver, steel or copper, to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the State of Delaware, or such other device, in stead thereof, as he may direct, and a motto or inscription to describe the office to which such seal belongs; which seal shall be thenceforth taken, adjudged and deemed the seal of the office of the auditor of accounts of this State, and may and shall be made use of and affixed to all writings and copies to which a seal of office may or ought to be affixed.

SECT. 2. *And be it further enacted by the authority aforesaid,* That the State treasurer be, and he is hereby authorized and directed to pay to the auditor of accounts, or his order, the sum of money that the said seal shall cost, provided the same does not exceed the sum of twenty dollars.

How cost thereof to be paid.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the sum of one hundred dollars be, and hereby is, appropriated to the purchase of a screw-press for the secretary's office; and the said secretary is hereby required to procure the said screw-press; and his order drawn on the State treasurer for the price thereof, provided it do not exceed the said sum of one hundred dollars, shall be paid out of any money in the treasury not otherwise appropriated.

One hundred dollars appropriated to purchase a screw for the secretary's office.

SECT. 4. *And be it further enacted by the authority aforesaid,* That the secretary of State, after he shall have procured the said screw-press, shall deliver over to the auditor of accounts, the screw now used in the secretary's office, to be kept, used and employed in the auditor's office.

Old screw to be delivered to the auditor.

Passed at Dover, January 29, 1810.

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C H A P. CXVIII.

An ACT to authorize Andrew Naudain, administrator of Risdon Bishop, deceased, to convey and assure a quantity of land therein mentioned, to Henry Stewart.

Passed at Dover, Jan. 29, 1810—Private act.

C H A P. CXIX.

An ACT to establish the name of a village in North-West-Fork hundred, heretofore called Bridge-Branch.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after passing this act, the village heretofore called Bridge-Branch, shall be called and known by the name of BRIDGE-VILL, any law, usage or custom to the contrary notwithstanding.

Passed at Dover, Jan. 30, 1810.

C H A P. CXX.

An ACT for regulating the trial of causes by special juries, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, it shall and

*See post 444.
Art. 5 pa. 235*

On motion of plaintiff or defendant, the court shall order a special jury.

may be lawful for the Supreme court or court of Common Pleas, on the motion of any plaintiff or plaintiffs, defendant or defendants, in any action, cause or suit whatsoever, depending or to be brought and carried on in said Supreme court, or court of Common Pleas, and the said courts are hereby authorized and required, upon motion as aforesaid, to order and appoint a jury to be struck, and after such order, the party applying for such struck jury, shall give due notice to the opposite party, and to the clerk of said court, or his deputy, of the time and place of striking such jury, at which time and place, the clerk of said court, or his deputy, shall attend with a list of the names of forty-eight free-holders of his county, qualified to serve as jurors, with their places of abode and additions, as he shall deem most indifferent between the parties, and best qualified to try such cause, and then the party applying for such struck jury, or his agent or attorney, shall first strike out one of the said names, and then the opposite party, or his agent or attorney, another, and so alternately, until each shall have struck out twelve; but if such opposite party shall not attend such striking, nor any person in his behalf, then the said clerk, or his deputy, shall strike for the party not attending, and when each have struck out twelve, as aforesaid, the remaining twenty-four, shall be the jury to be returned to try the said cause, and the clerk of said court, or his deputy, shall thereupon make a fair copy of the names of the said remaining twenty-four persons, with their places of abode and additions, and certify the same under his hand, to be the list of jurors struck as aforesaid, for the trial of such cause or issue; which list shall be delivered to the sheriff or other officer, who ought to summon such jury, together with the venire facias, and such sheriff, or other officer, shall thereupon annex the same list to such venire, and return the same as the panel of the jury to try such cause, and summon them according to the command of the same writ; and upon the trial of such cause, the jury shall be drawn as in other cases,

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Manner of striking of jury.

List of jurors to be delivered to the sheriff; and his duty.

How jury drawn.

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Party applying
for struck jury,
to pay the ex-
pense for strik-
ing thereof.

When clerk in-
terested, court
shall appoint
two persons to
strike the jury.

How expense of
special jury to
be paid.

Jurors' fees.

and the first twelve of them who shall be drawn and appear, and are not challenged, or shall be found duly qualified and indifferent, shall be sworn to try the said cause; but the party who shall apply for such struck jury, shall pay the fees for striking thereof, and shall not have any allowance for the same upon the taxation of costs: *Provided always*, That if the clerk of such court shall be interested in the cause, or related to either of the parties, or if it shall appear probable to the court, that he is not indifferent between them, then and in such case, the court shall nominate two proper persons who are indifferent between the parties, to strike the jury, who shall do and perform every thing required to be done by such clerk, relating to the striking of such jury.

SECT. 2. *And be it further enacted*, That the party who shall apply for a special jury, shall pay and discharge all the expenses occasioned by the trial of the cause by such special jury, and shall not have any further or other allowance for the same, upon taxation of costs, than such party would have been entitled unto, in case the cause had been tried by a common jury, unless the court before whom the cause is tried, shall immediately after the trial certify in open court upon the record, that the same was a cause proper to be tried by a special jury, and then and in such case, the costs of such special jury, shall be taxed and paid as other costs of the suit: *Provided always*, That where a special jury shall be applied for, the court, where such application shall be made, shall, and are hereby required to order and direct the party applying for such jury, to pay the costs or such part thereof, as the said court, in their discretion, may deem proper, until the trial of the cause wherein such jury shall be summoned.

SECT. 3. *And be it enacted*, That every juror, summoned in pursuance of this act, shall be allowed for every day of his attendance and service in any of the courts of this State, provided he appear at

every calling of his name by order of the court, the same fees as are allowed petit jurors for their attendance in any of the courts, to be taxed and paid as herein before directed.

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SECT. 4. *And be it enacted*, That whensoever any civil cause shall be brought on to trial, and the jurors shall be drawn agreeably to the provisions of the act, entitled, "An act for the more certainly obtaining returns of impartial juries, and their better regulation;" it shall and may be lawful for either party, by himself or attorney, to challenge without cause, any juror or jurors so drawn, not exceeding three in number, and the deficiency, so created, shall be supplied by drawing as many additional names as may be necessary to make up a full jury to try such cause.

In all civil suits, either party may challenge three jurors without cause.

Passed at Dover, Jan. 30, 1810.

C H A P. CXXI.

An additional supplement to the act, entitled, "An act to establish a bank, and incorporate a company under the name of The Farmers' Bank of the State of Delaware."

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That The Farmers' Bank of the State of Delaware, shall be, and is hereby vested with full and ample powers, and authorized by that name to assure and effect insurance on houses, buildings, stores, goods, wares and merchandize; from loss, or damage by fire, and on lives, by such mode, manner and form of contract as shall, or may be devised, prescribed

The Farmers' Bank of the State of Delaware, authorized to effect insurance on houses, &c.

Directors authorized to make bye-laws in relation thereto.

or determined on from time to time, by any general, adjourned or special meeting of the directors of the said bank, in relation to which the said directors, or a majority of those of them that may be assembled together, shall have and are hereby vested with power and authority to make and enact from time to time, such bye-laws and ordinances (not being contrary to the constitution and laws of this State) as they may deem necessary, and the same to repeal, alter, and at pleasure re-enact.

The seal of the bank to be used in all contracts or policies of insurance.

SECT. 2. *And be it further enacted*, That the present and any future seal of the Farmers' Bank of the State of Delaware, shall be the seal which shall be used by the said bank, in all contracts or policies of insurance to be made and entered into by the said bank, in virtue of this act.

Policies to be sealed with the seal of the bank, and attested by cashier; and be signed & sealed by the assured.

SECT. 3. *And be it further enacted*, That every contract or policy of insurance from loss or damage by fire or on lives, shall be sealed with the seal aforesaid, and attested by the cashier of the principal bank, or by the cashier of one or other of the branch banks, as such contract or policy may be made at the principal bank, or either of the said branches; and shall also be signed and sealed by the assured, in the presence of one or more credible witnesses; and moreover, that a duplicate of each such contract or policy shall be in like manner, and at the same time sealed and attested, and be also executed by the assured; one of which said instruments shall be retained by the principal bank, or branch banks, where the same may have been executed, and the other of the said instruments delivered to the assured.

The principal bank and branch banks to be offices for insuring property.

SECT. 4. *And be it further enacted*, That the principal bank at Dover, and each of the branch banks at New-Castle and George-town, shall, respectively, be deemed and taken to be, and they are hereby, in addition to their existing corporate powers, declared to be offices for insuring property of

the nature and description herein before specified, and lives; and that such insurances may be there made, entered and effected, and have a binding effect in law, accordingly, on such terms and at such rate of premium and commission, as shall be from time to time established and provided by the bye-laws and ordinances of the said directors, or a majority of those of them that may be assembled together.

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SECT. 5. *And be it further enacted*, That the directors of the Farmers' Bank of the State of Delaware, are hereby vested with, and authorized to exercise all other powers, rights and privileges which may conduce to promote and advance the powers, rights and privileges vested in the said corporation, by the preceding clauses of this supplementary act.

General power
of directors.

SECT. 6. *And be it further enacted*, That every matter and thing herein contained, shall be construed and taken most favourably and beneficially for the said corporation.

This act to be
construed most
favourably for
the corporation.

SECT. 7. *And be it further enacted*, That the times and manner of making, and amount of dividends to be made, of the pecuniary gains and acquisitions of the said corporation, in the capacity of an insurance company, as aforesaid, and compensations to officers, shall be ascertained and provided for by the bye-laws and ordinances of the said corporation.

How dividends,
&c. made.

SECT. 8. *And be it further enacted*, That the presidents of the branch-banks at New-Castle and George-town, respectively, shall have a right to demand and receive from the cashier of the principal bank at Dover, from time to time, such quantities of blank paper, sealed with the seal of the said corporation, as they may deem requisite for effectuating the purposes, and attaining the benefits and emoluments, contemplated by the provisions of this supplementary act.

Presidents of
the branch
banks to be fur-
nished with
blank paper,
sealed with the
seal of the cor-
poration.

Passed at Dover, Jan. 30, 1810.

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CHAP. CXXII.

An ACT making provision for the support of government, for the year of our Lord, one thousand eight hundred and ten; and for the more effectual ordering,

5 vol. p. 351, 8 255898ing, assessing, levying and collecting all such taxes as may be granted by the General Assembly.

Clerks of the peace, to furnish the auditor annually with lists of assessment.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That for the better and more effectual ordering, assessing, levying and collecting of the taxes hereby granted, and of all other taxes which may be hereafter granted for the support of government, the clerks of the peace in the respective counties in this State, officiating as clerks of the Levy courts and courts of Appeal within the same, shall, and they are hereby required, within twenty days next after the assessment now making in the several counties of this State, shall be arranged and finally adjusted by the court of Appeals, and so annually hereafter, within twenty days next after the assessments shall respectively be arranged and adjusted as aforesaid, in said counties respectively, cause to be transcribed from the minutes and proceedings of the said Levy courts and courts of Appeal, a fair and true duplicate of the said assessments, respectively, and shall carefully transmit and cause the same to be delivered to the auditor of accounts, for the time being, within the said twenty days, duly certified by the said clerks respectively. And the said duplicates, shall, respectively, contain the assessment of the several hundreds in each of the said counties, certified by the clerk of the peace, so that the same may be detached and separated from each other, to be delivered to the collector of each hundred, as herein after is directed and required; and the said auditor of accounts shall, and he is hereby required to ascertain upon the whole rate of the*

The auditor to ascertain the sum per centum, which may be necessary to raise the State tax;

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counties respectively, according to the said assessments now making, and so, annually, hereafter upon the said assessments hereafter to be made, arranged and adjusted as aforesaid, within five days after the said assessments shall be delivered to him as aforesaid, the sum per centum necessary to raise, clear of all charges of collection, the taxes hereby granted and laid, and all other taxes which may be hereafter granted for the support of government, and to be assessed, raised and levied in the counties aforesaid, respectively; and the said auditor of accounts is hereby directed and required, within five days after the said sum per centum shall be ascertained, to make out a warrant under his hand and seal, directed to the collector of each hundred, who may be appointed agreeably to the directions of this act, which shall be annexed to the duplicate of the assessment of the said hundred, authorizing and requiring such collector, forthwith, to demand and receive from the persons rated in his assessment list, the sum per centum, which the said auditor, for the time being, shall ascertain as necessary to raise the sum or sums, hereby or hereafter to be granted as aforesaid; and the said collectors, respectively, shall forthwith, after the said lists of assessment and warrants shall be delivered to them, respectively, proceed to collect, and in case of neglect or refusal to pay, to levy and recover the same, in the manner directed by the act of assembly, entitled, "An act for raising county rates and levies."

And issue his warrants for the collection thereof.

Duty of collectors.

SECT. 2. *And be it enacted by the authority aforesaid,* That the State treasurer shall appoint collectors for the several hundreds, for collecting the taxes hereby granted and laid, and for collecting all other taxes which may be hereafter granted for the support of government; and the said collectors shall each of them give bond to the said treasurer, in double the sum he is to collect, with such sureties as the State treasurer shall approve of, conditioned for the faithful performance and discharge of their

State treasurer to appoint collectors; and be answerable for any loss, &c.

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duty respectively, in the execution of this act, and for paying according to law all taxes which shall be committed to them for collection; and the State treasurer shall be answerable to the State for any loss which may arise to the State from the insufficiency of the collectors or their sureties, to pay the money by them to be collected respectively, by virtue of this act, or any other act as aforesaid.

To notify the auditor of such appointments; who shall deliver to the said treasurer, the duplicates of assessment, with his warrant annexed thereto.

SECT. 3. *And be it enacted by the authority aforesaid,* That the State treasurer shall, on or before the second Tuesday in March next, and so on or before the second Tuesday in March annually, hereafter, certify to the auditor of accounts, the names of the collectors, respectively, of the several hundreds in each of the counties of this State, appointed as aforesaid: and the said auditor of accounts shall, within five days after the said sum per centum shall be ascertained, as before is directed, deliver to the State treasurer, at the office of the said auditor, where the State treasurer shall attend, the duplicate of the assessment of the hundreds aforesaid, with the warrant thereunto annexed, made out as aforesaid, directed to the collector of each hundred as aforesaid, which said duplicates of assessment, and warrants annexed thereto as aforesaid, shall be delivered by the said treasurer to the said collectors respectively, within ten days after the same shall be, or ought, according to the directions of this act, to be received by him.

When lands or timber, grain, or grass growing thereon, may be sold for taxes.

SECT. 4. *And be it enacted by the authority aforesaid,* That in all cases where the collectors can find no effects upon the lands belonging to the party chargeable with the assessment, or his or her tenant, or person having the care thereof, sufficient to pay the same, if distrained, and the rate cannot otherwise be recovered, by reason of non-residence or otherwise, it shall and may be lawful for the collectors of the hundreds where the lands lie, with the approbation of the court of general Quarter Sessions of the peace, held for the same county,

after thirty days public notice, to sell so much of said lands, or the timber, grain, or grass thereon, at public sale, as the said court may judge to be necessary for the payment of the said assessment.

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SECT. 5. *And be it enacted by the authority aforesaid,* That the said collectors respectively shall, on or before the first Monday in November next, pay over to the State treasurer, the sum or sums of money that they may or ought to have levied by virtue of this act, and in like manner the said collectors respectively, shall, on or before the first Monday in November annually, hereafter, pay over to the State treasurer, the sum or sums of money they may or ought to levy, by virtue of all and every act which may hereafter be passed, for granting other taxes for the support of government.

When collectors to pay over money in their hands.

SECT. 6. *Provided nevertheless, and be it enacted by the authority aforesaid,* That each and every collector may retain in his hands, of the sum or sums of money, by him to be collected and paid as aforesaid, to cover his commissions and delinquents, sixteen dollars in every hundred dollars, until, and no longer, than the sitting of the Levy court, on the first Tuesday of February then next after, at which time, each and every of the said collectors, are hereby required to exhibit and settle their account of errors and delinquents, with the Levy court of their counties respectively, after which no further accounts of errors and delinquents shall be allowed; and the balance of the said tax then remaining in the hands (if any,) the said collectors shall pay over to the State treasurer, deducting thereout eight dollars, for every hundred dollars by them collected and paid to the State treasurer, for their commissions and trouble of collecting; and the said collectors respectively, shall for each and every payment of any sum of money whatever, made to the State treasurer, take duplicate receipts, one of which shall be transmitted to the clerk of the peace in each coun-

Collectors may retain for commissions, &c.

When they shall settle.

Commissions.

To take duplicate receipts.

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ty, within fifteen days after taking the same, under the penalty of four dollars for every such neglect or refusal; and the said clerk of the peace shall, ex officio, return the said duplicate receipts to the auditor of accounts, within three months after the receipt thereof, respectively.

Times & mode
of treasurer's
accounting with
the auditor.

SECT. 7. *And be it enacted*, That the State treasurer shall, once in every three months, appear in the auditor's office for the settlement of his accounts, and at every such time, he shall render to the auditor of accounts, an exact statement of all the monies by him received, with the names of the persons by whom paid, together with a statement of the settlements he shall from time to time respectively make with the collectors, specifying thereon the several sum and sums of money allowed to each collector for his commissions, and his allowances for delinquencies, and also a statement of monies by him paid, what amount, the time when, and the vouchers authorizing every such payment, and shall, in the first week of December annually, appear in the said office, and proceed to adjust, settle and close his accounts for the year last past with the auditor, and the State treasurer shall discharge himself of all monies which shall come into his hands, in pursuance of his office; and shall be allowed commissions for all monies which shall come into his hands in pursuance of this act, and be duly accounted for, and for his services performed in pursuance of this act, at the rate as is prescribed in the act, entitled, "An act respecting the funds of this State," passed the twenty-fifth day of January, in the year one thousand eight hundred.

His commissions, (3 vol. 136)

His bond, if approved, to be deposited in the auditor's office.

SECT. 8. *And be it enacted by the authority aforesaid*, That all and every bond given by the State treasurer, in pursuance of any act of the General Assembly, if approved by the governor, shall be transmitted by the governor to the auditor of accounts, to be by him safely kept in his office.

SECT. 9. *And be it enacted by the authority aforesaid,* That the sum of twelve thousand, five hundred dollars shall be raised and paid into the treasury of this State, within the time and in the manner herein before directed, and shall be assessed and levied in the several counties of this State, in the following proportions: that is to say, for the county of New-Castle, the sum of four thousand, seven hundred and sixty-one dollars and ninety cents; for the county of Kent, the sum of four thousand, one hundred and sixty-six dollars and sixty-seven cents; for the county of Sussex, the sum of three thousand, five hundred and seventy-one dollars and forty-three cents.

Twelve thousand five hundred dollars to be raised for the year 1810.

Each county's proportion.

AND WHEREAS, it appears by a report of the auditor of accounts, dated on the twentieth day of January, one thousand eight hundred and ten, and made in conformity to a resolution of the House of Representatives of this State, of the same date, that there is now due from the county of New-Castle, upon a general statement of the surplus and deficiencies of State-taxes, from the year one thousand, seven hundred and ninety, to the year one thousand, eight hundred and eight, both inclusive, a balance of eight hundred and eighty-seven dollars and seventy-five cents.

SECT. 10. *Be it therefore enacted by the authority aforesaid,* That there shall be assessed and levied in the said county of New-Castle, in addition to the aforesaid sum of four thousand, seven hundred and sixty-one dollars and ninety cents, that being the amount of the quota of the said county, the sum of eight hundred and eighty-seven dollars and seventy-five cents herein before granted, the aforesaid sum of eight hundred and eighty-seven dollars and seventy-five cents, clear of commissions and delinquencies, within the time and in the manner herein before directed.

In addition to \$4,761 90 there shall be raised in New-Castle county, for the year 1810, \$ 887 75.

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AND WHEREAS, it appears by the said report of the said auditor of accounts, made as aforesaid, that there is now due upon a general statement of the surplus and deficiencies of the State taxes, from the year one thousand seven hundred and ninety, to the year one thousand eight hundred and eight, both inclusive; to the county of Kent, the sum of five hundred and eighty-nine dollars and forty-nine cents; and to the county of Sussex, the sum of four hundred and seventy-seven dollars and two cents.

§ 589 49, remitted to Kent, and
§ 477 2, remitted to Sussex.

SECT. 11. *Be it therefore enacted by the authority aforesaid,* That there shall be, and is hereby remitted to the county of Kent, the said sum of five hundred and eighty-nine dollars and forty-nine cents; and to the county of Sussex, the sum of four hundred and seventy-seven dollars and two cents, of the said counties' respective proportions of the said sum of twelve thousand five hundred dollars, granted by this act, for the support of government for the present year.

Collectors fees.

SECT. 12. *And be it enacted by the authority aforesaid,* That if any collector shall be obliged to enforce the collection of the assessment by distress and sale, or by execution of the person, the fees of the said collectors for taking and selling the goods and chattels by virtue of his warrant in execution, or making distress, shall be fifty cents and no more; and for taking the body of any person, and delivering him or her to the sheriff or gaoler, shall be fifty cents, and no more; any law, usage or custom, to the contrary notwithstanding. And any person whose property shall be liable to the payment of the said assessment, or any part thereof, may discharge the same at any time before the day of the sale of the property distrained; and in such case, the collector shall receive for his trouble, twenty-five cents and no more, any law, usage or custom to the contrary notwithstanding.

SECT. 13. *And be it enacted by the authority aforesaid,* That the balance of the sums aforesaid hereby directed to be raised, after deducting the aforesaid sums, remitted to the counties of Kent and Sussex respectively, together with all other monies which now are, or hereafter may come into the treasury of this State, (except such monies as may be received from the land and loan-offices of this State, and from marriage and tavern licenses, not appropriated to the payment of the salaries of the chancellor and judges,) shall be appropriated and applied, in the following manner: that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due, to the governor, chancellor, judges of the Supreme court, judges of the court of Common Pleas, attorney general, secretary and auditor of accounts, up to the first day of January, in the year one thousand eight hundred and eleven; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance to the members of the General Assembly, their clerks and other expenses; and for the printing of the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof, and the residue thereof, if any there be, shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law,

Appropriation
of the sum of
\$ 12,500.

For payments of
salaries;

For expenses of
the General As-
sembly;

And for payment
of debts to citi-
zens.

SECT. 14. *And be it enacted by the authority aforesaid,* That so much of the act, entitled, "An act for the better ordering, assessing, levying and collecting taxes, and making provision for the support of government, for the year of our Lord, one thousand seven hundred and ninety-eight," as is hereby altered or supplied, shall be and is hereby repealed, made null and void.

Repeal.

Passed at Dover, January 30, 1810.

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1 vol. 508.

A Supplement to an act, entitled, "An act to prevent swine running at large in the town of Dover."

Preamble.

WHEREAS, considerable improvements have been made in the vicinity of said town, since the passing of the act to which this a supplement, and it hath been represented to this General Assembly, that great injury is sustained by reason of hogs or swine being permitted to run at large in the neighbourhood thereof;

Hogs not to run at large within certain limits.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, no person or persons whatsoever, shall suffer or permit their hogs or swine to run at large within the bounds or limits following: to wit, beginning at St. Jones' bridge, where the State road leading from Dover to Smyrna crosses the same, and running thence down the said creek, southerly, to the line dividing lands of John Banning and Elizabeth Nixon, thence westerly with the said line to the main road leading from Dover to Frederica, and crossing the said road, and still running the same course with the line dividing the lands of Willard Hall from the lots of Elizabeth Nixon, Jacob Furbee, Nicholas Ridgely and Henry M. Ridgely, to the south-west corner of the lot of the said Henry M. Ridgely, thence northerly, running on the line dividing the said lot of Henry M. Ridgely from the farm of Ann Ridgely, till it comes into West-street, of the town of Dover, then with the said street, the same course, to such other point as shall, on a due east course, strike St. Jones' bridge aforesaid, and from thence on said due east line, to the said bridge; and if any person or persons, shall after the passing of this act, permit or suffer their hogs or swine to*

run at large within the said bounds or limits, such person or persons shall be subject to the same penalties and forfeitures, and to be recovered in the same manner, as is directed by the act to which this is a supplement.

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SECT. 2. *And be it further enacted,* That it shall and may be lawful for any person or persons whatsoever, to shoot or kill such hogs or swine, so permitted, or suffered to run at large within the bounds or limits aforesaid, and to give notice thereof to the gaoler of Kent county, to be by him taken and used as is directed by the said act; and upon any suit or action commenced or prosecuted against them, for any thing done in pursuance hereof, to plead the general issue, and on the trial thereof, to give this present act, and the act to which this a supplement, in evidence, of which all justices of the several courts of law, and other persons whatsoever, are hereby strictly required and enjoined to take notice and govern themselves accordingly.

May be killed;

And in case of suit, defendant may plead the general issue, and give this act in evidence.

Passed at Dover, Jan. 31, 1810.

CHAP. CXXIV.

An ACT concerning negroes and mulattoes.

SECTION 1. **B**E it enacted and declared, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That where, by any deed of manumission, executed agreeably to the form prescribed by the act, entitled, "An act concerning negro and mulatto slaves," or by any last will and testament, any negro or mulatto slave hath been, or hereafter shall be declared to be free, after serving a limited time, such

Negroes manumitted, to be free at a future period, to be deemed in the mean time slaves.

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negro or mulatto shall in the mean time, until the term for which he or she shall be held to service, be deemed and taken to be a slave; but nevertheless, after the expiration of such term, to be entitled to his or her freedom, and to all the immunities and privileges which a free negro or free mulatto may or can enjoy by the laws of this State.

And the issue of any such female negro, the males till twenty-five, and females until twenty-one.

SECT. 2. *And be it further enacted and declared,*

That the children of any such female negro or mulatto, born within the said term of service, and the issue of such female children, shall be in like manner deemed and taken to be slaves; the males until they severally arrive at the age of twenty-five years, and the females until they severally arrive at the age of twenty-one years; and after they shall have arrived at the respective ages aforesaid, they shall be free, and be entitled to all the immunities and privileges of free negroes or free mulattoes.

Negroes so manumitted, and brought into this State, from any other State, to be deemed slaves until the expiration of term of service.

SECT. 3. *And be it further enacted and declared,*

That any negro or mulatto, manumitted as aforesaid, who hath heretofore been, or hereafter shall be brought into this State, from any other State, shall in like manner be deemed and taken to be a slave, until the expiration of the term for which he or she shall be held to service by the terms of such manumission; provided that the said negro or mulatto shall not be older than thirty-five years of age, at the expiration of the said term.

The issue of such female negro to be slaves, the males until twenty-five, and females until twenty-one.

SECT. 4. *And be it further enacted and declared,*

That the children of any such female negro or mulatto, born within the said term of service, and the issue of such female children, shall be in like manner deemed and taken to be slaves; the males until they severally arrive at the age of twenty-five years, and the females until they severally arrive at the age of twenty-one years; and after they shall have arrived at the respective ages aforesaid, they shall be free, and be entitled to all the immunities and privileges of free negroes or free mulattoes.

SECT. 5. *And be it enacted by the authority aforesaid.* That if any person or persons, being the owner or owners of any slave or slaves above described, and who are to be free as aforesaid, at the expiration of the term of service, for which they may be held as aforesaid, his or their agent or factor, shall, after the passing of this act, export, or sell with an intent for exportation, or carry out for sale, from this State, any such negro or mulatto slave, without a license first had and obtained from the justices of the Supreme court, or justices of the court of General Quarter Sessions of the peace and gaol delivery, or any two of them, shall forfeit and pay for every negro or mulatto slave, so exported, or sold with an intention for exportation, or carried out for sale, the sum of five hundred dollars, to be recovered by indictment in any court of General Quarter Sessions of the peace and gaol delivery in this State; and the negro or mulatto slave, so exported, or sold with an intention for exportation, or carried out for sale, is hereby declared free, and entitled to enjoy all the privileges that a free negro or mulatto may or can do within this State.

Penalty for exporting or selling with intention to export such negroes.

SECT. 6. And for the prevention of such manumitted person or persons, or their issue as aforesaid, absenting themselves from their master's or mistress' service: *Be it enacted by the authority aforesaid,* That for such time as any such slave as aforesaid, shall absent him or herself from his or her master or mistress' service, without leave first obtained for the same, every such slave as aforesaid, for such absence and expenses of taking up, securing and other necessary charges, shall, at the expiration of the time of his or her servitude, make satisfaction by servitude, according to the judgment of any court of law or equity within this State, before which such slave as aforesaid, shall be brought for that purpose.

Such negroes absenting themselves from the service of their masters, shall make satisfaction by service.

A certificate of the names, age and sex, of children hereafter born, to be delivered to the recorder and by him entered in a book.

Recorder's fees.

Penalty for neglecting to deliver such certificate.

SECT. 7. *And be it further enacted by the authority aforesaid,* That every person, being an inhabitant of this State, who shall be entitled to the services of any child hereafter born of any negro manumitted as aforesaid, or of the issue of such manumitted negro as aforesaid, shall within twelve months after the birth of such child, cause to be delivered to the recorder of the county whereof such person shall be an inhabitant, a certificate in writing, containing the name, age and sex of the child so born; which certificate shall be by such recorder entered in a book to be by him provided for that purpose, and such record, or a certified copy thereof, under the hand and seal of such recorder, shall be received in evidence in all courts of law or equity in this State, and be deemed and taken as evidence of the age of such child; and such recorder, by whom such certificate shall be recorded, shall have and receive from the person giving such certificate, twenty-five cents for recording the same; and if any person shall neglect to deliver such certificate to said recorder, within the said twelve months, such person shall forfeit and pay for every such offence, the sum of five dollars, and the further sum of one dollar for every month such person shall neglect to deliver the same, to be sued for and recovered by any person who will prosecute for the same, one moiety thereof to the use of such persons who will sue for the same, and the residue to the use of the poor of the county where such person so neglecting shall reside, to be recovered before any justice of the peace, in like manner as debts under thirty-two dollars are recoverable.

Passed at Dover, Feb. 1, 1810.

C H A P. CXXV.

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An ACT authorizing the State treasurer to pay certain claims therein mentioned.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer be, and he is hereby authorized and directed to pay to Jesse Green, adjutant-general of the militia of this State, or his order, the sum of twenty-one dollars and forty-five cents, for blanks and forms by him furnished, and for cash paid Joseph Jones, for inserting general orders at different times; to John B. Wootten, or his order, the sum of forty-seven dollars and thirty-three cents, for printing a resolution of the General Assembly, a circular letter of the governor, hawkers' and marriage-licenses and military commissions; to James Johnson, or his order, the sum of twenty dollars, for five days services, as surveyor on the part of this State, in the suits of Thomas and John Penn, against persons holding lands under the grant of this State.

Passed at Dover, February 2, 1810.

C H A P. CXXVI.

An ACT respecting the State treasurer.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Legislature of this State, shall, annually hereafter, at their session in January, appoint a committee, to consist of three members from the house of Representatives, and

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1810

two members from the Senate, to examine into the accounts of the State treasurer, and to count the cash on hand, and make report thereof to the General Assembly.

Passed at Dover, February 2, 1810.

C H A P. CXXVII.

An ACT authorizing the purchase of stock for the use of the State.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of ten thousand dollars, part of the sum now in the treasury of the State, shall be, and the same is hereby appropriated to the purchase of bank stock, or other stock in the United States of America; and the State treasurer is hereby authorized and required, to purchase for the use of the State, on the lowest and best terms to be obtained with said money, the said bank or other stock in the United States; and the said stock, when so purchased, shall be entered by him in the treasury-books of this State, specifying therein, the number and amount of each certificate, the date thereof, to whom the same issued, of whom bought, and the price paid for the same; and the State treasurer is hereby directed to return to the auditor, in his quarterly settlements with him, an account of such purchase of stock, with a specification thereof, as before mentioned.

Passed at Dover, Feb. 2, 1810.

C H A P. CXXVIII.

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An ACT to enable the owners and possessors of the meadow, marsh and cripple, lying on both sides of the north-west branch of Duck-creek, emptying into the main branch of Duck-creek, below the Eagle-nest-landing, effectually to embank and drain the same, and keep the banks, dams, sluices, canals and drains in repair, and to raise a fund to defray the expense thereof.

PRIVATE ACT.

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CHAP. CXXIX.

An ACT to enable Thomas Duckham, and John Betts, to hold lands within this State.

Passed at Dover, Jan. 11, 1811—Private act.

CHAP. CXXX.

An ACT for the relief of Eli Timmons, a non-resident, insolvent debtor.

Passed at Dover, Jan. 11, 1811---Private act.

CHAP. CXXXI.

A supplement to an act, entitled, "An act to authorize the owners and possessors of the marsh or low grounds, commonly called and known by the name of Merridith's-branch, in the forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same."

Passed at Dover, Jan. 17, 1811.—Private act.

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C H A P. CXXXII.

Chap. 78. 3 vol.
170, and chap.
115, 3 vol. 246.

An additional supplement to an act, entitled, "An act to incorporate a company for the purpose of cutting and making a canal, between the Chesapeake bay, and bay or river Delaware, or the waters thereof."

Preamble.

WHEREAS it appears to this legislature, that the seventeenth, eighteenth, nineteenth and twentieth sections of the act to which this is a supplement, and a part of the first section of a supplement to the said act, which prevents the said company from lessening the rates of toll fixed by the said act, more than one-fourth of such rates and tolls, and reserves to the State of Delaware, one-tenth part of the profits arising from the said tolls, after the same shall amount to ten per centum per annum, may prevent the said company from raising funds adequate to the purpose of accomplishing the great design of a canal between the bays of Chesapeake and Delaware.

Repeal of 17, 18,
19 and 20 sections
of original
act.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the said seventeenth, eighteenth, nineteenth and twentieth sections of the act to which this is a supplement, be, and the same are hereby repealed, made null and void.

Repeal of 1 sec.
of supplement.
Sec 3 vol. 246,
chap. 115.

SECT. 2. *And be it further enacted by the authority aforesaid,* That so much of the said first section of the supplement to the said act, as prevents the said company from lessening the rates of toll fixed by the said act, more than one-fourth of such rates of toll, without the assent of the legislature of the State of Delaware, be, and the same is hereby repealed, made null and void.

SECT. 3. *Provided nevertheless, and be it enacted,* That whenever and so long as the nett profits arising from the said tolls, shall amount to fifteen per centum per annum, the Chesapeake and Delaware canal company shall lessen the rates of toll fixed by the said act, so that the same shall not exceed twelve per centum per annum.

Proviso.

Passed at Dover, Jan. 18, 1811.

C H A P. CXXXIII.

An ACT to authorize the owners and possessors of the swamps and low grounds situate on the head waters of Black-water mill-pond, in Baltimore hundred, in Sussex county, to cut a ditch or drain through the same.

Passed at Dover, Jan. 21, 1811—Private act.

C H A P. CXXXIV.

An ACT to enable the president, managers and company of the Gap and Newport turnpike company, to raise a sum of money not exceeding thirty thousand dollars, by a lottery.

WHEREAS it has been represented to this General assembly, that the president, managers and company of the Gap and Newport turnpike company, have obtained subscriptions for stock in the funds of said company, to the amount of forty-five thousand dollars, in addition to which, the legislature of Pennsylvania, have subscribed to the said company, the further sum of five thousand dol-

Preamble.

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lars; and that there will be still wanted a further sum of seventy thousand dollars to complete the said road;—to raise thirty thousand dollars, part of the last mentioned sum of money, the institution of a lottery has been further represented, as furnishing the most adequate and prompt means.

30,000 dollars
may be raised
by lottery, for
completing the
Gap and New-
port turnpike
road.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That it shall and may be lawful for the president and managers for the time being, of the said company, to institute, carry on, and draw a lottery, for raising a sum of money not exceeding thirty thousand dollars, clear of all expenses; and the said sum when so raised, shall be applied to the making and completing, so far as adequate, of the said Gap and Newport turnpike road, under the direction of the said managers and company.

Managers of the
lottery, how ap-
pointed.

SECT. 2. *And be it enacted,* That the said president and managers, for the time being, shall have and are hereby vested with full power and authority to constitute and appoint two or more managers of said lottery, and in case of the sickness, death, absence or inability of all or any of them to attend, to supply the vacancies or vacancy, thus happening, by new appointments or appointment, as aforesaid, as often as such occasions may render necessary, and who shall have full power, in that behalf, to manage, superintend, conduct and complete (subject nevertheless to the controul of the said president and managers,) the said lottery, at the risk of the said president and managers, who are hereby declared to be responsible for the actings and doings of the said managers of said lottery, touching the said lottery, to every person who may sustain loss or injury by reason thereof.

Their powers.

Scheme, by
whom to be de-
vised.

SECT. 3. *And be it enacted,* That the said president and managers of the Gap and Newport turnpike company, for the time being, are hereby authori-

zed to devise and execute such scheme or schemes for the said lottery, as they may deem most suitable for attaining its objects.

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SECT. 4. *And be it enacted*, That the said president and managers of the Gap and Newport turnpike company, for the time being, shall, as soon as conveniently may be, after a sufficient number of tickets have been sold, proceed to the drawing and finishing the said lottery; and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within six months after the drawing of the said lottery, subject nevertheless to any deductions that may be prescribed and provided in, and by the said scheme or schemes; but the said prizes, if not demanded within that time, shall remain in the hands of the said president and managers of the Gap and Newport turnpike company, to be applied to and for the uses and purposes aforesaid.

When the drawing shall commence.

Prizes, when payable.

and how applied, if not demanded within six months after the drawing.

SECT. 5. *And be it enacted*, That the said president and managers of the Gap and Newport turnpike company, for the time being, shall receive, superintend and direct the expenditure of the said monies, so as aforesaid to be raised by the said lottery, to the making and completing, so far as adequate, of the said Gap and Newport turnpike road.

Money raised, how to be applied.

SECT. 6. *And be it enacted*, That the said president and managers of the Gap and Newport turnpike company, for the time being, before they proceed to the sale of any ticket or tickets in said lottery, shall respectively give bond in the name of the State, in the sum of sixty thousand dollars, conditioned for the faithful discharge of the trust reposed in them by this act; which bonds shall be lodged in the office of the secretary of State, who shall thereupon give six weeks notice in one or more newspapers published in this State, and one or more of the newspapers published in the city of Philadelphia, that such bonds were executed and lodged in

The president, &c. shall give bond;

which shall be lodged in the secretary's office, who shall give notice thereof.

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his office in pursuance of the directions of this act; which bonds are hereby declared to be in trust for, and may be sued by all and any of the person or persons aggrieved by the managers of said lottery, in conducting and carrying on the same.

In what case the money for tickets, shall be refunded.

SECT. 7. *And be it enacted*, That if the tickets in said lottery shall not be sold within three years after the publication of the scheme of said lottery, the president and managers of the said Gap and Newport turnpike company, shall, on demand, return and pay over to all and every person or persons the respective sums that he, she, or they, may have paid for tickets in said lottery.

Passed at Dover, January 21, 1811.

C H A P. CXXXV.

An ACT to incorporate a company for making a turnpike road from the borough of Wilmington, to the line between this State, and Pennsylvania, at or near the house now occupied by Charles Twaddle.

Commissioners appointed.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Patrick O'Flinn, John Wilson, Captain James Jeffries, Joshua Wollison, James M. Broom, Joseph Robertson, Edward Gilpin, John Hiron, Caleb Kirk and John Hedrick, be, and they are appointed commissioners, for the purposes herein after mentioned: that is to say, they shall, on or before the first Monday in April next, procure one or more book or books, and therein enter as follows: We whose names are hereunto subscribed, do promise to pay to the Wilmington and Kennet turnpike company, the sum of twenty-five dollars for every share of stock in the said company, set oppo-

Shall open books for subscription.

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site to our respective names; in such manner and proportions, and at such times as shall be determined by the president and managers of the said company, in pursuance of an act of the General assembly of this State, entitled, "An act to incorporate a company for making a turnpike road from the borough of Wilmington to the line between this State and Pennsylvania." Witness our hands, the day of in the year of our Lord, one thousand eight hundred and and shall thereupon give notice in one or more of the public papers printed at Wilmington, or other reasonable and sufficient public notice, for one calendar month, at least, of the time and place, when and where the said book or books shall be opened, to receive subscriptions for the stock of the said company; at which time and place, some two of the said commissioners, shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said book or books, in their own name, or names of other persons who shall duly authorize the same, for any number of shares in the said stock; and the said book or books shall be kept open for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until eight hundred shares shall be subscribed; and if, at the expiration of the said six days, eight hundred, the whole number of shares, shall not be subscribed, the said commissioners, respectively, may adjourn from time to time, and transfer the said book or books, from place to place, until the whole number of shares shall be subscribed; of which adjournments and transfer, the commissioners aforesaid, shall give such public notice, as the occasion, may require; and when the whole number of shares, subscribed as aforesaid, shall amount to eight hundred, the said book or books shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioners, the sum of five dollars, for every share to be subscribed; out of which shall be defrayed the expenses attending the

And give notice of the time and place of receiving subscriptions.

May adjourn from time to time, &c.

Proviso.

Five dollars on each share to be paid.

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taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized; and the officers chosen as herein after mentioned.

Subscribers in-
corporated.

Name, style,
powers and pri-
vileges.

SECT. 2. *And be it further enacted*, That when, and as soon as the said eight hundred shares shall or may be subscribed, in manner aforesaid, the subscribers, and their heirs and assigns, shall be, and they are hereby declared to be incorporated, by the name, style and title of, The Wilmington and Kennet Turnpike Company; and by the said name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them, and their successors and assigns, and of selling, transferring, and conveying, in fee-simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them, in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Commissioners
to give notice of
time and place
of choosing offi-
cers.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the commissioners aforesaid, as soon as conveniently may be, after the whole number of shares shall be subscribed, as aforesaid, shall give notice in one of the Wilmington newspapers, or other reasonable and sufficient public notice, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice; at which time and place, the said subscribers shall proceed to organize the said corporation; and shall choose, by a majority of votes of the said

subscribers present, or by proxy, duly authorized, ten managers, who at their first meeting, shall choose one of their number as president, and shall choose one of their own number, or any other of the subscribers as treasurer, and such other officers, as they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the same number: *Provided nevertheless*, That all future annual elections of the said corporation, shall be held, with such notice, and in manner and form aforesaid, at such places, as the managers aforesaid shall direct and appoint.

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May make bye-laws.

Votes limited.

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said company shall meet on the first Monday of January, in every year, at such place as shall be fixed by their bye-laws, for the purpose of choosing officers, as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form, as shall be prescribed by their bye-laws; at which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such bye-laws, rules, orders and regulations as aforesaid; and to do and perform any other corporate act.

Annual and special meetings of the company.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the president and managers, first to be chosen, as aforesaid, shall procure certificates, to be written or printed, for all the shares of the stock of the said company, and shall deliver one such

Certificates of shares, by whom to be procured.

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To be transferable.

certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed, and held, he paying to the treasurer, in part of the sum due thereupon, the sum of five dollars, for each share : which certificate, shall be transferable, at his pleasure, in person, or by attorney, in the presence of the president or treasurer, subject, however, to all payments due, and to grow due thereon : and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid, at the meetings thereof.

Meeting of the president and managers.

Quorum.

May appoint surveyors, &c.

Further powers.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers, shall meet, at such times and places, and be convened in such manner, as shall be agreed on, for transacting their business ; at which meetings, five members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book ; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendants, artists, and officers, as they shall judge necessary, to carry on the intended works, and to fix their salaries or wages ; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the works ; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work ; which orders, shall be entered or registered on their book of minutes, and shall be signed by the president, or in his absence, by a majority of a

quorum, and countersigned by their secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations, of the company, shall be committed to them.

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SECT. 7. *And be it further enacted by the authority aforesaid,* That if any stockholder, whether original subscriber or assignee, after thirty days public notice in one of the Wilmington newspapers, or if there be no such paper published, after thirty days public notice, in any other manner which may be deemed reasonable and sufficient, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion, at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum for every such delay of payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums before paid, in part and on account of said share, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the said president and managers, may, at their election, cause suit to be brought, in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always,* That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same shares. *And provided also,* That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the

Shares how forfeited.

And may be sold

Or suit be brought.

Proviso.

Further proviso.

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said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged, as aforesaid.

President and managers may enter upon and examine any lands, &c. over which intended road may pass.

SECT. 8. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, their superintendants, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and enclosures, in, through and over which, the said turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that may be necessary in making and constructing the said road; and to survey, lay down, ascertain, mark and fix, such route or track for the same road, as in the best of their judgment and skill, will be most practicable, from the borough of Wilmington, to the line between this State and Pennsylvania, at or near the house now occupied by Charles T'waddle.

Route or track.

And may enter adjacent lands.

SECT. 9. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of draught or burthen, to enter upon the lands, in, over, contiguous to, and near to which the route and track of the said intended road, shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto, as possible, and repairing any breaches they make the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three

Damages how ascertained.

disinterested freeholders, any two of them agreeing, mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county of New-Castle, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, and earth, or other materials there, being conveniently situated for making or repairing said road.

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May take timber, stone, &c.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall have power to erect permanent bridges over all the waters crossed by the said route, whereon the same shall be found necessary; and shall cause a road to be laid out, not exceeding one hundred feet in width, from Wilmington, aforesaid, to the said line between this State and Pennsylvania, at or near the house now occupied by Charles Twaddle, by the route aforesaid, and cause twenty feet thereof, in breadth, at least, to be made an artificial road; which shall be bedded with wood, stone, gravel, clay, or other proper and convenient materials, well compacted together, a sufficient depth, to secure a solid foundation for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or other small hard substance, in such manner, as to secure a firm, and as nearly as the nature of the country, and the materials will admit, an even surface rising towards the middle, by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: *Provided,* That no toll be demanded or taken from any person passing or re-passing from one part of his or her farm to another, or to or from any place of public worship, or funeral, on days appointed for that purpose.

May erect permanent bridges.

Width of road, and of what materials to be made.

Proviso.

SECT. 11. *And be it further enacted by the authority aforesaid,* That as soon as the said president, managers and company, shall have perfected the said

When completed, the governor

to license toll-gates to be erected.

road, contemplated by this act, any distance, not less than two miles, and so, from time to time, any distance not less than one mile, progressively, they shall give notice thereof to the governor of this State, who shall thereupon, forthwith, nominate and appoint three skilful and judicious persons, to view and examine the same; and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license, under his hand, and the great seal of the State, permit and suffer the said president, managers and company, to erect and fix such, and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages.

Toll-gatherers.

SECT. 12. *And be it further enacted by the authority aforesaid,* That the said company, having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of, and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horse or mule, or driving cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, waggon, wain, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpike, until they shall have respectively paid the same: that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep or cattle: to wit, for every score of hogs or sheep, six cents; for every score of cattle, twelve cents; for

Rates of toll.

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every horse or mule, laden or unladen, with his rider or leader, three cents; for every sulkey, chair or chaise, with one horse and two wheels, six cents, and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage-waggon, coachée or light-waggon, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or waggon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or waggon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and a half for each horse drawing the same; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage, as aforesaid, shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated equal to one horse, and every ass or mule, as equal to one horse, in charging the aforesaid tolls.

SECT. 13. *And be it further enacted by the authority aforesaid,* That if any person or persons owning, riding on, or driving any carriage of burden or pleasure, as aforesaid, or owning, riding, leading, or driving any horse or mule, or driving any hogs, sheep,

Penalty on attempting to evade the payment of tolls.

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How recovered.

Road whether in
repair how to be
ascertained.

or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of any of the tolls or duties as aforesaid, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected, in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast, or cattle of draught or burden, from any carriage of burden or pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner aforesaid, shall for every such offence, respectively forfeit and pay to the Wilmington and Kennet turnpike company, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

SECT. 14. *And be it further enacted by the authority aforesaid.* That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of New-Castle county, aforesaid, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in said precept to be mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition

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not to be in such good order and repair, as herein is required, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth, the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair, as aforesaid; and if any of the keepers of the gates aforesaid, shall take, or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keeper shall forfeit and pay, to the person who will prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are, or may be by law recoverable, but if the same road shall not be put into good and perfect order and repair, before the next ensuing court of General Sessions of the peace for New-Castle county aforesaid, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the bodies of the person or persons intrusted by the company with the care and superintendence of such part of the said road as shall be found defective, as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons intrusted as aforesaid, and upon conviction, shall give such judgment, according to the nature and aggravation of the neglect, as the said court, in their discretion, shall judge proper: *Provided*, The fine, in no instance, shall be less than twenty dollars, nor exceeding one hundred dollars, and the fines so to be imposed, shall be recovered in the same manner, as fines for misdemeanors are usually recovered in the said county, and shall be applied to and for the benefit of the public roads and common highways in the county of New-Castle aforesaid.

If not in repair,
tolls shall cease.

Penalty.

Fine limited.

How applied.

Accounts to be
kept; and

submitted to
the stockhold-
ers.

When the num-
ber of shares
may be increas-
ed.

Accounts to be
kept of monies
received by the
toll-gatherers,
&c.

SECT. 15. *And be it further enacted by the authority aforesaid,* That the president and managers of the said company, shall keep fair and just accounts of all monies, which shall be received by them from said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in payment thereof, and of the amount of the profits on the shares that may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of the said work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own bye-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under the like penalties, as are herein before provided for the original subscriptions, or shall be provided by their bye-laws.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall also keep a just, and true account of all and every the monies to be received by their several and respective receivers of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every two miles, after the said road is completed from the beginning to the end thereof, or such part thereof, as shall from time to

time be completed as aforesaid, and after the said road shall be completed, or as much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved) among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same shall be paid; and shall cause the same to be paid accordingly:

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Dividend to be
declared.

SECT. 17. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General assembly of this State, an abstract of their accounts, shewing the whole amount of their capital expended in the prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof, may be ascertained and known; and if at the end of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits thereof, for the said two years, that the said clear income and profits thereof, will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, then it shall be lawful to and for the said president, managers and company, to increase the tolls herein above allowed, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per centum

An abstract of
the accounts of
the company to
be laid before
the Legislature.

When the tolls
may be increas-
ed.

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Profits not to
exceed nine per
cent.

per annum; and, at the end of every ten years after the said road shall be completed, they shall tender the General assembly, a like abstract of their accounts for three preceding years; and if at the end of any such decennial period, it shall appear from such abstract, that the clear profits and income of the said company, will bear a dividend of more than nine per centum per annum, then the said toll shall be so reduced as to reduce the said dividend down to nine per centum per annum.

Index-posts to
be set up.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the said company shall cause posts to be erected at the intersection of every road falling into, and leading out of, the said turnpike road, with boards and index-hand, pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town or place to which such road leads, and the distance thereof in measured or computed miles; and shall also cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon, and also shall cause to be affixed to the gates to be erected for the information of travellers and others using the said road, a printed list of the rates of toll which from time to time may be lawfully demanded.

Mile-stones, and

List of rates of
toll.

Penalty for pull-
ing down or in-
juring mile-
stones or direc-
tion posts.

SECT. 19. *And be it further enacted by the authority aforesaid,* That if any person or persons, shall wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this act, at the intersection of any road, as aforesaid, or the board, or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters, marked

at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes there mentioned, or the whole, or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively, forfeit and pay to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in manner aforesaid.

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How recovered

SECT. 20. *And be it further enacted by the authority aforesaid,* That all waggoners, carters and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right hand side of the said road, in the passing direction, leaving the other side of the said road free and clear, for other carriages to pass and repass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding five dollars, to any person, who shall by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered with costs in like manner aforesaid.

Travellers to
keep on the
right-hand side.

Penalty for ne-
glecting to do
so.

How recovered.

SECT. 21. *And be it further enacted by the authority aforesaid,* That if any toll-gatherer on the said road, shall demand from any person using the said road, any greater rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars, for every such offence, to be for the use of the person aggrieved, to be recovered before any justice of the peace of New-Castle county, aforesaid, in such manner as other debts are before them recoverable.

Penalty for ex-
tortion.

How recovered
and applied.

SECT. 22. *And be it further enacted by the authority aforesaid,* That if in the case of any suit or

Redress for vex-
atious prosecu-

tions under this act.

prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending; or by action before the court of Common Pleas of New-Castle county, aforesaid, (if such prosecution had been instituted before the court of General Sessions of the peace) such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Limitation of actions for penalties.

SECT. 23. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

This act may be given in evidence.

The work within what time to be begun and completed.

SECT. 24. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the said work within two years after passing this act, or shall not within seven years thereafter, complete the said road, according to the true intent and meaning of this act, then in either of these cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, and franchises, by this act granted to the said company.

Proceedings to ascertain damages done to per-

SECT. 25. *And be it further enacted by the authority aforesaid,* That if the said road be laid out and founded over and upon any land whereby the

owner thereof, may suffer damage the person or persons sustaining such damage may make application to the court of Chancery of New-Castle county aforesaid, and thereupon the Chancellor shall appoint six fit and disinterested persons to view and adjudge the amount of damages so done, which if approved of by the court shall be paid by the company: *Provided always*, That it shall be the duty of the viewers, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant, and that when the said road shall happen to be laid out and founded on any former laid out and confirmed road, the owner or owners of such lands, shall not be entitled to receive compensation from the company for any damages sustained thereby, any ground taken for the use of the road, either on any former laid out road, or on any new ground on which there is no road laid out. The said president, managers and company, shall not have authority to make any building or inclosure whatsoever; the whole breadth taken for the use of the said road shall be kept free and open, except where it may be necessary to erect gates or turnpikes for collecting the tolls.

Persons owning land over which road may pass.

SECT. 26. *And be it further enacted by the authority aforesaid*, That any person or persons residing in Christiana hundred, except persons keeping horses or any sort of carriages for hire, shall have a right to contract for the use of the said road for himself and his family by the year: if on application to the president and managers of said road, they can not agree, the parties shall choose each a disinterested freeholder, who if they cannot agree may appoint a third, who shall determine; any two agreeing, what sum ought to be paid by such person or persons for one year for the use of the said road for himself and family, which sum shall be paid in two equal payments half yearly and in advance.

Commutation of rates, &c. to certain persons.

When the commissioners of the road of Christiana hundred may purchase this road.

Value how to be ascertained.

Treasurer, &c. to give bond.

Allowance.

SECT. 27. *And be it further enacted by the authority aforesaid,* That if the commissioners of the road, for Christiana hundred, shall at any time after the year one thousand eight hundred and twenty, think proper to purchase the said road, on behalf of the said hundred, they shall apply to the president, managers and company of the said turnpike road, and shall agree with them for all their right, title and interest in the said road, and in case they cannot agree for the same, the parties aforesaid shall agree upon five or more disinterested freeholders of New-Castle county, who shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof, on oath or affirmation, under their hands and seals, and upon the payment of the amount of the valuation made as aforesaid, then and in that case, all the right, title and interest of the said president, managers and company in the said road, shall cease and become vested in the commissioners of the roads of Christiana hundred aforesaid, for the time being, who shall declare the said road to be free, and that no further toll shall be collected thereon, any thing herein contained to the contrary notwithstanding.

SECT. 28. *And be it further enacted,* That the treasurer, and such other officers as may be appointed, shall give bond in such penalty and with such security, as the directors or a majority of them shall direct for the faithful performance of their duties respectively, and that the allowance to be made to the treasurer shall not exceed two dollars in the hundred for the disbursements by him made; and that no officer in the said company shall have any vote in the settlement or passing of his own accounts.

Passed at Dover, Jan. 21, 1811.

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C H A P. CXXXVI.

An ACT to authorize the owners and possessors of the swamps and low grounds, situate in the upper part of Cedar-creek hundred, in Sussex county, to cut a ditch or drain through the same.

Passed at Dover, Jan. 21, 1811.—Private act.

C H A P. CXXXVII.

An ACT to revive and continue in force an act, entitled, "An act to enable the trustees of the college of Wilmington, to raise a certain sum of money by lottery, for the purposes therein mentioned."

Passed at Dover, Jan. 22, 1811.—Private act.

C H A P. CXXXVIII.

An ACT for the relief of Curtis Shockley.

Passed at Dover, Jan. 23, 1811---Private act.

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CHAP. CXXXIX.

An ACT to incorporate a company for making an artificial road from or near the borough of Wilmington, in the county of New-Castle, on the east side of the Brandywine creek, in the route through Westchester, to the turnpike roads in the Great Valley, in the State of Pennsylvania.

Preamble.

WHEREAS it appears that some of the public roads in New-Castle county have become almost impassable in rainy seasons, by which the number of beasts of burden have been greatly increased, to carry a scanty supply of such articles as the farmer must sell, and which are indispensibly necessary unto mechanics and others, whereby the expenses of every citizen are much enlarged, and the spirit for improvement, which is so much wanted, to put the farms in a proper state of cultivation, and to promote the extension of manufactures, is daily depressed, that the intercourse between Wilmington and the Great Valley, has suffered for many years, and, at present, languishes so much as to become deeply injurious, and sensibly felt by the public.

Commissioners appointed.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Joseph Tatnall, Samuel Canby, Albanus C. Logan, John Way, William Talley, Samuel Love and William Young, be, and they are hereby appointed commissioners, to do and perform the several things herein after mentioned: that is to say, they shall, on or before the tenth day of March next, procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, of the Wilmington and Great Valley*

Shall open books for subscription.

turnpike road, the sum of twenty-five dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of said company; and shall thereupon give notice in one of the papers printed in this State, and in one or more of the public papers in Philadelphia, for one calendar month, at least, of the time and place, when and where the said books shall be opened, to receive subscriptions for the stock of the said company; at which time and place, some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said books, in their own name, or names of any other persons who shall duly authorize the same, for any number of shares in the said stock; and the said books shall be kept open for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said books shall have eight hundred shares therein subscribed: and if, at the expiration of the said six days, the books aforesaid, shall not have the number of shares, as aforesaid, therein subscribed, the said commissioners may adjourn from time to time, until the whole number of shares shall be subscribed; of which adjournment, the commissioners aforesaid, shall give such public notice, as the occasion may require; and when the whole number of shares shall amount to eight hundred, the books shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioners, the sum of five dollars, for every share to be subscribed; out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereafter mentioned.

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And give notice
of the time and
place of sub-
scriptions.

May adjourn
from time to
time, &c.

Proviso.

Five dollars on
each share to
be paid.

Subscribers in-
corporated.

Style, powers
and privileges.

SECT. 2. *And be it enacted,* That when fifty persons, or more, shall have subscribed four hundred shares of the said stock, they shall be created and erected into one body politic and corporate, in deed and in law, by the name, style and title of, "The president, managers and company of the Wilmington and Great Valley Turnpike Company;" the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and by the said name, shall be capable of taking and holding the said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper; if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them, and their successors and assigns, and of selling, transferring, and conveying, in fee-simple, or for any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary for them, in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

Commissioners
to give notice of
time and place
of choosing offi-
cers.

SECT. 3. *And be it enacted,* That the commissioners aforesaid, as soon as conveniently may be, after the number of shares subscribed for shall amount to above four hundred, and not exceeding eight hundred shares, shall give notice in one of the public papers printed in this State, and one or more of the public papers printed in Philadelphia, of the time and place by them to be appointed, not less than twenty days from the publication of the first notice; at which time and place, the said subscribers shall proceed to organize the said corporation, and shall choose, by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president, and six managers, one treasurer, and such other officers, as they shall think necessary, to conduct the business.

of the said company, for one year, and until other such officers shall be chosen; and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than ten votes at any election, or in the determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number: *Provided nevertheless*, That all future annual elections of the said corporation, shall be held, with such notice, and in manner and form aforesaid, at such places, as the managers aforesaid shall direct and appoint.

Power to make bye-laws.

Votes limited.

SECT. 4. *And be it enacted*, That the said company shall meet on the second Monday of January, in every year, at such place as shall be fixed by their bye-laws, for the purpose of choosing officers, as aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form, as shall be prescribed by their bye-laws; at which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such bye-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Annual and

special meetings of the company.

SECT. 5. *And be it enacted*, That the president and managers, first to be chosen, as aforesaid, shall procure certificates, to be written or printed, for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed, and held, he paying the treasurer, in part of the sum due thereupon, the sum of five dollars, for each share: which certificate shall be transferable, at his pleasure, in person, or by attorney, in the

Certificates of shares.

Transferable.

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presence of the president or treasurer, subject, however, to all payments due, and to grow due thereon: and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for the purpose, shall be a member of the said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estate and emoluments of the company, and to vote as aforesaid, at the meetings thereof.

Meetings of the
president and
managers.

Quorum.

May appoint
surveyors, &c.

Further powers.

SECT. 6. *And be it enacted*, That the said president and managers, shall meet, at such times and places, and be convened in such manner, as shall be agreed on, for transacting their business; at which meetings, four members shall form a quorum, who, in the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendants, artists, and officers, as they shall judge necessary, to carry on the intended works, and to fix their salaries and wages; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work; which orders, shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by the secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations, of the company, shall be committed to them.

Shares, how
forfeited.

SECT. 7. *And be it enacted*, That if any stockholder, whether original subscriber or assignee, after

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thirty days notice in one of the public papers printed in this State, and two or more of the public papers printed at Philadelphia, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the said work, shall neglect to pay such proportion, at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums before paid in part and on account of such share, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the said president and managers, may, at their election, cause suit to be brought, in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always*, That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sum before paid on the same shares: *And provided also*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged, as aforesaid.

May be sold,

or suit be brought.

Proviso.

Further proviso.

SECT. 8. *And be it enacted*, That it shall and may be lawful for the said president and managers, the superintendants, surveyors, engineers, artists and

May enter upon and examine any lands, &c. over

which the intended road may pass; and

fix the route.

chain-bearers, to enter into and upon all and every the lands, tenements and enclosures, in, through and over which, the said intended turnpike road may be thought proper to pass, and to examine the ground the most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that will be necessary in making and constructing the said road; and to survey, lay down, ascertain, mark and fix, such route or track for the said road, as in the best of their judgment and skill, will combine shortness of distance, with the most practicable ground, in, near or from the borough of Wilmington aforesaid, to the line of the State of Pennsylvania, on the east side of the Brandywine creek, in Brandywine hundred, to communicate with, or near, or upon the track of the Concord road, at the line of the State of Pennsylvania, from whence the public road is now continued through Westchester, and to fix the route so far as shall be deemed equitable, to accommodate any company which may be incorporated by the State of Pennsylvania, to continue said turnpike road, to the turnpike roads already made in the Great Valley.

And may enter adjacent lands.

Damages how ascertained.

SECT. 9. *And be it enacted*, That it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of burthen or draught, to enter upon the lands, in, over, contiguous, and near to which the route and track of the said intended road shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto, as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to the improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing,

mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace for New-Castle county, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, sand earth, or other materials there, being most conveniently situated for making or repairing said road.

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May take timber, stone, &c.

SECT. 10. *And be it enacted*, That the said president, managers and company, shall have power to erect permanent bridges over all creeks, as well as over all the waters crossed by the said route, or track whereon the same shall be found necessary; and shall cause a road to be laid out, not exceeding one hundred feet in width, from the borough of Wilmington, aforesaid, by the aforesaid route, and shall cause twenty feet thereof, in breadth, at least, to be made an artificial road; which shall be bedded with wood, stone, gravel, clay or other proper and convenient materials, well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or some other small hard substance, in such manner, as to secure a firm, and as nearly as the nature of the country, and the materials will admit, an even surface, rising towards the middle, by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: *Provided*, That no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to or from any place of public worship, or funerals, on days appointed for those purposes.

Permanent bridges.

Width of road, and of what materials to be made.

Proviso.

SECT. 11. *And be it enacted*, That so soon as the said president, managers and company, shall have perfected the said road, in, near or from the borough of Wilmington, aforesaid, any distance, not less than two miles, and so, from time to time, any distance not less than two miles, progressively, towards the

When completed, the governor to license toll-gates to be erected.

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line of the State of Pennsylvania, in the route aforesaid, they shall give notice thereof to the governor of this State, who shall thereupon, forthwith, nominate and appoint three skilful and judicious persons, to view and examine the same; and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license, under his hand, and the great seal of this State, permit and suffer the said president, managers and company, to erect and fix such, and so many gates or turnpikes upon and across the said road, as will be necessary and sufficient to collect the tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages.

Toll gatherers
may be appointed.

Rates of toll.

SECT. 12. *And be it enacted*, That the said company having perfected the said road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid; it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of, and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulkey, chair or chaise, phaeton, cart, waggon, wain, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they have respectively paid the same: that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep or cattle: to wit, for every score of sheep; four cents; for every score of hogs six cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen, with his rider or leader, three cents; for every sulkey, chair or chaise, with one horse and

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two wheels, six cents, and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage-waggon, coachee or light-waggon, with two horses and four wheels, twelve cents; for either of the carriages last mentioned, with four horses, twenty cents; and for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or waggon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, four cents for each horse drawing the same; for every cart or waggon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being of the breadth of ten inches, shall roll more than fifteen inches, one and an half cent for each horse drawing the same; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage, as aforesaid, shall be drawn by oxen or mules, in whole or in part, two oxen shall be estimated as equal to one horse, in charging the aforesaid tolls.

SECT. 13. *And be it enacted*, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of the county, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain place in the said precept to be mentioned, at the place in the said road, which is

Road whether in
repair how to be
ascertained.

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If not in repair,
tolls shall cease.

Penalty.

In what case
may be indicted.

complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition, not to be in such good order and repair, as herein is required, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth, the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put in good and perfect order and repair, as aforesaid; and if any of the keepers of the gates aforesaid, shall take, or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keepers shall forfeit and pay to the person who shall prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are, or may be by law recoverable; but if the same road shall not be put into good and perfect order and repair, before the next ensuing court of Quarter Sessions of the peace of the said county, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring the bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective, as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons entrusted as aforesaid, and upon conviction, shall give judgment, according to the nature and aggravation

tion of the neglect, as the court, in their discretion, shall judge proper: *Provided*, The fine, in no instance, shall be less than twenty dollars, nor exceeding one hundred dollars; and the fines so to be imposed, shall be recovered in the same manner, as fines and forfeitures are usually recovered in the said county, and shall be paid to the commissioners of the roads of the place wherein the offence was committed, to be applied to repairing such roads as the hundred is bound to repair at the public expense thereof.

Fine limited.

SECT. 14. *And be it enacted*, That the president and managers of the said company, shall keep fair and just accounts of all monies which shall be received by them from the said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all the penalties for the delay in payment thereof, and of the amount of the profit on the shares which may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of their work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders, until said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, and if upon such liquidation, or whenever the whole capital stock of the said company, shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own bye-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies paid for such shares, in like manner and under the like penalties,

Accounts to be kept;

And laid before the stockholders.

When the number of shares may be increased.

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Accounts to be
kept of monies
received by the
toll-gatherers,
&c.

as are herein provided for the original subscriptions, or as shall be provided by their bye-laws.

SECT. 15. *And be it enacted,* That the said president, managers and company, shall also keep a just, and true account of all and every the monies to be received by the several and respective collectors of tolls, at the several gates or turnpikes on the said roads, which shall not exceed one for every two miles, after the road is completed from the beginning to the end thereof, or such part thereof, as shall from time to time be completed as aforesaid, and after the road shall be completed, or so much thereof as it may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved) among all the subscribers to the stock of the said company, and shall on the second Monday of the months of January and July in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same will be paid, and shall cause the same to be paid accordingly.

Dividend to be
declared.

An abstract of
the company's
accounts to be
be laid before
the General as-
sembly.

SECT. 16. *And be it enacted,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General assembly of this State, an abstract of their accounts, shewing the whole amount of the capital stock expended in the prosecution of the said work, and of the income and profits arising from the said toll, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof, may be ascertained and known; and if at the end

of two years after the said road shall be completed from the beginning to the end thereof, it shall appear from the average profits thereof, for the said two years, that the said clear income and profits will not bear a dividend of six per cent. per annum, on the whole capital stock of the said company so expended, then it shall be lawful for the said president, managers and company, to increase the tolls herein allowed, in equal proportion upon such and every allowance thereof, so as to raise the dividend up to six per centum per annum; and at the end of every ten years after the said road shall be completed, they shall render to the General assembly, a like abstract of their accounts for the preceding years; and if at the end of any decennial period, it shall appear from such abstract, that the clear profits and income of the said company, shall have been, upon an average of the dividends from the time when the payments were made by the stockholders, until the period when said abstract shall be rendered, seven and a half per cent. then, and in that case, all the surplus over and above an average dividend of seven and a half per cent. shall thenceforth be employed to reduce the capital stock of the aforesaid company, until the whole shall be extinguished, at which time, the right of said company to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine: *Provided also,* That if the commissioners of Brandywine hundred shall, within three years after the passing of this act, refund the aforesaid president, managers and company, the whole principal and lawful interest upon all the monies advanced by them, in virtue of this act, then and in that case also, the said road shall become the property of the public, and the right to take toll on said road, by the company aforesaid, with all their right, title, claim and interest therein, shall cease and determine.

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When the tolls
may be increas-
ed.

Proviso.

Posts and index-hands to be set up.

Mile-stones, &c. and

List of rates of toll.

Penalty for pulling up, or injuring mile-stones, &c.

SECT. 17. *And be it enacted*, That the said company shall cause posts to be erected at the intersection of every public road falling into, and leading out of, the said turnpike road, with boards and index-hands, pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town or place to which such road leads, and the distance thereof in measured or computed miles; and shall also cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon; and also shall cause to be affixed on the gates to be erected for the information of travellers and others using the said road, a printed list of the rates of toll, which from time to time may be lawfully demanded.

SECT. 18. *And be it enacted*, That if any person or persons, shall wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post, which shall be erected in pursuance of this act, at the intersection of any public road, as aforesaid, or the board, or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters, marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole, or any part of the printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this act, at any such gate or turnpike, he or they so offending in the premises, shall, and each of them shall for every such offence, severally and respectively, forfeit and pay to the said president, managers and company, a sum not exceeding twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in manner aforesaid.

SECT. 19. *And be it enacted,* That all waggoners, carters, and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right-hand side of the road, in the passing direction, leaving the other side of the said road free and clear, for other carriages to pass and re-pass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding five dollars, to any person, who shall by reason thereof, be obstructed in his or her passage, and will sue for the same, before any justice of the peace, to be recovered with costs in like manner as aforesaid.

Travellers: to keep on the right-hand side.

Penalty for neglect.

SECT. 20. *And be it enacted,* That if any toll-gatherer on the said road, shall demand from any person or persons using the said road, any greater rate of toll than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars, for every such offence, one half to the use of the commissioners of the road in the hundred in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace of the county where such offence shall have been committed.

Penalty for extorting more toll than is allowed by this act.

How applied & recovered.

SECT. 21. *And be it enacted,* That in case of any suit or prosecution which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice before whom such suit or prosecution shall be depending, or by action before the court of Common Pleas of the county, (if such prosecution had been instituted before the court of General Quarter Sessions of the peace).

Redress for vexatious prosecutions under this act.

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such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Limitation of
actions for pe-
nalties.

This act may be
given in evi-
dence.

SECT. 22. *And be it enacted*, That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

In what case the
legislature may
resume the
rights, &c here-
by granted.

SECT. 23. *And be it enacted*, That if the said company shall not proceed to carry on the said work, within three years after the passing of this act, or shall not within seven years from the passing of this act, complete the said road, according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, privileges and franchises, by this act granted to the said company.

Penalty for at-
tempting to
evade the pay-
ment of toll.

SECT. 24. *And be it enacted*, That if any person or persons owning, riding in, or driving any carriage of burden or pleasure, as aforesaid, or owning, riding, leading, or driving any sheep, hogs, or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast, or cattle of draught or burden, from any carriage of burden or

pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner aforesaid, shall for every such offence, respectively forfeit and pay to the president, managers and company of the Wilmington and Great Valley turnpike road, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

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How recoverable.

SECT. 25. *And be it enacted*, That if the said road shall be laid out and founded over and upon any land, whereby the owner thereof shall suffer damage, it shall and may be lawful for the said company to make amends for the damages that the owner shall sustain, upon a reasonable agreement, if they can agree, or if they cannot agree, the person or persons claiming such damage, may make application to the Supreme court of New-Castle county, or any judge of the said court, in vacation, and thereupon the court, or any judge of the said court, shall appoint six fit and disinterested freeholders, to view and adjudge the amount of the damages so done, which, if approved of by the court, shall be paid by the company; but if the return of said freeholders shall not be approved of by said court, they may proceed to the appointment of other freeholders in their place and stead, when and so often as it may be necessary, until a return shall be made and approved of: *Provided always*, That it shall be the duty of the freeholders, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant; and that when the said road shall happen to be laid out and founded on any former laid out and confirmed road, the owner or owners of such lands, shall not be entitled to receive compensation from the company, for any damages sustained thereby.

Damages to persons owning land over which road may pass, how ascertained.

Proviso:

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such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

Limitation of
actions for pe-
nalties.

This act may be
given in evi-
dence.

SECT. 22. *And be it enacted*, That no suit or action shall be brought or prosecuted by any person or persons, for any penalties incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

In what case the
legislature may
resume the
rights, &c here-
by granted.

SECT. 23. *And be it enacted*, That if the said company shall not proceed to carry on the said work, within three years after the passing of this act, or shall not within seven years from the passing of this act, complete the said road, according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, privileges and franchises, by this act granted to the said company.

Penalty for at-
tempting to
evade the pay-
ment of toll.

SECT. 24. *And be it enacted*, That if any person or persons owning, riding in, or driving any carriage of burden or pleasure, as aforesaid, or owning, riding, leading, or driving any sheep, hogs, or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of the tolls or duties aforesaid, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast, or cattle of draught or burden, from any carriage of burden or

pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner aforesaid, shall for every such offence, respectively forfeit and pay to the president, managers and company of the Wilmington and Great Valley turnpike road, the sum of fifteen dollars; to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

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How recoverable.

SECT. 25. *And be it enacted*, That if the said road shall be laid out and founded over and upon any land, whereby the owner thereof shall suffer damage, it shall and may be lawful for the said company to make amends for the damages that the owner shall sustain, upon a reasonable agreement, if they can agree, or if they cannot agree, the person or persons claiming such damage, may make application to the Supreme court of New-Castle county, or any judge of the said court, in vacation, and thereupon the court, or any judge of the said court, shall appoint six fit and disinterested freeholders, to view and adjudge the amount of the damages so done, which, if approved of by the court, shall be paid by the company; but if the return of said freeholders shall not be approved of by said court, they may proceed to the appointment of other freeholders in their place and stead, when and so often as it may be necessary, until a return shall be made and approved of: *Provided always*, That it shall be the duty of the freeholders, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant; and that when the said road shall happen to be laid out and founded on any former laid out and confirmed road, the owner or owners of such lands, shall not be entitled to receive compensation from the company, for any damages sustained thereby.

Damages to persons owning land over which road may pass, how ascertained.

Proviso.

Any similar
company may
form a junction.

Exception.

SECT. 26. *And be it enacted*, That it shall not be lawful for the said company, to put, cause or suffer to be put, any let, hindrance or obstruction whatever, with the intent to obstruct or prevent any other incorporated company, for a similar purpose, from forming a junction with the aforesaid Wilmington and Great Valley turnpike road, or in any manner to prevent the passing and re-passing to and from the same, unless the said passing and re-passing shall manifestly injure the aforesaid company, or afford opportunity to evade the gates or turnpikes established by the company upon the aforesaid road.

Passed at Dover, January 23, 1811.

C H A P. CXL.

Chap. 49. a. 1
vol. 117.

A supplement to the act, entitled, "An act for assigning bills and specialties."

Surety in a bond
&c. paying the
money, bond,
&c. shall be as-
signed to him,
and he

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That where any person or persons, now is, or are, or hereafter shall be bound in any bond, bill or obligation, or other writing, made or to be made payable to any person or persons, his, her or their executors, administrators, order or assigns, for any sum of money, and the money, or such part thereof, as shall be unpaid by the principal debtor or debtors, or his, her or their executors or administrators, shall be paid, or tendered by the surety or sureties, or his, her or their executors or administrators, that the obligee, or obligees, or his, her or their executors, administrators or assigns, shall be obliged to assign such bond, bill, obligation, or other writing, to the surety or sureties, or his, her or their executors or ad-

ministrators paying or tendering the money due, as aforesaid; and that the assignee or assignees, or his, her, or their executors and administrators, shall and may by virtue of such assignment, and this act, have an action in his, her or their own name or names upon the said bond, bill, obligation, or other writing as aforesaid, against the principal debtor or debtors, or his, her or their executors or administrators. And where two or more persons now are, or hereafter shall be bound together in any bond, bill, obligation or other writing, as joint debtors, or as joint sureties, in any sum of money made payable to any person or persons, his, her or their executors, administrators, order or assigns, and such bond, bill, obligation or other writing, shall be satisfied by one or more of such joint debtors, or joint sureties, or his, her or their executors or administrators, it shall be lawful for the creditor or creditors, or his, her or their executors, administrators or assigns, and they are hereby required and obliged to assign such bond, bill, obligation or other writing, to the joint debtor or debtors, surety or sureties, or his, her or their executors or administrators, satisfying the same; and such assignee or assignees, and his, her or their executors or administrators, shall be entitled unto, and have in his, her and their own name or names, as assignee or assignees, or executors or administrators, an action, and such process of execution, or otherwise, as the creditor himself might have had, upon said writing against the other joint debtor or joint debtors, surety or sureties, or his, her or their executors or administrators, and thereupon recover such proportion of the money so paid, as may be justly due from the defendant or defendants.

may sue the
principal debt-
or, &c.

Remedy for
joint debtor or
surety, who
shall satisfy the
bond, &c.

SECT. 2. *And be it further enacted,* That where any person or persons, hath or have recovered, or shall recover or obtain any judgment against the principal debtor or debtors, and surety and sureties, or his, her or their executors or administrators, and such judgment hath been or shall be, satisfied by such surety or sureties, or his, her or their execu-

Judgment
against princi-
pal debtor and
surety, shall be
assigned to the
surety satisfy-
ing it; and

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He may have
execution, &c.

Remedy for se-
veral debtors or
sureties.

Proviso.

tors or administrators, that the creditor or creditors, or his, her or their executors, or administrators, shall be obliged to assign such judgment to the surety or sureties, or his, her or their executors or administrators, satisfying the same, and that the assignee or assignees, and his, her or their executors and administrators, shall be entitled unto, and have in his, her or their own name or names, as assignee or assignees, or executors or administrators, the same process by execution or other process, against the principal debtor or debtors, by virtue of such assignment, and this act, as the creditor or creditors might or ought to have had; the said assignment, being first filed of record, in the same court wherein the judgment shall have been rendered or obtained; and where any judgment hath been or shall be rendered against several debtors or sureties, and one or more of them hath satisfied, or shall satisfy the whole, the plaintiff or plaintiffs, or creditors, or his, her or their executors or administrators, or assigns, shall be obliged to assign such judgment to the debtor or debtors, surety or sureties, or his, her or their executors or administrators, satisfying the same, and that the assignee or assignees, or his, her or their executors or administrators, shall have and be entitled to an execution, or other process, against the other debtor or debtors, surety or sureties, or his, her or their executors or administrators, against whom judgment has been or shall be obtained by the principal creditor, or his, her or their executors, or administrators, or assigns, for a proportionable part of the debt or damages, paid by such assignee or assignees, or his, her or their executors or administrators, any law, usage or custom to the contrary notwithstanding: *Provided always*, That no defendant or defendants, shall be precluded or debarred of his, her or their remedy against the plaintiff or plaintiffs, or his, her or their executors or administrators, or assigns, by any legal or equitable course of proceeding whatsoever, any thing in this act to the contrary notwithstanding.

SECT. 3. *And be it enacted*, That all assignments to be made under the provisions of this act, shall be under the hand and seal of the assignor or assignors, and at least before two credible witnesses; and that it shall not be in the power of the assignor or assignors, or his, her or their heirs, executors or administrators, to release or discharge any of the debts or sums of money so satisfied, after such assignment, and that no such release, receipt or discharge, made after such assignment, shall be available to the obligor or obligors, or the person or persons, from whom the money was owing, as debtor or debtors, or surety or sureties as aforesaid, or his, her or their, or any of their heirs, executors or administrators: *Provided nevertheless*, that no assignment made, agreeably to the provisions of this act, shall be deemed and taken to make the assignor or assignors, or his, her or their heirs, executors or administrators, liable to the assignee or assignees, in case such assignee or assignees, shall not receive or recover the debt or sum due, as aforesaid, nor shall such assignor or assignors, in any manner be responsible for the same.

How assignments shall be made.

Assignor shall not release after assignment.

Proviso.

SECT. 4. *Provided always nevertheless*, That before any assignee or assignees, or his, her or their executors or administrators, as aforesaid, shall proceed in manner aforesaid, such assignee or assignees, or his, her or their executors or administrators, shall file with the clerk of the court, in which the proceedings are to be instituted, or before the justice of the peace where the proceedings are instituted, a true account, shewing the sum due from the defendant or defendants, and to which shall be annexed, an affidavit, made before some judge or justice of the peace, that he, she or they, doth or do believe the said sum remains wholly unpaid.

Assignee to file account and affidavit of sum due before suit brought.

Passed at Dover, January 24, 1811.

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CHAP. CXLI.

*An additional Supplementary act; to an act, entitled,
"An act for stopping St. George's creek, and for
embanking and draining a quantity of marsh and
cripple on both sides of the said creek, being deemed
about three thousand acres, situate in Red-lion and
St. George's hundred, and county of New-Castle,
and for keeping the dykes and drains, belonging to
the same, in good order and repair."*

Passed at Dover, Jan. 24, 1811---Private act.

CHAP. CXLII.

*An ACT to enable John Lockwood, executor, and
Matthew Coxe, and Margaret his wife, late Mar-
garet Lockwood, executrix of Richard Lockwood,
late of Kent County, esquire, deceased, to convey
and assure to Philip Hardcastle, executor of Gar-
ret Sipple, a certain tract or parcel of land in
Murderkill hundred, and Kent County.*

Passed at Dover, Jan. 25, 1811.—Private act.

C H A P. CXLIII.

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A Supplement to the act, entitled, "An act to incorporate a company for making an artificial road from the town of New-Castle, in New-Castle county, to the line of this State, in the route or direction to French-town, on Elk river, in Cæcil county, in the State of Maryland."

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That so much of the twelfth section of the act, to which this is a supplement, as prohibits the turnpike company incorporated by that act, from erecting or causing to be erected, any toll-gate or gates, on either of the roads leading through New-Castle county, over which the turnpike or artificial road, allowed to be established by the aforesaid act, may pass, be and the same is hereby repealed, made null and void.

Repeal--12 sec.
of original act.
S-vol. 250.
4th vol 250

Passed at Dover, Jan. 25, 1811.

C H A P. CXLIV.

An ACT, requiring certain officers to give security.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That every coroner now in commission, shall, at the court of General Quarter Sessions of the peace and gaol delivery, to be held in the respective counties, next after the passing of this act, and every coroner, register, clerk of the Supreme court, and prothonotary of the court of Common Pleas, hereafter to be appointed,

Coroner, register, &c. to enter into recognizance, with

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condition.

Remedy thereon

To remain cautionary.

Recognizances to be recorded.

Fees for recording.

Exemplifications, evidence.

shall, at the court of General Quarter Sessions of the peace, and gaol delivery, held in the county, next after their respective appointments, enter into a recognizance in the name of the State of Delaware; in open court, jointly and severally, with two or more good and substantial freeholders of the county, to be approved by the said court, in the sum of three thousand dollars, lawful money of the United States of America; upon condition, that if the said A. B. shall and do from time to time, and at all times during his continuance in office, well and faithfully execute the said office, and perform in every thing the trust in him reposed, then the said recognizance to be void; otherwise to be and remain in full force and virtue; which said recognizance shall be, and is hereby declared to be in trust, to and for the use and benefit of the State, or of any person or persons who may or shall be injured by any breach or neglect of duty in such coroner, clerk or prothonotary respectively; whereupon the State, or the person or persons aggrieved, may proceed by scire facias, or other legal process, and upon proving what damages have been sustained, and verdict found therefor, the court in such case shall give judgment for so much as the jury or inquest shall find, with the costs, and no more, and shall award execution for the same; and the said recognizances are hereby declared still to remain cautionary for the State, or such person or persons as shall prove themselves damnified, and recover their damages, as aforesaid, by due course of law.

SECT. 2. *And be it enacted by the authority aforesaid,* That the said court of General Quarter Sessions of the peace and gaol delivery, shall cause the said recognizances, respectively entered into, as aforesaid, to be recorded in the office for recording of deeds in the respective counties, and the recorder is hereby directed to record the same, for which he shall be paid by the principal recognizer, the sum of fifty cents, and no more: and the copies or exemplifications of such recognizances so enrolled,

being certified by the recorder under his hand and seal (which the recorder is hereby required to affix thereto,) shall be allowed in all courts of law or equity where produced, and are hereby declared and enacted to be as good evidence, and as competent, effectual and valid in law or equity, as the original recognizances, and the said copies or exemplifications may be sued on, pleaded and made use of accordingly.

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SECT. 3. *And be it enacted,* That so much of the first and second sections of the act, entitled, "An act obliging the officers of this government to give security," as is hereby altered and supplied, be, and the same is hereby declared null and void.

Repeal—1 & 2
sec. of chap. 19
a. 1 vol. 60, 61.

SECT. 4. *And be it further enacted,* That if any coroner, register, clerk or prothonotary, as aforesaid, shall neglect or refuse to give such security, at the time and in the manner as before directed, in every such case the said coroner, register, clerk or prothonotary, shall forfeit and pay the sum of five hundred dollars, one moiety thereof to be paid to the use of the State, and the other to him, her or them, who shall sue for the same, to be recovered by action of debt, bill, plaint or information, in any court of record in this State, together with costs.

Penalty for not
giving security.

How recovered
and applied.

Passed at Dover, Jan. 25, 1811.

C H A P. CXLV.

*An ACT to encourage the establishment of certain
manufactories within this State.*

WHEREAS it appears to this General assembly, that from the many local advantages and facilities which many parts of this State pre-

Preamble.

See vol. 5 p. 205

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sent for the establishment of manufactories for the manufacture of articles of the first importance, upon an enlarged scale, and from a consideration of the limited extent of the territory of the State, within which all agricultural pursuits are necessarily bounded, it becomes the duty of the legislature, to protect and encourage, by every lawful means in their power, such manufactories as are or shall be established:

What artificers
shall be exempted
from militia
fines.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That from and after the passing of this act, every artificer or workman, concerned or employed as such in the manufacture of paper, iron, gun-powder, woollen yarn, woollen cloth, cotton yarn or cotton cloth, at or in any manufactory of any such articles now established, or which may hereafter be established within this State, whereat the greatest power or force employed is produced by water-mill machinery, or in any woollen or cotton manufactory, wherein not less than two hundred spindles are employed, shall be and they are hereby declared to be exempted from all militia fines and forfeitures.

Owners, &c. of
manufactories
to make out,
annually, a list
of artificers by
them employed,
between certain
ages.

SECT. 2. *And be it enacted,* That it shall be the duty of the owner or other person actually superintending any such manufactory, to make out a list on or before the first day of April in every year, containing the name, surname, age and particular concern or employment of every artificer or workman of the age of eighteen years, and under forty-five years, then concerned or employed in such manufactory, and the said owner or person actually superintending such manufactory, shall, and he is hereby required to make a return of such list, duly certified under his hand and seal, to the captain or commanding officer of the militia company for the district in which such manufactory shall be established, on or before the said first day of April every year; and if, at any time after, the return shall be

List, how made,
and to whom to
be returned.

made as aforesaid, any other artificer or workman shall be taken into the concern or employment of such manufactory; it shall be the duty of the owner or person actually superintending the same, to certify as aforesaid, to the captain of the militia company of the district as aforesaid, the name, surname, age, concern or employment of such artificer or workman, if of the age of eighteen years, and under forty-five years, within ten days after he shall have been entered and engaged in such concern or employment: and if any artificer or workman so returned to the captain of the militia company, shall be discharged, or shall withdraw himself from the concern or employment in which he had been engaged, it shall be the duty of the owner or person actually superintending such manufactory, to notify the same to the captain of the militia company, or officer commanding the same, within ten days next after such discharge or withdrawing.

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Artificer discharged, &c.
notice thereof
to be given to
the captain, &c.

SECT. 3. *And be it enacted*, That if any such owner or superintendant, shall refuse or neglect to make such return, or give notice as aforesaid, to the captain or commanding officer of the militia company, for the district wherein such manufactory is established, or shall knowingly and wilfully, with intent to evade the operation of the militia laws of this State, return and certify any person as an artificer or workman, concerned or employed in such manufactory, who shall not be such, he shall forfeit and pay the sum of thirty dollars for every such neglect, refusal, or false return, to be recovered before any justice of the peace, in like manner as debts above forty shillings and upwards, and not exceeding twelve pounds, are by law made recoverable, to be paid to the commissary of military stores for the county, and applied as other militia fines are by law directed to be applied.

Penalty for not
making true re-
turn, and giv-
ing notice, &c.

How recovered
and applied.

SECT. 4. *And be it enacted*, That if any person shall contract with, entice, or persuade or endea-

Penalty for en-
ticing away ar-
tificers.

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How to be ap-
plied.

Subsequent of-
fence, how
punished.

your to seduce or encourage any artificer or workman actually concerned, employed, or engaged in the manufacture of paper, iron, gun-powder, woollen yarn, woollen cloth, cotton yarn or cotton cloth, at or in any manufactory of such articles established within this State, whereat the greatest power or force employed, is produced by water-work machinery, to leave, or go out and depart from this State, for the purpose of being engaged, concerned or employed in any such manufactory in any other State, Republic, Kingdom or Empire, and shall thereof be convicted upon indictment, before the court of general Quarter Sessions of the peace and gaol delivery, for the county wherein such offence shall be committed, every person so convicted shall, for every artificer or workman so contracted with, enticed, persuaded, encouraged, or seduced, or attempted so to be, forfeit and pay the sum of two hundred dollars, to be paid to the State treasurer for the use of the State: and on conviction for every subsequent offence, shall forfeit and pay the sum of four hundred dollars; and in default of payment of such fine, together with costs, shall be committed to the county gaol, there to remain until the fine, together with the costs, shall be fully paid and satisfied, or he be discharged by due course of law.

Passed at Dover, Jan. 26, 1811.

CHAP. CXLVI.

An ACT to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes.

Free negroes or
free mulattoes
coming to

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That

free negro or free mulatto not now residing in this State, shall hereafter come into this State to reside, and if any free negro or free mulatto shall come into this State, contrary to the directions of this act, it shall be the duty of any justice or conservator of the peace, who shall have knowledge or information thereof, to issue his warrant or precept to any constable of the county, commanding him to notify and warn the said negro or mulatto to depart this State; and if said negro or mulatto shall not depart or remove from this State, within ten days after being warned and notified, as aforesaid, he or she shall forfeit and pay the sum of ten dollars for each and every week he or she shall remain within this State, after the expiration of the said ten days, and notice, as aforesaid, to be paid to such person or persons, as shall first give notice or information thereof to any justice or conservator of the peace; and upon such information being given to any justice or conservator of the peace, it shall be his duty forthwith to issue a warrant under his hand and seal, directed to any constable of the county, who shall forthwith proceed to arrest the said free negro or free mulatto, and bring him or her before the said justice or conservator of the peace, who shall, in case said negro or mulatto be unable to pay said fine, with costs, and give surety to be approved of by said justice or conservator, for his or her departure from this State, within five days, commit the said free negro or free mulatto to the public gaol of the county, and said justice or conservator, shall specify in said warrant of commitment, the amount of the fine imposed on such negro or mulatto, together with costs, and also the name of the person or persons to whom such fine is payable, and it shall be the duty of the sheriff of the county where such negro or mulatto shall be committed, forthwith to proceed to sell such negro or mulatto, to any person or persons residing in this State, for such term as shall be sufficient for payment of said fine and costs, together with the charges of imprisonment and sale, first giving ten days public notice

reside in this State to be notified to depart.

Penalty for not leaving the State in ten days after notice.

To whom payable.

In case of inability to pay the fine, &c. to be imprisoned and sold.

Notice of sale
how to be given.

of such sale by advertisements to be set up in the most public place in each hundred of the county, where such sale shall be made.

Free negro, &c.
remaining in the
State, after time
of servitude, to
be deemed a non
resident, &c.

SECT. 2. *And be it further enacted by the authority aforesaid,* That if any free negro or free mulatto shall remain or continue to reside in this State, for the space of ten days after the expiration of the time for which he or she shall or may be sold, as aforesaid, he or she shall be deemed and taken to be a non-resident, and shall be proceeded against, and be liable to the same penalties and punishments as herein before limited and appointed against free negroes and free mulattoes now residing out of this State.

What shall be
evidence of no-
tice to depart.

SECT. 3. *And be it further enacted by the authority aforesaid,* That the return of the said constable to the warrant or precept aforesaid, certified or endorsed thereon, shall be admitted to be read as competent evidence against any such free negro or free mulatto of such notification or warning: *Provided always,* That said constable be sworn or affirmed by said justice or conservator of the peace, to the truth of said return, so to be certified or endorsed, as aforesaid, which oath or affirmation the said justice or conservator of the peace is hereby empowered and directed to administer, and to certify the same under his hand, upon the said warrant or precept.

Proviso.

Residing six
months out of
the State, to be
deemed non-re-
sidents, &c.

SECT. 4. *And be it further enacted,* That if any free negro or free mulatto, residing in this State, shall from and after the passing of this act, remove out of or depart therefrom, and shall there remain or abide for the space of six months, then such free negro or free mulatto shall be deemed and taken to be a non-resident, and shall be proceeded against, and liable to the same penalties and punishment as herein before limited, directed and appointed against free negroes and free mulattoes now residing out of this State: *Provided,* That nothing herein contained shall be construed to extend to any sea-faring person or

Proviso.

persons of colour, who may be following his or their occupation, or any waggoner or messenger, while in the actual employment of any citizen or citizens of this State.

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SECT. 5. *And be it further enacted by the authority aforesaid,* That if any person or persons residing in this State, shall hereafter hire, employ or harbour any free negro or free mulatto, who shall emigrate or settle in this State, after the passing of this act, such person or persons shall for each and every such offence, forfeit and pay the sum of five dollars for each and every day any such free negro or free mulatto may be so employed, hired or harboured, to be recovered by action of debt, bill, plaint or information in any court of record in this State, with costs, one moiety thereof to be paid and applied to the use of the State, and the other to such person or persons as shall sue for the same: *Provided always,* That nothing herein contained, shall be construed, deemed or taken to extend to affect or make liable any person or persons who may hire or employ such free negro or free mulatto, unless such person or persons shall have received notice from some justice or conservator of the peace of the county, that such free negro or free mulatto is not a resident of this State.

Penalty on hiring, &c. any non-resident free negro or mulatto.

Proviso.

SECT. 6. *And be it enacted,* That it shall be the duty of the court of General Quarter Sessions of the peace, to give this act in charge to the grand jury at each and every court that shall hereafter be held in the respective counties of this State.

Court shall give this act in charge to the grand jury, &c.

SECT. 7. *And be it enacted,* That nothing contained in this act, shall be construed to extend or apply to the case of any negro or mulatto who has at any time heretofore resided within this State, but is now resident out of this State, and who returning to reside therein, shall bring with him or her, a certificate of fair conduct and character, signed by at least one justice of the peace of the county, town

This act, to what cases not to be applied.

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or place where such negro or mulatto has resided one year immediately preceding his or her coming into this State: *Provided* such certificate be approved of and endorsed by two justices of the peace of the county into which the said negro or mulatto may come to reside; and the same be recorded in the office for recording of deeds of such county, within one month next immediately after his or her coming for the purpose aforesaid, into such county; nor shall this act be in any way construed to apply to the case of a negro or mulatto, returning to this State, next immediately after his or her having been unlawfully taken out of the same.

Passed at Dover, Jan. 28, 1811.

C H A P. CXLVII.

3 vol. chap. 140.
p. 310.

A Supplement to the act, entitled, "An act for establishing and regulating a ferry over the river Delaware, at the town of New-Castle."

Preamble.

WHEREAS, by an act, entitled, "An act for establishing and regulating a ferry over the river Delaware, at the town of New-Castle, passed at Dover, the twenty-first day of January, in the year of our Lord, eighteen hundred and one, a ferry was established from and after the twenty-fifth day of March next, in the same year, at the brick house and wharf, in the town of New-Castle aforesaid, commonly called the "old ferry," formerly of George Monro, deceased, and then and now of James M'Callmont, situate at the south-easterly corner of Harmony and Front streets, for the transportation of travellers, horses, cattle, carriages and goods, from thence over the river Delaware; the exclusive right to keep and maintain, at which place, for and during the term of

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twenty-one years from the twenty-fifth day of March aforesaid, was by the said act vested in the said James M'Callmont, and such other person or persons as might from time to time be the owner or owners, possessor or possessors of the said brick house and wharf, on condition, that within two years from the said twenty-fifth day of March, the said James M'Callmont, or such other person as might be owner of the said premises, should extend and carry out the said wharf at least one hundred and fifteen feet further into the said river from the end thereof, either by continuing the said wharf, or by erecting a pier or bridge; and should also annex a slip thereunto, so as to render the landing-place safe and convenient for the purposes of a ferry. And whereàs it hath been represented to the Legislature, by the petition of the said James M'Callmont, that he did, within the time prescribed by the said act, erect an additional wharf, of one hundred and fifteen feet and upwards, and annexed thereto a slip, so as to render the landing-place safe and convenient for the purposes of a ferry; and in all other respects complied with what was enjoined on him by the provisions of the said act. That by the subsequent alluvion of the waters of the Delaware, a large mud-flat has been formed along side the said wharf and slip, which prevents the ferry-boats at low water, from coming nearer to the said slip, than fifty feet, occasioning, to the great inconvenience and dissatisfaction of passengers, the detention of hours, before the horses and carriages can be embarked or landed. And whereas, it appears, that the public interest requires that further improvement should be made by extending the slip aforesaid, into the river, so as to render the said landing-place approachable by boats, for the purpose of receiving and landing, at all times of the tide, passengers, horses and carriages; and that it would be just and equitable to grant an equivalent benefit to the petitioner, for incurring that expense, by extending for a further term of time beyond the existing term, the exclusive ferry-right aforesaid.

Exclusive en-
joyment of ferry
right extended.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the term of time prescribed and limited by the herein before recited act, for the exercise and enjoyment of the exclusive ferry right, at the said ferry, in the town of New-Castle aforesaid, as secured by the said act, shall be and is hereby extended and enlarged for and to the extent and full end and term of thirty-one years, from and after the said twenty-fifth day of March, eighteen hundred and one, to be exercised and enjoyed in full right by the said James M^cCallmont, and such other person or persons as may be owner or owners, possessor or possessors, from time to time, of the said brick house, wharf and landing-place, herein before recited and mentioned, any thing in the said herein before recited act contained to the contrary notwithstanding.

Slip to be ex-
tended sixty
feet further into
the river, in the
present year ;
and

SECT. 2. *Provided always, and be it further enacted,* That the said James M^cCallmont, or such other person or persons as may be the owner or owners of the said premises, shall add to and extend the slip of its present breadth, sixty feet beyond the end thereof, into the river Delaware, within the period of the present year, and shall from time to time afterwards and during so much of the said term of thirty-one years as shall then be unexpired, and to come, continue and increase that extension of the said slip, further into the said river, as the alluvion thereof, and the accumulation of the mud-flat there, may render necessary ; so always that ferry-boats may, at all times of the tide in the said river, depart from or approach to the said slip, with passengers, horses, cattle, carriages and goods, to pass and re-pass with safety and convenience.

further thereaf-
ter, if necessary.

SECT. 3. *And be it further enacted,* That all the provisions, clauses and sections of the said recited act, except so much, or such part thereof, as are hereby altered or amended, shall be and continue, and are hereby declared to be and continue in full

force for and during, and unto the full end and term of the aforesaid period of thirty-one years.

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Passed at Dover, Jan. 29, 1811.

C H A P. CXLVIII.

A Supplement to an act, entitled, "An act for the better regulation of roads in New-Castle county."

Chap. 180. a.
1 vol. 402.

WHEREAS; much inconvenience has been experienced by the citizens of New-Castle county, by public roads passing through valuable tracts of wood lands, without a possibility of recovering by law any adequate compensation for the damage: for remedy whereof,

Preamble.

Be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That where any public road or highway, shall be laid out or pass through any unimproved or wood-lands of any person or persons; then and in every such case, shall the damages sustained by the owner or owners of such unimproved or wood-lands be valued; and such valuation returned by the same persons, and in like manner as is directed for the valuation of damages sustained by the owner or owners of improved lands, in the act to which this is a supplement: and all such damages shall be paid in like manner as expressed in said act, any thing herein contained to the contrary notwithstanding.

Passed at Dover, Jan. 29, 1811.

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C H A P. CXLIX.

An ACT to authorize the owners and possessors of the low grounds, near and adjacent to the yellow branch, in Dagsborough hundred, in Sussex county, to cut a ditch or drain through the same.

Passed at Dover, Jan. 29, 1811.—Private act.

C H A P. CL.

An ACT, respecting free negroes and free mulattoes.

Free negroes or
free mulattoes,
convicted of lar-
ceny, may be
sold, &c.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That if any free negro or free mulatto, free negroes or free mulattoes shall, from and after the passing of this act, feloniously steal, take and carry away any goods, chattels or effects of any person or persons, body politic or corporate, of any value whatever, and shall be duly convicted thereof before the court of General Quarter Sessions of the peace, to be held for the county where such offence shall be committed, he, she or they so offending, in place and stead of receiving any other punishment, shall be adjudged to restore the goods, chattels or effects so stolen to the right owner or owners thereof, and to pay to the said owner or owners, double the value thereof, or if the said goods, chattels or effects cannot be found, then the four-fold value thereof, with the full costs of prosecution, and that he, she or they be disposed of by the sheriff of the county, as a servant or servants, for any term not less than two years, nor exceeding seven years, for

the best price that can be obtained for him, her or them, to any person or persons whatsoever, residing in this State or elsewhere, willing to purchase him, her or them, and that the said purchaser or purchasers, shall in like manner be at liberty to sell, dispose of, or assign the said servant or servants, to any person or persons whatsoever, for the said term, or so much thereof as may remain unexpired, and he, she or they be committed to the public jail, until the said judgment be carried into execution.

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Purchaser at liberty to sell again.

SECT. 2. *And be it enacted*, That so much of the money arising from the said sales, as may be necessary, shall be applied by the sheriff towards the satisfaction aforesaid, and in discharge of the costs of prosecution, and the residue, if any, shall be paid to the State treasurer, for the use of the State, as fines and forfeitures are directed by law; and if the said money arising from the said sale shall not be sufficient to make the satisfaction, and pay the costs of prosecution aforesaid, then the said court shall issue their writ in the nature of a fieri facias, directed to the sheriff, commanding him to levy the said deficiency of the goods and chattels, lands and tenements of the said offender or offenders.

Purchase money, how applied.

Purchase money insufficient for satisfaction, &c. further proceeding.

SECT. 3. *And be it enacted*, That nothing herein contained shall be taken to prevent the prosecution and punishment of such larcenies, as may have been committed previously to the passing of this act, in such manner as if this act had not been passed.

Passed at Dover, Jan. 30, 1811.

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1811

CHAP. CLI.

An ACT to incorporate a company for making an artificial road from the town of New-Castle to Clarke's corner.

Commissioners
appointed.

Shall open
books for sub-
scription.

And shall give
notice of the
time and place
of receiving
subscriptions.

May adjourn
from time to
time, &c.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Kensey Johns, James Rogers, James R. Black, John Crow and Benjamin Marly, be, and they are hereby appointed commissioners, to do and perform the several things herein after mentioned: that is to say, they shall, on or before the twenty-third day of April next, procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, of the New-Castle turnpike road, the sum of twenty-five dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of the said company;" and shall thereupon give notice, by setting up two or more advertisements in the town of New-Castle, ten days, at least, previous to the time and place, when and where the said books shall be opened, to receive subscriptions for the stock of the said company; at which time and place, one or more of the said commissioners shall attend, and shall permit and suffer all persons of lawful age, or corporations, who shall offer to subscribe in the said books, in their own name, or names of any other persons who shall duly authorize the same, for any number of shares in the said capital stock; and the said books shall be kept open, from day to day, for the purpose aforesaid, until the said books shall have therein subscribed, three hundred and twenty shares; and the said commissioners may, from time to time, adjourn until the whole number of shares

be subscribed; *Provided*, That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioner or commissioners, the sum of five dollars, for every share to be subscribed; out of which shall be paid the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereafter mentioned.

Five dollars on each share to be paid.

SECT. 2. *And be it enacted*, That when ten or more persons shall have subscribed one hundred and sixty shares, they shall be created and erected into one body politic and corporate, by the name, style and title of, "The New-Castle Turnpike Company;" and by the same name the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them, their successors and assigns, and of selling, transferring, and conveying, in fee-simple, or of any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary for them, in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

Subscribers incorporated.

Style, powers and privileges.

SECT. 3. *And be it enacted*, That the commissioners aforesaid, or a majority of them, as soon as conveniently after one hundred and sixty shares of the capital stock, shall be subscribed shall give notice in manner aforesaid, of the time and place by them to be appointed, for the first meeting of the subscribers; at which time and place, the said subscri-

Commissioners to give notice of time and place of choosing officers.

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Power to make
bye-laws.

Votes limited.

Proviso.

certificates of
shares, how
transferable.

Meeting of the
president and
managers.

bers shall proceed to organize the said corporation, and shall choose, by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president, and four managers, one treasurer, and such other officers, as they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number: *Provided nevertheless*, That all future meetings and elections of the said corporation, shall be held, with such notice, and in manner and form aforesaid, at such time and places, as the president and managers aforesaid, or a majority of them, shall direct and appoint.

SECT. 4. *And be it enacted*, That certificates for shares shall be issued in such form as the said president and managers shall direct, which shall be transferable, in person, or by attorney, in the presence of the president or treasurer, subject, however, to all payments due, and to grow due thereon: and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for that purpose, shall be a member of the said corporation, and for such certificate shall be entitled to the number of shares therein mentioned, and to such proportion of all the estates and emoluments of the company, as such shares may entitle him to, and to vote as aforesaid, at the meetings thereof.

SECT. 5. *And be it enacted*, That the president and managers, shall meet, at such times and

places, and may be convened in such manner, as shall be agreed on, for transacting their business; at which, three shall form a quorum, and in case of the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendants, artists, and officers, as they shall judge necessary, to carry on the intended works, and to fix their salaries and wages; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work; which orders, shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations, of the company, shall be committed to them.

Quorum.

May appoint surveyors, &c.

Further powers.

SECT. 6. *And be it enacted*, That if any stockholder, whether original subscriber or assignee, after ten days notice in one of the public papers printed in this State, or other notice in writing, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the said work, shall neglect to pay such proportion, at the place appointed, for the space of thirty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums

Shares, how forfeited.

before paid, in part and on account of such share, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the president and managers, may, at their election, cause suits to be brought, before a justice of the peace, or in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always*, That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with the accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same shares and the costs of suit; *And provided also*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meeting shall have been fully paid and discharged, as aforesaid.

May enter upon lands, adjacent to the road.

Breadth of road, and of what materials to be made.

SECT. 7. *And be it enacted*, That the said president, managers and company, shall have power and it is hereby declared to be lawful for them, their superintendants, surveyors, engineers, artists and workmen, to enter upon and occupy all the lands within the limits of the road called and known by the name of the State road, formerly the King's-road, leading from the town of New-Castle towards the Red-lion, as far as the intersection of said road with the Wilmington bridge road, at Clarke's corner, beginning at the intersection of Delaware and Union streets in the town of New-Castle, and to cause twenty feet thereof, in breadth, at least, to be made an artificial road; which shall be bedded with wood, stone, gravel, clay or other proper and convenient materials, well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road, shall be

faced with clay, gravel or stone, pounded, or other small hard substance, in such manner, as to secure a firm, and as nearly as the nature of the country, and the materials will admit, an even surface, rising towards the middle, by a gradual arch; and shall maintain and keep the same in good order and repair.

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SECT. 8. *And be it enacted*, That as soon as the said road, shall be so improved and finished it shall and may be lawful for the said company to appoint from time to time, such and so many toll-gatherers as they shall think proper, to collect and receive of, and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; to erect and fix one or more gates or turnpikes upon and across the said road, and to stop any person riding, leading or driving any cattle, hogs, sheep, sulkey, chair or chaise, phaeton, coach or coachee, cart, waggon, wain, sleigh, sled, or other carriage of burden or pleasure, from passing through the said gates or turnpikes, until they shall have respectively paid the same: that is to say, the following sums of money, and so in proportion for any greater or less number of hogs, sheep or cattle: to wit, for every score of hogs, three cents; for every score of sheep, two cents; for every score of cattle, six cents; for every horse or mule, laden or unladen, with his rider two cents; for every sulkey, chair or chaise, with one horse and two wheels, three cents, and with two horses, four and an half cents; for every chair, coach, phaeton, chaise, stage-waggon, coachee or other waggon, with two horses and four wheels, six cents; for either of the carriages last mentioned, with four horses, ten cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same; for every sleigh or sled, one cent for each horse drawing the same; for every cart or waggon, or other carriage of burden, the wheels of which do not in breadth exceed four inches, two cents for each horse or ox drawing the same; for every cart or waggon,

Toll-gatherers.

Rates of toll.

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the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, one cent and an half for each horse or ox drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, one cent for each horse or ox drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, half a cent for each horse or ox drawing the same.

Accounts to be
kept of monies
received.

Dividend to be
declared.

SECT. 9. *And be it enacted* That the said president, managers and company, shall keep a just and true account of all monies received, and shall half yearly make and declare a dividend of the clear profits (all contingent costs and charges, and a reasonable fund for repairs, and for the improvement of the said road; being first deducted and reserved) among all the subscribers to the stock of the said company; and shall publish the half yearly dividend to be made of the clear profits among the stockholders, and give notice of the time and place where the same will be paid, and shall cause the same to be paid accordingly.

In what case
tolls may be in-
creased.

SECT. 10. *And be it enacted*, That if at the end of two years after the said road shall be completed it shall appear from the average profits thereof, for the said two years, that the said clear income and profits thereof, will not bear a dividend of six per centum per annum, on the whole capital stock of the said company so expended, that it shall and may be lawful to and for the said president, managers and company, to increase the tolls herein allowed, in equal proportions upon each and every allowance thereof, except as to commutations, so as to raise the dividends up to six and not exceeding nine per centum per annum.

SECT. 11. *And be it enacted,* That if the turnpike company intended to be incorporated by an act, entitled, "An act to incorporate a company for making an artificial road from the town of New-Castle, in New-Castle county, to the line of this State, in the route or direction to French-town, on Elk river, in Cœcil county, in the State of Maryland," should become incorporated, and elect to take the road intended to be improved by this act, as part of the route for said company; and if the said company shall, within seven years after the passage of this act, pay to the company intended to be incorporated by this act, the amount of the sum which may be then expended on the road by this act intended to be improved, it shall and may be lawful for the said president, managers and company of the New-Castle turnpike company, to sell and convey all their right, title and interest under this act to the president, managers and company of the New-Castle and French-town turnpike company, and thereupon this act shall cease to have any other operation, and it shall and may be lawful for them to proceed and exercise the same powers as if this act had never been passed.

When and on what terms, this turnpike may be sold to the New Castle and French-town company.

SECT. 12. *And be it enacted,* That every person or persons who shall prefer an annual contract for the use of the said road, shall be entitled, for himself and his family, to all the benefits of the same, except as to stages for the conveyance of persons for hire, and waggons for conveyance of goods, wares and merchandizes, for the sum of two dollars, to be paid in such manner that a quarterly payment shall always be in advance; and if any person or persons who wish to make such contract, shall think the said annual contract unreasonable, and disproportionate to the number of their family, and their use of the said road, the party so aggrieved, and the president of the said company, intended to be incorporated by this act, shall each choose one disinterested freeholder, who shall decide what reduction, if any, shall be made from the annual payment,

Commutation of tolls, &c.

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herein before specified ; and in case the two persons so chosen, cannot agree, they shall choose a third person, and then the three persons, or a majority of them, shall decide as aforesaid; or in case the said president shall refuse or neglect to choose a freeholder for the purpose aforesaid, for the space of ten days, then the freeholder chosen by the party aggrieved, as afore-said, shall decide what reduction ought to be made, which shall be the commutation for the current year.

May enter adjacent lands.

SECT. 13. *And be it enacted*, That it shall be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous, and near to which the route and track of the said intended road shall pass, first giving notice of their intention, to the owners or occupiers thereof, and doing as little damage thereto, as possible, and repairing any breaches they may make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing, mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county of New-Castle; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, sand, earth, or other materials there, being most conveniently situated for making or repairing said road.

Damages how ascertained.

May take timber, stone, &c.

Road whether in repair how to be ascertained.

SECT. 14. *And be it enacted*, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any

justice of the peace of the county, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept to be mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisitors, not to be in such order and repair, as is herein required, he shall so certify, and send one copy of the said inquisition to the keeper or keepers of the turnpike or gates, and from thenceforth, the tolls hereby granted, shall cease to be demanded, paid or collected; until the said defective part or parts of the said road shall be put in good and perfect order as aforesaid.

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If not in repair,
tolls to cease.

SECT. 15. *And be it enacted,* That so soon as one mile of the said road shall be perfected, the said company shall be entitled to one half of the tolls, hereby granted, and upon application to the chief justice of the Supreme court, or court of Common Pleas, he shall nominate and appoint three skilful and judicious persons, to view and examine the same, and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the chief justice shall, by license, under his hand, permit the gates to be erected and the tolls to be collected; and in like manner when the residue of the road shall be finished, three persons shall be appointed to examine and report; and if in the affirmative, a similar license shall be signed for the purpose aforesaid.

When and by
whom toll-gates
shall be licens-
ed, &c.

When this corporation shall cease.

Proviso.

Further proviso.

SECT. 16. *And be it enacted*, That the corporation intended to be created by this act, shall cease when and as soon as the hundred of New-Castle, or the inhabitants of the town of New-Castle shall pay to the said company, the amount of the money which may be expended for the improvement of the said road, unless purchased as is directed in the eleventh section of this act : *Provided always*, That no payment shall be made of more than one moiety of the sum so expended at the expiration of five years from the time when the said company shall commence receiving tolls, and the other moiety at the expiration of ten years from the time aforesaid : *And provided always*, That after the expiration of ten years from the time of receiving tolls, if no part of the sum expended, as aforesaid, shall be paid, then the whole or a moiety thereof may be paid at the expiration of any term of five years thereafter, and not otherwise.

Company shall not obstruct any other company from forming a junction, &c.

SECT. 17. *And be it enacted*, That it shall not be lawful for the said company, to put, cause or suffer to be put, any let, hindrance or obstruction whatever, with intent to obstruct or prevent any other turnpike company, which now is, or hereafter may be incorporated, from forming a junction with the aforesaid New-Castle turnpike company road, or in any manner to prevent the passing or re-passing to and from the same, and in case of neglect to repair that part of the said turnpike road which may be opposite to the place where any such future turnpike road may join the same, that it shall be lawful for the company forming a junction, as aforesaid, to repair such part of the said road.

For what number of shares, road commissioners of New-Castle hundred may subscribe.

Proviso.

SECT. 18. *And be it enacted*, That it shall and may be lawful for the commissioners for the time being of the roads in New-Castle hundred, or a majority of them, to subscribe for any number of shares not exceeding fifty of the capital stock of said company : *Provided*, they shall deem it to be for the benefit of the said hundred, and the said

commissioners or a majority of them are hereby authorized and empowered to take and hold the said shares, which may be so subscribed, for the use of the hundred of New-Castle, and to exercise the right of voting, and to receive the dividends in trust for the said hundred, and it shall and may be lawful for the said commissioners, or a majority of them to raise the money for the payment of the aforesaid shares which may be subscribed as before mentioned, in the manner prescribed by law for assessing and collecting road taxes within the said hundred of New-Castle.

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SECT. 19. *And be it enacted*, That if any toll-gatherer on the said road, shall demand from any person or persons using the said road, any greater rate of toll, than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence, one half to the use of the commissioners of the roads in the hundred of New-Castle, and the other half to the use of the person suing for the same, to be recovered before any justice of the peace where such offence shall have been committed.

Penalty for extortion.

How recovered and applied.

SECT. 20. *And be it enacted*, That if in the case of any suit or prosecution, which shall be commenced under the directions of this act, for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case, the person or persons prosecuted as aforesaid, shall recover by the judgment of the justice or the court, before whom such suit or prosecution shall be depending, such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution, for the vexation of such suit or prosecution.

Redress for vexatious prosecutions under this act.

SECT. 21. *And be it enacted*, That no suit or action shall be brought or prosecuted by any person or

Limitation of actions for penalties.

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This act may be
given in evi-
dence.

persons, for any penalty which may be incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed: and the defendant or defendants in such suit or action, may plead the general issue, and give this act, and the special matter in evidence.

Travellers of
this road to keep
on the right-
hand side.

Penalty, for ne-
glect.

SECT. 22. *And be it enacted by the authority aforesaid,* That waggoners, carters and drivers of carriages of all kinds, whether of burden or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right-hand side of the said road, in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding five dollars, to any person, who shall by reason thereof, be obstructed in his passage, and will sue for the same, before any justice of the peace, to be recovered with costs, as debts under forty shillings are recoverable by law.

Passed at Dover, Jan. 30, 1811.

C H A P. CLII.

An ACT for regulating the General Elections of this State.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the general elections for the county of New-Castle, which for that purpose shall be, and is hereby divided into nine districts, shall be holden at nine

New-Castle
county divided
into nine dis-
tricts.

places : to wit, the electors of the hundred of Brandywine, being the first district of said county, shall hold their said elections at the inn now known by the sign of the Blue-ball, on the Concord road, now occupied by George Miller ; the electors of the hundred of Christiana, being the second district of said county, shall hold their said elections at the house now occupied by Mary Hendrickson ; the electors of the hundred of Mill-creek, being the third district of said county, shall hold their said elections at the Mermaid tavern, now occupied by William Ball ; the electors of the hundred of White-clay-creek, being the fourth district of said county, shall hold their said elections at the house now occupied by John Herdman, in the village of Newark ; the electors of the hundred of Pencader, being the fifth district of said county, shall hold their said elections at the house at present occupied by David Armstrong, in the village of Glasgow ; the electors of the hundred of New-Castle, being the sixth district of said county, shall hold their said elections at the tavern now occupied by John Hare : the electors of the hundred of Red-lion, being the seventh district of said county, shall hold their said elections at the tavern now occupied by Diana Biddle, in the village of St. George's ; the electors of the hundred of Saint George's, being the eighth district of said county, shall hold their said elections at the place called the Trap, at the house now occupied by Thomas Corneilly ; the electors of the hundred of Appoquinimink, being the ninth district, of said county, shall hold their said elections at Black-bird, in the tavern now occupied by James Millis.

Elections of Brandywine hundred, where to be held.

of Christiana ;

of Mill-creek ;

of White-clay-creek ;

of Pencader ;

of New-Castle ;

of Red-lion ;

of St. George's and

of Appoquinimink.

SECT. 2. *And be it enacted*, That from and after the passing of this act, the general elections of the county of Kent, which for that purpose shall be, and is hereby divided into five districts, shall be holden at five places : to wit, the electors of the hundred of Duck-creek, being the first district of said county, shall hold their said elections at the

Kent county divided into five districts.

Elections of Duck-creek hundred, where to be held.

house now occupied by David Lockwood, in Smyrna; the electors of the hundred of Little-creek, being the second district of said county, shall hold their said elections at the house of William Ruth, at the Fast-landing; the electors of the hundred of Saint Jones', being the third district of said county, shall hold their said elections at the mill, commonly called and known by the name of Sipple's mill; the electors of the hundred of Murderkill, being the fourth district of said county, shall hold their said elections at the house now occupied by Isaac Register, in the village of Camden; and the electors of the hundred of Mispillion, being the fifth district of said county, shall hold their said elections at the house now occupied by George French.

Sussex county
divided into ten
districts.

Elections of Cedar-creek hundred, where to be held.

of Broadkill;

of Nanticoke;

of North-west-fork;

of Broad-creek;

of Little-creek;

SECT. 3. *And be it enacted,* That from and after the passing of this act, the general elections of the county of Sussex, which for that purpose shall be, and is hereby divided into ten districts, shall be holden at ten places: to wit; the electors of the hundred of Cedar-creek, being the first district of said county, shall hold their said elections at the house now occupied by Milloway White, at the head of Cedar-creek; the electors of the hundred of Broadkill, being the second district of said county, shall hold their said elections at the house now occupied by Benjamin Benson, at Milton; the electors of the hundred of Nanticoke, being the third district of said county, shall hold their said elections at the house now occupied by the widow of Booz Coverdale, in Bethel or Pass-water's cross-roads; the electors of the hundred of North-west-fork, being the fourth district of said county, shall hold their said elections at the tavern now occupied by John Wilsen, in Bridgeville; the electors of the hundred of Broad-creek, being the fifth district of said county, shall hold their said elections at the house now occupied by the widow of John Elliott; the electors of the hundred of Little-creek, being the sixth district of said county, shall hold their

said elections, at the house now occupied by Thomas Skinner, at Laurel; the electors of the hundred of Dagsborough, being the seventh district of said county, shall hold their said elections at the house now occupied by Peter Hall; the electors of the hundred of Baltimore, being the eighth district of said county, shall hold their said elections at the house now occupied by William Howell; the electors of the hundred of Indian-river, being the ninth district of said county, shall hold their said elections at the house now occupied by William Waller, near to St. George's; the electors of the hundred of Lewes and Rehoboth, being the tenth district of said county, shall hold their said elections at the house now occupied by John Wolf, in Quaker-town.

of Dagsborough;

of Baltimore;

of Indian-river;
and

of Lewes and
Rehoboth.

SECT. 4. *And be it enacted*, That the electors of the different hundreds, shall choose the inspectors of the said hundreds, in manner and form, and under the regulations prescribed and provided for, by the existing laws of this State.

Inspectors, how
to be chosen.

SECT. 5. *And be it enacted*, That if, from any cause, it should become impracticable to hold the said general elections at any one or more of the places mentioned in the three first sections of this act, then, and in such case, the inspector or inspectors, of such district or districts, shall, after giving full and due notice thereof in writing, to be set up in five of the most public places in such district or districts, hold the said election in some convenient place, as near as may be to the place assigned for that purpose by this act; and in case of the death or inability to serve, of any such inspector or inspectors, the collector or collectors, of such district or districts, shall give such notice.

In what case,
place of holding
general election
may be changed,
&c.

SECT. 6. *And be it enacted*, That if any inspector so chosen as aforesaid, shall die, neglect or refuse to serve, or shall be absent from the place of election, at the hour assigned for opening the election in his

Vacancies of in-
spectors, how
supplied.

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district, the electors present at that time, shall forthwith proceed to choose another freeholder in his stead, in the same manner as is directed by the act entitled, "An act for regulating elections, and ascertaining the number of the members of Assembly;" and that the person so chosen, shall be the inspector for the said district, at the said election.

Sheriffs shall put up proclamations in September, annually, reciting the offices, &c. to be filled at the next general election.

Further duty of sheriffs.

Duty of inspectors.

Forms of tally-lists, &c. to be furnished by the sheriffs.

SECT. 7. *And be it enacted*, That it shall be the duty of the sheriff of each county; annually, in the month of September, to put up on the outside of the court-house door of his county, a proclamation, in the name of the State, reciting the offices, posts, and trusts under the constitution and laws of this State, for the persons to fill, which the electors of said county are to vote in their respective districts, at the then next general election; and the said sheriff shall, annually, on the seventeenth day of the said month, (except when that shall happen to be Sunday, and then on the next day,) deliver, or cause to be delivered, to each of the inspectors of said county, a notice in writing, of all the offices, posts, and trusts under the constitution and laws of this State, for the persons to fill which, the electors of said hundred are to vote at the said general election; and each inspector, upon receiving the said notice, shall, at least ten days before the first Tuesday in October then next following, give notice thereof, and of the time and place of holding the said general election, in writing, to the electors of his district, which notice he shall put up, or cause to be put up, in five of the most public places of his said district; and the said sheriff shall moreover, deliver, or cause to be delivered, to each inspector at the same time, written or printed forms for tally lists and returns; and shall at the same time deliver, or cause to be delivered, to each inspector, two suitable ballot-boxes, with a small piece of sealing-wax and tape, and a list of the names as near as may be, arranged in alphabetical order, of the white free male citizens of the age of twenty-one years and upwards, residing and assessed in

said district; which list the clerk of the peace of each county is hereby required, annually, to make out in the month of August, duly authenticated with the seal of his office, and deliver before the fifteenth of the said month to the said sheriff.

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SECT. 8. *And be it enacted*, That all general elections in this State, under or by the authority of the constitution or laws of this State, or of the constitution of the United States, shall be opened in the said districts, between the hours of nine and ten in the forenoon of the day appointed for holding the same, and shall be carried on without interruption or adjournment, until five o'clock in the afternoon of the same day, when the said election shall be closed; and each inspector, immediately before opening the election of his district, shall call to his assistance, two substantial freeholders of the said district, being then and there present, who shall assist him in judging of said election, and in taking the votes.

Elections, at what time to be opened and closed.

Inspector and two freeholders of the district, to be the judges of elections.

SECT. 9. *And be it enacted*, That at the place, and immediately before the time of opening the said general election in each of the said districts, the inspector shall publicly administer to each of the said freeholders, the following oath or qualification: to wit, "You do solemnly swear upon the Holy Evangelists of Almighty God, (or solemnly, sincerely, and truly declare and affirm, or qualify in any other due form of law,) that you will in all things, well, faithfully, honestly and impartially, and according to the best of your knowledge and ability, execute the office of judge of this election; and that you will not, wilfully and knowingly take or receive a vote from any person not entitled to vote at this general election, unless your associate shall adjudge the same to be a legal vote; and that you will, with fidelity and impartiality, canvass and estimate the ballots taken at the same election, and certify a true and just statement of the same, according to the best of your understanding; and that if

Qualification of the freeholders and inspector.

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district, the electors present at that time, shall forthwith proceed to choose another freeholder in his stead, in the same manner as is directed by the act entitled, "An act for regulating elections, and ascertaining the number of the members of Assembly;" and that the person so chosen, shall be the inspector for the said district, at the said election.

Sheriffs shall put up proclamations in September, annually, reciting the offices, &c. to be filled at the next general election.

Further duty of sheriffs.

Duty of inspectors.

Forms of tally-lists, &c. to be furnished by the sheriffs.

SECT. 7. *And be it enacted*, That it shall be the duty of the sheriff of each county annually, in the month of September, to put up on the outside of the court-house door of his county, a proclamation, in the name of the State, reciting the offices, posts, and trusts under the constitution and laws of this State, for the persons to fill; which the electors of said county are to vote in their respective districts, at the then next general election; and the said sheriff shall, annually, on the seventeenth day of the said month, (except when that shall happen, to be Sunday, and then on the next day,) deliver, or cause to be delivered, to each of the inspectors of said county, a notice in writing, of all the offices, posts, and trusts under the constitution and laws of this State, for the persons to fill which, the electors of said hundred are to vote at the said general election; and each inspector, upon receiving the said notice, shall, at least ten days before the first Tuesday in October then next following, give notice thereof, and of the time and place of holding the said general election, in writing, to the electors of his district, which notice he shall put up, or cause to be put up, in five of the most public places of his said district; and the said sheriff shall moreover, deliver, or cause to be delivered, to each inspector at the same time, written or printed forms for tally lists and returns; and shall at the same time deliver, or cause to be delivered, to each inspector, two suitable ballot-boxes, with a small piece of sealing-wax and tape, and a list of the names as near as may be, arranged in alphabetical order, of the white free male citizens of the age of twenty-one years and upwards, residing and assessed in

said district; which list the clerk of the peace of each county is hereby required, annually, to make out in the month of August, duly authenticated with the seal of his office, and deliver before the fifteenth of the said month to the said sheriff.

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SECT. 8. *And be it enacted,* That all general elections in this State, under or by the authority of the constitution or laws of this State, or of the constitution of the United States, shall be opened in the said districts, between the hours of nine and ten in the forenoon of the day appointed for holding the same, and shall be carried on without interruption or adjournment, until five o'clock in the afternoon of the same day, when the said election shall be closed; and each inspector, immediately before opening the election of his district, shall call to his assistance, two substantial freeholders of the said district, being then and there present, who shall assist him in judging of said election, and in taking the votes.

Elections, at what time to be opened and closed.

Inspector and two freeholders of the district, to be the judges of elections.

SECT. 9. *And be it enacted,* That at the place, and immediately before the time of opening the said general election in each of the said districts, the inspector shall publicly administer to each of the said freeholders, the following oath or qualification: to wit, "You do solemnly swear upon the Holy Evangels of Almighty God, (or solemnly, sincerely, and truly declare and affirm, or qualify in any other due form of law,) that you will in all things, well, faithfully, honestly and impartially, and according to the best of your knowledge and ability, execute the office of judge of this election; and that you will not, wilfully and knowingly take or receive a vote from any person not entitled to vote at this general election, unless your associate shall adjudge the same to be a legal vote; and that you will, with fidelity and impartiality, canvass and estimate the ballots taken at the same election, and certify a true and just statement of the same, according to the best of your understanding; and that if

Qualification of the freeholders and inspector.

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Inspector and
freeholders
shall appoint
clerks.

Qualification of
the clerks, &c.

Proclamation
to be made.

Form thereof.

you shall discover any of the other persons, who shall attend with you for the purpose aforesaid, conducting himself or themselves partially, unduly or corruptly in the premises, that you will divulge or discover the same to the attorney-general, to the end that the person or persons so offending, may be brought to justice;" and then one of the said freeholders shall administer to the said inspector the said oath, with this addition thereto, "And further, that you will, with the utmost fidelity, and impartiality, execute and perform every act and duty, the performance of which is enjoined upon you as inspector by any law of this State; so help you God;" and in each hundred or district, the said inspector and freeholders of said district, shall appoint two or more competent clerks of said election, each of whom shall keep a poll or tally-list of the same, under the direction of the said inspector and freeholders, some one of whom shall, immediately before the opening of the said election, administer to each of the said clerks the following oath or qualification: "You do solemnly swear upon the Holy Evangelists of Almighty God, (or solemnly, sincerely and truly declare and affirm, or qualify in any other due form of law,) that you will faithfully, truly, honestly and impartially, according to the best of your knowledge and skill, enter and keep the poll-list at this election; and in all things will faithfully, truly, honestly and impartially, according to the best of your knowledge and abilities, do, perform and fulfil your duty as clerk thereof;" and the said inspector and freeholders shall preside at such election, and conduct and direct the same, according to the regulations of this act, and of the existing laws for regulating the general elections, and be the returning officers thereof, in manner hereinafter directed; and the said inspector, freeholders and clerks, being qualified as aforesaid, the said inspector shall cause proclamation to be three times made as follows: to wit, "hear ye! hear ye! hear ye! the poll of this election is now opened, and all manner of persons attending the same, are strictly

charged and commanded by the authority, and in the name of the State of Delaware, to keep the peace thereof, during their attendance at this election, upon pain of imprisonment;" and the said inspector shall cause proclamation to be made of the time of closing the said election, one half hour immediately preceding the closing thereof; and no person shall vote at any such election, except in the district where he shall actually reside; and if any person shall vote, or attempt to vote, or offer to vote, in any district where he shall not reside, or shall attempt or offer to vote a second time, such person so offending, shall forfeit and pay thirty dollars, to be recovered by indictment, with costs of prosecution, and paid for the use of the State.

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Proclamation of closing election, when to be made.

Penalty on persons not residing, &c. in the district, voting, &c.

How recovered and applied.

SECT. 10. *And be it enacted,* That the mode of conducting every such election, shall be as follows: every free white male citizen of this State, who shall be qualified, according to the laws and constitution of this State, to vote at the same, shall at such election, in the district in which he shall actually reside, as aforesaid, deliver his ballot for governor, representative to Congress, senator or senators, and member or members of the House of Representatives of the General Assembly, sheriffs, coroners and members of the Levy court and court of Appeals, or for such and so many of them, respectively, as are then to be chosen; and as such elector shall think proper to vote for, severally written or printed upon the same paper ticket, which shall be so folded or closed as to conceal the writing or printing thereon: and should any such ballot be afterwards found to contain a greater or less number of names of persons voted for as members of the House of Representatives of the General Assembly, or a greater or less number of names of persons for members of the Levy court, or a greater or less number of names of persons for sheriffs or coroners, than, by the constitution and laws of this State, ought to be chosen at that election, then that part of the ticket shall be rejected, but the other shall

Mode of conducting elections.

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be tallied; and on the receipt of every ballot or ticket, the inspector or one of the said freeholders, shall cause the name of the elector to be audibly pronounced, and the same to be entered on the books or poll-lists, and at the same time, the said inspector and freeholders, or some one of them, shall mark in the alphabetical list, furnished them by the sheriff, as herein before directed, the word "voted" in the margin of the said list, against the name of such elector in said list, and the said inspector, after ascertaining the singleness of the said ballot, and taking due care that it shall not cover or conceal a fraudulent vote, shall, without examining himself, or permitting any body else to examine any part of the writing or printing of the said ticket, put the same without any kind of delay, and in the presence of the voter, into a box, to be provided by the sheriff, for the purpose of receiving the ballots, with a sufficient lock thereto; and which box shall be locked, and the key thereof kept, during the said election, by one of the said freeholders appointed for that purpose, by the said inspector and other freeholders, and the person keeping the key, shall at no time, before the tallying out of the votes, have the box in his sole possession; and a small hole shall be made in the lid or cover of the box, sufficient only to receive each ballot, and through which all the ballots shall be put into the box; and which box shall only be opened at the times herein after mentioned; and that whenever any one shall present himself to give his vote or ballot at the said election, and the said inspector and freeholders, or any two of them, shall suspect, or any person entitled to vote at such election, shall challenge him to be unqualified for the purpose, the said inspector shall tender and administer to him the following oath: to wit, "You do solemnly swear on the Holy Evangelists of Almighty God, (or affirm) that you, at this time reside in this hundred, that you have resided for two years next before this election in this State, and that within that time, you have paid a State or county tax, which was assessed at least six months

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before this election; and in case of any person, being challenged or suspected in like manner, who alleges that he is between the ages of twenty-one and twenty-two years, and that he is the son of a person qualified as above, the said inspector shall administer to him the following oath: "You do solemnly swear upon the Holy Evangelists of Almighty God (or affirm) that you are between the ages of twenty-one and twenty-two years, and are the son of a white free male citizen, who hath resided in this State two years next before this election, and who within that time has paid a State or county tax, which was assessed at least six months before this election;" and in case any person shall refuse to take the said oath or affirmation, when so tendered to him, he shall not be permitted to vote at such election: *Provided nevertheless*, that the said inspector and freeholders shall not permit the said oaths or affirmations to be administered to persons whom they, or a majority of them know are not qualified to vote, or who shall be proved, by the oath or affirmation of any credible person or persons, to be administered by the inspector or one of the freeholders, not to be so qualified as aforesaid.

Proviso.

SECT. 11. *And be it enacted*, That after finally closing the poll of any such election, the said inspector and freeholders shall proceed within their said district, and at the place of election, immediately and without delay, publicly to unlock the box containing the said ballots, and to open or remove so much only of the lid or cover of the said box, as may be necessary to draw out the tickets one, by one, for the purpose of reading the same aloud, that the clerks may tally them down on the tally lists furnished as in this act is directed, and each clerk shall repeat the names one by one, as he dots the vote down on his list, giving notice in a loud and audible voice, by these words: to wit, "tally full," whenever and as often as he may have tallied to any name twenty-five votes; and when any new tally is begun, each clerk

Mode of reading
and tallying of
the ballots.

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Reading and tallying, to be continued without adjournment.

Ballots, read and tallied, how dispose of.

Duties of inspector and freeholders, after the reading and tallying are completed.

in dotting down the first vote of that tally, shall, in like manner, say "one of a new tally," and the spaces for these tallies, shall be formed on the tally lists by parallel lines drawn at right angles with each other, so as to throw the paper into squares sufficiently large to conveniently contain twenty-five dots of the pen; and the reading and tallying of the votes shall be continued without interruption or adjournment, until the whole of the ballots have been read and tallied out; and when and as often as the reading and tallying of any ballot is completed, it shall be put into another box, the lid or cover of which shall be made without the aperture directed to be made in the lid or cover of the box into which the votes were originally put; and as soon as the reading and tallying out of all the ballots of such district shall have been completed, the said inspector and freeholders, shall set down, or cause to be set down in writing, the names of the several candidates or persons voted for at any such election, for governor, representative to Congress, senator or representative in the General Assembly, sheriff, coroner or commissioner the Levy court, with the number of votes, in words at full length, given for any such candidate or person at such election, for either of the said offices, and shall certify and subscribe their own proper names thereto, and one duplicate thereof, subscribed as aforesaid, shall be put into the box with the votes; and the tally lists, signed by the clerks, and by the inspector and freeholders, shall be carefully deposited in the box with the ballots; and the box into which the ballots have last been put, shall be carefully crossed and secured with tape, and sealed with the seal of one of the said freeholders, and shall, by the said inspector, be delivered forthwith to the sheriff of the county; and at the same time, the said inspector shall deliver to the said sheriff, the box into which the ballots of the electors were put as they were voted.

SECT. 12. *And be it enacted,* That the inspectors of the several districts in each county, shall assemble together at the court-houses of their respective counties, at ten o'clock in the forenoon of the Thursday next succeeding the day of the election, when they shall produce to each other, and the sheriff, the certificates of the election in their respective districts; and shall proceed, with the assistance of the sheriff, and such clerks as may be necessary, and to be employed by the said sheriff, to calculate and ascertain the aggregate amount, or whole number of votes given for the respective candidates or persons voted for, and then and there, with the said sheriff, to make out and execute indentures of return in manner and form heretofore directed by law; and the said sheriff shall make return of the said election in the manner and form heretofore directed by law.

When & where inspectors shall produce to the sheriff, certificates of the elections in their respective districts.

Aggregate amount of votes and indentures of return, how to be ascertained and made, &c.

SECT. 13. *And be it enacted,* That the sheriff of each county, shall carefully preserve the boxes containing the ballots sealed, as aforesaid, (unless it should become necessary to open any of them for the purpose mentioned in the twenty-first section of this act,) until the end of the then next session of the General Assembly; and that in case of the death or inability of any sheriff, to do and perform the duties herein enjoined upon him to do and perform, the coroner for the time being of such county, shall do and perform the same; and in case of the death or inability of the said coroner, the performance of the same shall devolve upon the prothonotary of the court of Common Pleas of said county; and that all questions which may arise in the canvass, estimate or calculation of the votes given at any such election, under this act, shall be determined by the opinion of a majority of the persons composing the board of canvass, estimate or calculation, as the case may be: and that if any inspector shall neglect or refuse to attend at the court-house, and produce the boxes and ballots, and certificates of election in his district, as herein before directed, the sheriff of the county

Sheriffs shall preserve the boxes containing the ballots sealed, &c.

Questions arising in the canvass, how to be determined.

Duty of sheriff, in case of neglect, &c of inspector to produce the boxes, ballots, &c. of his district.

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where the same may happen, shall, by himself or deputy, and if need should require, with the power of his county, obtain from the said inspector, the said boxes, ballots and certificate of election.

Penalty on any officer or person ordering out the militia on day of election, &c.

How applied.

SECT. 14. *And be it enacted*, That no officer or other person, shall call out or order any of the militia of this State, to appear or exercise on any day during any election to be held by virtue of this act, or within ten days previous thereto, or within three days next thereafter, except in case of invasion or insurrection, on pain of forfeiting the sum of one thousand dollars for every such offence, to be recovered by any person who will sue for the same, with costs, the one moiety of such penalty to his own use, and the other moiety thereof to the use of the State.

Penalty on disorderly or corrupt conduct, on days of election or canvass, &c.

SECT. 15. *And be it enacted*, That if any person shall be guilty of any disorderly conduct at any such election, or during the time of the canvass and estimate aforesaid, or of using indirect, sinister or corrupt means, to influence any elector or electors in giving in his or their ballots, and be thereof duly convicted in any court of General Quarter Sessions, he shall forfeit and pay any sum not less than twenty dollars, and not exceeding one hundred dollars, and in default of payment of such fine, with costs, he shall be forthwith committed to the gaol of the county, there to remain for the space of thirty days, or until said fine and costs be paid, or he be otherwise discharged by due course of law.

Penalty on neglect of duty or corrupt conduct by the judges of elections or clerks.

How recovered, and applied.

SECT. 16. *And be it enacted*, That if any of the said inspectors, freeholders or clerks, shall be guilty of any wilful neglect of the duties required of them by this act, or of any partial or corrupt conduct in the execution of the same, and be thereof convicted, every of them so offending and convicted, shall forfeit and pay for every such offence, the sum of five hundred dollars, to be recovered by action of debt,

the one moiety thereof to the use of any person who shall prosecute for the same, and the other moiety thereof to the use of the State.

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SECT. 17. *And be it enacted,* That if any person or persons, on the day of the election, or during the time of tallying out the votes, shall, at any of the said places of the said election, or within one mile thereof, commit an assault or battery upon any other person or persons, and be thereof afterwards convicted, the person or persons so offending, shall severally be fined in any sum not exceeding fifty dollars, and not less than ten dollars.

Penalty on committing assault and battery on day of election, &c.

SECT. 18. *And be it enacted,* That the said inspectors and freeholders, shall be severally allowed and paid for each day's attendance and service, in the performance of the duties enjoined upon them by this act, the sum of one dollar and fifty cents, and no more; and that the sheriffs and the clerks of the peace, shall exhibit their accounts for services performed, and expenses incurred by virtue of this act, to the commissioners of the Levy court for their respective counties, who shall examine, audit and allow the same.

Allowance to the inspectors and freeholders.

To sheriffs and clerks of the peace.

SECT. 19. *And be it enacted,* That in cases of special elections, to supply any vacancy, the same shall be carried on and conducted in the same manner and form, and under the same regulations as are herein prescribed for conducting the general election, and under the same pains and penalties for misconduct in the officers of the election, and of other persons as are herein before provided, in case of the general election, immediately preceding the said special election, shall be the inspectors of the same, with power to call to their assistance respectively, two freeholders as in the case of the general election, and in case any one of the said inspectors shall be dead, or incapable of serving, then the collector of the hundred shall serve and perform in his place and stead.

Special elections how to be carried on and conducted.

Justices, constables and collectors to attend elections.

Penalty for non-attendance.

How recovered, and applied.

Penalty on constable refusing to preserve the peace.

Proviso.

Certificate of election lost or mislaid, duplicate to be received.

Repeal.

Votes to be received at the window, &c.

SECT. 20. *And be it enacted*, That the justices of the peace, constables, and collectors with their tax books, shall attend and continue at the said elections in their respective districts, until the said election is closed and tallied out, and if any of the said officers shall neglect or refuse to do the same, he shall forfeit the sum of two hundred dollars, to be sued for and recovered with costs of suit, by action of debt, in any court of record of such county where the same may happen; one moiety thereof for the use of the State, and the other moiety for the use of any person or persons who may sue for the same; and if any constable, when called upon by any elector or electors, attending the said election, shall refuse to command, and endeavour to preserve the peace, he shall forfeit the sum of one hundred dollars, to be sued for and recovered, with costs of suit, one half for the use of the State, and the other half for the use of any person who may sue for the same; *Provided nevertheless*, That the collectors may leave said elections after the same are closed.

SECT. 21. *And be it enacted*, That if any of the certificates directed in the eleventh section of this act, to be kept and produced by the inspector at the court house, should be lost or mislaid, so that the same cannot be had to be produced at the said court house, to the sheriff and the inspectors, as herein before directed, the duplicate thereof shall be taken out of the box containing the ballots, and be received by the said inspectors and sheriff, as the return of such district.

SECT. 22. *And be it enacted*, That so much of every law of this State relating to elections, as is herein altered, supplied or amended, shall be, and is hereby declared to be, repealed, made null and void.

SECT. 23. *And be it enacted*, That in holding the said elections, it shall be the duty of the officers

thereof, to receive the votes at some one window of the room in which they respectively sit, so that no person be admitted within the room, when the officers of the said election are receiving the said votes, excepting the said inspector, freeholders and clerks of the said election.

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SECT. 24. *And be it enacted*, That the inspector in each district of the several counties of this State, shall at every election to be held according to the directions of this act, under the penalty of one hundred dollars, to be recovered and applied, as is directed for the recovery of the penalty mentioned in the sixteenth section of this act, read this act, or cause the same to be read, with a loud and distinct voice, at the door of the house where such election is held, after the same has been legally opened, and before any votes are received by the said inspector and freeholders.

The inspector in each district, at every election, to read this act, under the penalty of 100 dollars.

Passed at Dover, Jan. 31, 1811.

C H A P. CLIII.

An ACT making provision for the support of government, for the year of our Lord, one thousand eight hundred and eleven.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of twelve thousand five hundred dollars, shall be raised and paid into the treasury of this State, within the time and manner directed by an act of the General Assembly, entitled, "An act making provision for the support of government, for the year of our Lord, one thousand eight hundred

12,500 dollars to be raised, & paid into the treasury.

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Each county's
proportion.

and ten, and for the more effectual ordering, assessing, levying and collecting all such taxes as may be granted by the General Assembly," and shall be assessed and levied in the several counties of this State, in the following proportions; that is to say, for the county of New-Castle, the sum of four thousand seven hundred and sixty-one dollars and ninety cents; for the county of Kent, the sum of four thousand, one hundred and sixty-six dollars and sixty-seven cents; and for the county of Sussex, the sum of three thousand, five hundred and seventy-one dollars and forty-three cents.

Appropriation
for the payment
of salaries.

For the expenses
of the General
Assembly.

For the pay-
ment of debts
due to citizens.

SECT. 2. *And be it enacted*, That the aforesaid sums of money shall be appropriated and applied to and in the following manner; that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due, to the governor, chancellor, judges of the Supreme court and court of Common Pleas, attorney general, secretary and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and twelve; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General Assembly, their clerks, and other expenses, and for printing the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof; and the residue (if any there be) shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

Passed at Dover, Feb. 1, 1811.

C H A P. CLIV.

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An ACT to vest in Elizabeth Robinson, two adjoining lots or pieces of land, in Mill-creek hundred, and county of New-Castle, which a certain Thomas Ferguson died seized and possessed of.

Passed at Dover, Feb. 1, 1811—Private act.

C H A P. CLV.

An ACT to incorporate the trustees of the Newark English Grammar-school, in the county of New-Castle.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That James Snow, John Herdman, James Tilton, Peter Hosinger and William Waugh, shall be, and they are hereby constituted a body politic and corporate, by the name of the Trustees of the Newark Grammar-school, in the county of New-Castle, and by that name, shall have perpetual succession and a common seal; may sue and be sued, plead and be impleaded, in any court of law or equity.

Newark grammar-school incorporated.

Style of the corporation.

SECT. 2. *And be it enacted,* That the said trustees and their successors, by the name aforesaid, shall be capable in law to purchase, receive and hold any lands, tenements, rents, goods or chattels, which shall be given, conveyed or devised to them, for the use of the said school; and to sell, rent or dispose of the same, in such manner as to them shall seem most beneficial to the said school.

May hold property, and

dispose of the same.

Power to ap-
point officers,
&c.

Treasurer shall
give bond,

with condition.

Trustees may
receive sub-
scriptions for
the use of the
school.

Vacancies, how
supplied.

SECT. 3. *And be it enacted*, That the said trustees, or any three of them, shall have power from time to time, to make and establish such bye-laws, rules and ordinances, not contrary to the laws and constitution of this State, as they shall judge necessary and proper for the good government of the said school, and to appoint a president, secretary, tutor, or tutors and treasurer, the last of whom shall receive all monies accruing to the said school and property delivered to his care, and pay or deliver the same to the order of the said trustees: the said treasurer, before he enters upon the duties of his office, shall give bond and security in such sum as the said trustees shall direct, payable to them and their successors, conditioned for the faithful discharge of the trust reposed in him, and that he will, when required by said trustees, render a true and just account of all monies, goods and chattels received by him on account of, and for the use of the said school, which treasurer shall receive such salary as the said trustees shall allow.

SECT. 4. *And be it enacted*, That the said trustees shall have power to take and receive subscriptions for the use and benefit of said school, and in case any person shall fail to comply with his or her subscription, to enforce the payment thereof; and in case of the death, resignation, or other legal disability of any of the said trustees herein named, the vacancy thereby occasioned, shall be supplied by the remaining trustees.

Passed at Dover, Feb. 2, 1811.

C H A P. CLVI.

An additional Supplement to an act, entitled, "An act for the better regulation of distresses for rent, and for other purposes therein mentioned."

Chap. 39. c. 2
vol. 1147. chap.
132. 3 vol 288.
chap. 88. 4 vol.
262.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That in all proceedings by virtue of the act to which this is an additional supplement, or by virtue of any supplement, it shall be lawful for the justices of the peace, and they are hereby directed, upon the application of either of the parties, to issue an attachment or attachments against any witness or witnesses, who shall fail to attend before the said justices, at the time and place for that purpose appointed, after being duly summoned therefor.

Justices of the peace may issue attachment for non-attendance of witnesses.

SECT. 2. *And be it enacted, That when the sheriff shall have summoned the freeholders, as is directed by law, and it shall appear to the justices, before whom the proceedings are instituted, that some of the said freeholders do not attend, it shall be lawful for the justices, and they are hereby directed to order the sheriff to summon as many tales de circumstantibus as may be necessary to supply such deficiency; and if any of the said freeholders, after being summoned, as directed by this act, or of the act to which this is an additional supplement, or of any supplement thereto, shall fail to appear at the time and place appointed, or, having appeared, shall refuse to serve, or shall depart without the leave of the said justices, and before or without giving in their verdict or finding; then the said justices are hereby authorized and directed to issue an attachment or attachments against such freeholder or freeholders, to be directed to the sheriff, whose duty it shall be forthwith to execute the same; and the said justices shall thereupon*

Sufficiency of freeholders not attending, justices may award a tales.

Freeholders summoned and making default, may be attached and fined.

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Fine, how recovered and appropriated.

impose a fine on such and every offender in any sum not exceeding thirty-two dollars, unless the said offender shall in the opinion of the said justices have a reasonable excuse for not complying; and every fine so imposed, shall be forthwith paid to the sheriff, or recovered and collected in the same manner and form as debts under forty shillings are recoverable by law, and when so paid or collected, the same shall be paid to the State treasurer, for the use of the school fund.

Fees to be paid by landlord to sheriffs, &c. for notices of execution against tenant.

SECT. 3. *And be it enacted*, That from and after the passing of this act, it shall not be lawful for any sheriff or other officer, serving any execution or attachment upon the goods and chattels of any tenant, to demand and take from the landlord more than one fee of twenty cents, and one fee for mileage to and from the house of said sheriff, or other officer, to the house of the landlord, at the rate of two cents per mile, for any notice or notices which such sheriff or other officer may give to the said landlord, of the service of any such execution or attachment, execution or executions, although the said sheriff or other officer may have several executions or attachments in his hands, any thing in the second section of the act, entitled, "An additional supplement to an act, entitled, an act, for the better regulation of distresses for rent, and for other purposes therein mentioned," which passed on the twenty-sixth day of January, eighteen hundred and nine, to the contrary notwithstanding.

4 vol. 264—5.

Passed at Dover, February 2, 1811.

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C H A P. CLVII.

A Supplement to an act, entitled, "An act to establish an uniform militia throughout this State."

Chap. 49. 4 vol.
p 123 chap. 74.
4 vol. 229.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, no officer, non-commissioned officer or private, shall be subject to any fine or forfeiture, by reason of their non-attendance, or being absent on company or regimental days of meeting, required by any militia laws of this State.

No officer, non-commissioned officer or private, finable for absence.

SECT. 2. *Be it enacted by the authority aforesaid,* That in regiments of militia of this State, when there are no field officers, it shall and may be lawful for any two justices of the peace, residing in or near the district of any such regiment, upon application to them made, to allow whatever fine or fines as delinquencies, they may believe the commissaries of the several counties of this State, or their collectors have not collected, nor can be able to collect or recover, giving them a certificate of the particulars and the amount in writing of all such fine or fines, allowed as delinquencies aforesaid, and the said justices who shall make such allowance, shall transmit to the auditor of accounts, a duplicate certificate of the delinquencies allowed by them, for which the auditor shall give the said commissary credit in the settlement of their accounts.

Two justices may allow delinquencies, and

give certificate of their amount.

Shall transmit duplicate certificates to the auditor, &c.

SECT. 3. *And be it enacted,* That the military commissaries in the different brigades of the militia of this State, shall, on or before the first of March next, appear in the auditor's office, and there make with the said auditor, a final settlement of their accounts for all fines and forfeitures that have been returned to them in pursuance to the militia laws.

Commissaries shall appear before, and settle with the auditor

Balances in their hands, to be forthwith paid over to the State treasurer.

In case of neglect, auditor to sue their bonds.

of this State ; and whatever balance or balances may remain in the hands of any of the aforesaid commissaries, shall forthwith be paid over to the State treasurer ; and in case any of the aforesaid commissaries shall neglect or refuse to appear and settle their accounts as aforesaid, or after settlement shall neglect or refuse to pay over whatever balance may be in their hands, to the State treasurer as aforesaid, the auditor of accounts is hereby directed and required to cause a suit to be instituted in any court of law in this State, on any such defaulting commissary's bond, in which suit the like sum or sums of money, shall be recovered as is directed in the act to which this is a supplement.

Passed at Dover, Feb. 2, 1811.

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5 vol. p. 247 and 362 An ACT concerning awards ; to regulate the summoning and returning juries, and for lessening the expense thereof ; to repeal the savings in certain acts of limitation ; to confirm the title of lands of the husband, conveyed by husband and wife and to direct the examination of such wives ; to authorize the court of Chancery to order lands to be sold ; to fix a limitation for appeals from decrees in equity.

Preamble.

WHEREAS, it often happens that causes, suits and matters of controversy are referred by consent of parties, and rule of court to arbitrators chosen by the parties, or appointed by the justices in open court, or appointed by the clerk or protho-

notary in vacation, in which for the want of a writ, declaration or plea, or because there is no issue joined, or on account of some other defect in matter of form or substance, writs of error have been brought to reverse the judgments recovered in such cases.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That, in all cases wherein any cause, suit or matter of controversy hath been, or hereafter shall be referred, by the consent of parties and by a rule of court, by virtue of any act or acts of the General Assembly of this State, or according to the rules of the common law, or according to any form used by the parties, and judgment hath been, or hereafter shall be recovered in any such cause, suit or matter of controversy so referred, no such judgment shall be reversed upon any writ or writs of error, hereafter to be brought for want of any writ, declaration, plea, joinder in issue, or on account of any other defect, misentry or error in the proceedings had in such suit; Provided the report made, or hereafter to be made, in any such cause, suit, or matter of controversy, so referred or to be referred, hath been or shall be duly sworn or affirmed to, according to the form of the acts of the General Assembly, in such case made and provided, and be approved by the court.*

SECT. 2. *And for lessening the expense and obtaining the returns of impartial juries, be it enacted by the authority aforesaid, That the respective sheriffs of the several counties within this State, shall, at least ten days before the court of general Quarter Sessions of the peace and gaol delivery, to be holden in each county in the spring of the year, yearly and every year, without any writ of venire facias juratores, summon in writing, twenty-four sober, substantial and judicious freeholders, lawful men, of fair characters, and inhabitants of his bailiwick, to serve as grand jurors at the then next court of*

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Judgment on report of referees, shall not be reversible for want of writ, declaration, &c.

Provided such report be legally sworn to, &c.

Grand jurors, when and how to be summoned by sheriffs.

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Panel thereof,
what to contain
and when to be
returned to the
court.

To be the stand-
ing grand jury
for the year.

Grand jury to be
qualified every
session of the
court.

Sufficient num-
ber not appear-
ing, tales de
circumstantibus
to be awarded.

Proviso.

Writ or precept
for holding
court of Oyer &
Terminer and
general gaol de-
livery, what it
shall contain,
&c.

general Quarter Sessions of the peace and gaol delivery: and the said respective sheriffs shall immediately, on the opening of the said court in the respective counties, return to the said courts respectively, a panel of such grand jurors, containing the christian and surnames and places of abode of such grand jurors; which said persons, or a sufficient number of them, so summoned and returned, shall be and remain the standing grand jury for that year, notwithstanding their being sworn or affirmed, at each respective court, to attend that present service only, and the justices of the respective courts of general Quarter Sessions of the peace and gaol delivery, are hereby required to cause to be administered to the said jurors, every session of the said court during the said year, the oaths and affirmations usual for the faithful discharge of their duty and trust: and in case a sufficient number of the persons so summoned, shall not appear, at any such session of the said court, the said court shall thereupon make an order on the sheriff of the county for filling up the said jury, and the said sheriff shall thereupon immediately summon and return *tales de circumstantibus*, and the persons thereupon summoned and returned, shall serve as grand jurors at such session of the said court.

SECT. 3. *Provided always, and be it enacted by the authority aforesaid,* That no person shall be obliged to serve as a grand juror for two years successively, in any of the said counties.

SECT. 4. *And be it enacted by the authority aforesaid,* That whenever the justices of the court of Oyer and Terminer and general gaol delivery, or any two of them, shall issue their writ or precept to the sheriff of any county of this State, for summoning the justices of the peace, coroner, constables, jurors and other persons bound to attend the said court, the said sheriff shall be commanded in the said writ or precept to summon in writing, ten days at least before the day appointed in the said

writ or precept, for the holding the said court, twenty-four sober, substantial and judicious freeholders, lawful men of fair characters, and inhabitants of his bailiwick, to serve as grand jurors at the said court of Oyer and Terminer and general gaol delivery, and thirty-six sober, discreet and judicious freeholders, lawful men and of fair characters, and inhabitants of his bailiwick, to serve as petit jurors at the said court of Oyer and Terminer and general gaol delivery; and the said sheriff is hereby required and commanded to summon in writing, ten days at least before the day appointed in the said writ or precept, for the holding the said court in any of the said counties, the said grand jurors and petit jurors; and immediately on the opening of the said court, to return to the said court a panel of the said grand jurors, and a distinct and separate panel of the said petit jurors, and each of the said panels shall contain the christian and surnames, additions and places of abode, of the said grand jurors and petit jurors; and such persons so summoned and returned, shall be the grand jurors and petit jurors for that present service.

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Duty of sheriff.

SECT. 5. *Provided nevertheless, and be it enacted by the authority aforesaid,* That in case any indictment or indictments, for any capital offence or offences, shall have been found in the court of general Quarter Sessions of the peace and gaol delivery, in such county, against any person or persons, and the said indictment or indictments shall have been removed by a writ or writs of *certiorari*, *habeas corpus*, or by any other lawful means or process whatsoever, from the said court of general Quarter Sessions of the peace and gaol delivery, before the said justices of the court of Oyer and Terminer and general gaol delivery, and there shall not be then any person in gaol or on bail, charged with any capital offence, against whom no indictment hath been found, so that there be no necessity for a grand jury, at any such court of Oyer and Terminer and general gaol delivery, and there shall be no

In what case justices of Oyer and Terminer may omit to command a grand jury to be summoned.

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occasion to prefer to a grand jury, at such court of Oyer and Terminer and general gaol delivery, any indictment or indictments, it shall and may be lawful for the said justices of the court of Oyer and Terminer and general gaol delivery, or any two of them, to omit in the said writ or precept, the command to the sheriff to summon twenty-four freeholders, as aforesaid, to serve as grand jurors, as aforesaid.

Grand jurors
shall be fined
for non-attendance.

SECT. 6. *And be it enacted by the authority aforesaid,* That if any grand juror, summoned as herein before is directed, to appear at any court of Oyer and Terminer and general gaol delivery, or at any court of general Quarter Sessions of the peace and gaol delivery, shall neglect or refuse to give his attendance as herein before is required, or to answer at every time his name shall be called by order of the court, which he is bound to attend, he shall for every time he shall so neglect or refuse to give his attendance, or to answer as aforesaid, be fined by the said courts respectively, in any sum not exceeding ten dollars; which said fine shall be levied by the sheriff, by an order of the justices of said court, immediately after the next ensuing term of the Supreme court, or of the court of general Quarter Sessions of the peace and gaol delivery, as the case may be, and afterwards paid to the treasurer of the county, for the use of the said county where such juror inhabits: *Provided,* that if any such defaulting person shall prove to the satisfaction of the Supreme court or of the court of general Quarter Sessions of the peace and gaol delivery, at their next ensuing term after such default, by affidavit made by himself or by any credible person, and duly filed among the records of said court, that his non-attendance was occasioned by the sickness of his wife, child or children, or himself, or shall make appear to said court any other sufficient reasonable excuse, then the said court shall remit the said fine, and cause the said remittance to be recorded.

Fine, when to
be levied, and
how applied.

Proviso.

SECT. 7. *And be it enacted by the authority aforesaid,* That the sheriff of the said counties respectively shall, at least ten days before every term of the Supreme court, of the court of Common Pleas, and of the court of General Quarter Sessions of the peace and gaol delivery, to be holden in each county respectively at the terms appointed by law for the same, without any writ of *venire facias juratores*, summon in writing thirty sober, discreet and judicious freeholders, having no matter of fact at issue depending for trial, and no cause to be tried at the same term, lawful men of fair characters, and inhabitants of his bailiwick, to serve as petit jurors at the then next term of the court to which they are summoned for the trial of all issues in civil and criminal causes at the said courts respectively, except in causes which shall be ordered by the Supreme court or by the court of Common Pleas, to be tried by a struck jury; and also, except in causes in which the sheriff, for the time being, shall be a party, or be interested in the same, or in which a challenge to the array may be allowed by the court. And the said sheriffs respectively shall, on the first day of every term of the said courts respectively, within one hour after the said courts respectively shall be opened, return to each of the said courts, a distinct and separate panel of such petit jurors, containing the christian and surnames, additions and places of abode of such jurors; and the same persons summoned to serve as petit jurors at the court of Common Pleas, shall be summoned to serve as petit jurors at the court of General Quarter Sessions of the peace and gaol delivery, and returned as aforesaid, to said courts, in separate and distinct panels as aforesaid.

Petit jurors, when and how to be summoned by the sheriffs.

Number of jurors, &c.

Panel, when to be returned and what to contain.

Same jurors shall be summoned to serve in the court of Common Pleas and Quarter Sessions, &c.

SECT. 8. *And be it enacted by the authority aforesaid,* That the name of each and every person who shall be summoned and empannelled as aforesaid, shall be written on several and distinct pieces of paper, being all, as nearly as may be, of equal size, by the clerk or prothonotary of the court, or

Names of jurors summoned, to be rolled up and put into a box.

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How a jury shall
be drawn.

Names of the ju-
ry drawn, to be
kept apart till
discharged.

Then returned
to the first box.

How a jury
shall be drawn,
if a cause be
brought on be-
fore the jury in
another cause,
be discharged.

his agent, who shall, by direction and under the care of the judges therein presiding, roll the said pieces severally, in the same manner as nearly as may be, and put them together in a box, to be provided, by the said clerk or prothonotary, for that purpose; and when any cause shall be brought on to be tried, some indifferent person, by the direction of the court, may and shall, in open court, draw out twelve of the said pieces of paper, one after another; and if any of the persons, whose names shall be so drawn, shall not appear, or shall be challenged and set aside, then such further number, until twelve persons be drawn, who shall appear, and, after all causes of challenge, be allowed as fair and indifferent, and the said twelve persons, so first drawn, appearing and allowed, their names being marked in the panel, and they being sworn or affirmed, shall be the jury to try the cause; and the names of the persons so drawn and sworn, or affirmed, shall be kept apart by themselves in some other box, to be provided as aforesaid, and kept for that purpose, till such jury shall have given in their verdict, and the same is recorded, or until the jury shall, by the leave of the court, and the consent of the parties, be discharged; and then the same names shall be rolled up again and returned to the first mentioned box, there to be kept with the other names remaining at that time undrawn, and so *toties quoties*, as long as any cause remains there to be tried.

SECT. 9. *Provided always, and be it enacted by the authority aforesaid,* That if any cause shall be brought on to be tried in any of the said courts respectively, before the jury in any other cause, shall have brought in their verdict or be discharged, it shall and may be lawful for the court to order twelve of the residue of the said pieces of paper, not containing the names of any of the jurors in such other cause, to be drawn in manner aforesaid, for the trial of the cause which shall be brought on to be tried.

SECT. 10. *And be it further enacted by the authority aforesaid,* That every person whose name shall be so drawn as aforesaid, and who shall not appear after being publicly called three times, shall forfeit and pay for every such default in not appearing upon call as aforesaid, any sum not exceeding ten dollars, which said fines shall be levied by the sheriff, by an order of the court in which such default shall be made, which order shall be made immediately after the next ensuing term of the Supreme court, of the court of Common Pleas, or of the court of General Quarter Sessions of the peace and gaol delivery, as the case may be, and paid to the treasurer of the county by the sheriff, within forty days next after the said next ensuing term as aforesaid, for the use of the said county where such juror inhabits: *Provided,* That if any such defaulting person shall prove to the satisfaction of the court, at the said next ensuing term after such default, by affidavit made by himself, or by any credible person, and duly filed among the records of said court, that his not appearing as aforesaid, was occasioned by the sickness of his wife, child or children, or of himself, or shall make appear to said court, any other sufficient reasonable excuse, then the said court shall remit the said fine, and cause the said remittance to be recorded.

Jurors making default.

The fine,
How levied,

To whom paid.

Proviso.

SECT. 11. *Provided always, and be it enacted by the authority aforesaid,* That if a sufficient number of the persons so summoned to serve as petit jurors, shall not appear at any of the said courts respectively, or by reason of challenges or otherwise, there shall not be a sufficient number of them ready for the trial of any cause then brought on to be tried; in such case, upon an order of the court for filling up the jury, *tales de circumstantibus*, shall be immediately summoned and returned by the sheriff, unless he be liable to some legal exceptions; and in such case, to be summoned and returned by the coroner, unless he also be liable to some legal exception; and then to be returned by some proper and indifferent per-

Tales de circumstantibus to be awarded.

By whom to be summoned.

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Penalty for non-attendance.

In case of challenge to the array, a venire facias juratores shall be awarded to the coroner, &c.

His duty, &c.

Cause how to be conducted, &c.

son to be appointed by the court, for that purpose, and the persons thereupon summoned and returned, are hereby required to attend, and serve as petit jurors at such court accordingly, under the penalties aforesaid, to be levied as aforesaid.

SECT. 12. *And be it enacted by the authority aforesaid,* That if before issue is joined in any cause to be tried in any of the said courts, there shall be any legal exception made to the sheriff, and allowed by the court, or in case issue shall be joined in any such cause in term time, and there shall, at the same term at which issue is joined, be a challenge made to the array, and allowed by the court, or in case issue shall be joined in any such cause in vacation, and there shall, at the term next after issue is so joined in vacation, be a challenge made to the array and allowed by the court; then and in every such case, a writ of *venire facias juratores*, shall be awarded by the court to the coroner, unless he be liable to any legal exception as aforesaid, and in case he be liable to any legal exception as aforesaid, then to some proper and indifferent person to be appointed by the court; and such coroner or person, shall summon in writing at least ten days before the return of the said writ, twenty-four sober, discreet and judicious freeholders, lawful men of fair characters, and inhabitants of the county, to serve as petit jurors in the trial of such cause; and the said writ shall be returned according to the command thereof, and there shall be annexed thereto a panel containing the christian, surnames, and places of abode of said persons summoned as petit jurors, as aforesaid; and every cause to be tried by such petit juror, shall be proceeded in, and conducted in the same manner, and under the same regulations as herein before are prescribed and directed for the trial of other causes by petit jurors summoned by the sheriff; and the persons so summoned and returned, as directed in this section, shall attend and serve as petit jurors at such court, in the trial of such causes, under the

penalties aforesaid, to be levied as herein before is directed, and shall be entitled to the same fees as petit jurors summoned by the sheriff.

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SECT. 13. *And be it enacted by the authority aforesaid*, That where a view shall be allowed in any cause, six of the jurors named in the panel, or more, shall have the view, and such of them as appear upon the jury to try the said cause, shall be first sworn, or affirmed to try the same, before any drawing, as aforesaid, and so many only shall be drawn to be added to the viewers who appear, as shall, after default and allowed challenges, make up the number of twelve to be sworn or affirmed for the trial of such cause.

In case of view, the viewers appearing, to be first sworn, before drawing, &c.

SECT. 14. *And be it enacted by the authority aforesaid*, That the clerk or prothonotary shall, from time to time, enter or register, in a book to be kept for that purpose, the surnames, alphabetically, of every such person as shall be summoned and returned as aforesaid, to serve as grand jurors, or as petit jurors, at the said courts respectively, together with their Christian names, additions and places of abode; and in the said book, the said clerk or prothonotary, shall mark or set down the attendance of each juror, and the default of each juror in not answering every call of his name, by order of the court; and the said clerk or prothonotary is hereby required to make out a list of the several jurors attending the court, together with the amount due to each juror; which said list shall be examined, approved, and signed by the judges presiding in said courts; and after such list shall be so examined, approved and signed, the clerk or prothonotary shall make out an order, payable to each juror, or order, for such sum as shall be so found due for his attendance or service as aforesaid, on the treasurer of the county, who is hereby required and authorized to pay the same; and the said lists, so made out, examined, approved, and signed by the judges aforesaid, shall be transmitted, by the clerk

Names of attending jurors to be registered

Attendance and default of jurors to be noted.

List of jurors to be signed by the judges.

Order for payment.

Lists to be sent to the Levy court.

Allowance to clerk or prothonotary.

or prothonotary, to the Levy court; and the clerk or prothonotary shall be allowed by the Levy court, to be paid by the county, for every such list so examined, approved, signed, and transmitted, the sum of two dollars, and no more; which said sum of two dollars, shall be a full compensation, as well for every such list, as for providing and keeping said book and registry therein, as herein before is directed.

Penalty on sheriffs returning jurors not summoned.

SECT. 15. *And be it enacted by the authority aforesaid,* That if any sheriff or sheriffs, shall or do return, to any of the said courts, any person or persons, to serve as grand jurors, or as petit juror, or petit jurors, when such person or persons shall not have been summoned, according to the directions, true intent and meaning of this act, such sheriff or sheriffs, shall, for every such offence, forfeit and pay to the State of Delaware, the sum of five dollars, to be recovered by indictment, in the court of general Quarter Sessions of the peace and gaol delivery in the county where such offence or offences shall be committed. And if any sheriff or sheriffs shall neglect or refuse to summon and return persons to the courts, respectively, to serve as grand jurors, or to serve as petit jurors, such sheriff or sheriffs shall, for every such offence, forfeit and pay to the State of Delaware, the sum of two hundred dollars, to be recovered by indictment, in the court of general Quarter Sessions of the peace and gaol delivery, in the county where such offence shall be committed.

How recovered.

Penalty for not summoning and returning grand and petit jurors, to the respective courts.

How recovered.

Qualification of the sheriff and coroner respecting the returns of jurors.

SECT. 16. *And be it enacted by the authority aforesaid,* That every sheriff and coroner, before he enters upon the execution of his office, shall, besides the qualification now required by the constitution of the State, take the following oath or affirmation according to law: "I, A. B. do swear, or affirm, that I will not summon any man for a juror, who, as I believe or suspect, will be influenced in determining any matter that shall come before him, as a juror, by hatred, malice or ill-will, fear, favour or affection, or any partiality whatever."

SECT. 17. *And be it enacted by the authority aforesaid,* That the sheriffs of the respective counties of this State, shall be allowed the following fees, to be paid by the respective counties:—

Fees to the sheriff.

For summoning and returning to the Supreme court, a petit jury,* with a panel annexed, as directed by this act, including mileage, four dollars;

For summoning and returning to the court of Common Pleas, a petit jury,* with a panel annexed, as directed by this act, including mileage, four dollars;

For summoning and returning to the court of general Quarter Sessions of the peace and gaol delivery, a petit jury,* with a panel annexed, as directed by this act, including mileage, four dollars;

For summoning and returning to the court of general Quarter Sessions of the peace and gaol delivery, a grand jury,† to attend for one year, with a panel annexed, as directed by this act, including mileage, four dollars;

For summoning and returning to the court of Oyer and Terminer and general gaol delivery, a grand jury,† with a panel annexed, as directed by this act, including mileage, five dollars;

For summoning and returning to the court of Oyer and Terminer and general gaol delivery, a petit jury,* with a panel annexed, as directed by this act, including mileage, four dollars;

And that so much of the act, entitled, “An act for regulating and establishing fees,” as allows fees to the sheriff for summoning a grand jury to attend for one year, and for summoning a grand jury and a petit jury to the court of Oyer and Terminer, shall be, and is hereby repealed.

Repeal—
2 vol. chap.
27. c. p. 1104,
1107.

SECT. 18. *And be it enacted by the authority aforesaid,* That the sheriffs of the respective counties of this State, shall and are hereby required and authorized, from time to time, and at all times hereafter, when, and as often as occasion may require,

Sheriffs to summon all inquests, &c.

* “Juror,” in the original.

† “Juror,” in the original.

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Penalty for neglect or default.

Remedy to parties aggrieved.

Duty of coroners in particular cases; and

generally. §

to summon all and every other inquests, or jurors, which sheriffs ought to summon, and witnesses requisite, and necessary for the executing justice within their respective counties, who are hereby required to give due attendance accordingly; and for every neglect or default, every such sheriff shall forfeit and pay to the State of Delaware, the sum of fifty dollars, to be recovered by indictment in the court of general Quarter Sessions of the peace and gaol delivery, in the county where such neglect or default shall be made; and, moreover, shall pay to the party or parties, wronged or injured by such neglect or default, all such damages as he, she or they shall sustain by reason thereof, to be recovered by action of debt, action on the case, or by bill, plaint, or information in any court of record in this State, wherein no essoign, wager, or protection of law, or any more than one imparlance shall be allowed.

SECT. 19. *And be it enacted by the authority aforesaid,* That the coroners of the respective counties, aforesaid, shall, and are hereby authorized and required, from time to time, and at all times hereafter, when and as often as occasion may require, to regulate and behave themselves, in summoning juries, and in doing and performing other matters and services, when the sheriff cannot legally summon said juries, or do and perform said other matters and services, in the same manner and form as the sheriffs are by this act directed, empowered and required, under the like penalties, and to be recovered in the same manner, for any neglect, default or omission, as are inflicted and laid upon sheriffs, for any neglect, default or omission, contrary to this act; and generally to do and execute all other matters and things, which to their offices belong by the common law, and by all statutes and parts of statutes, and acts of the General Assembly, in force in this State, under the penalties inflicted by the common law, or by such statutes, parts of statutes or acts of the General Assembly.

SECT. 20. And whereas it hath often happened by the omission of clerks and prothonotaries, that causes in the Supreme court, and in the court of Common pleas, have been tried, and judgments rendered therein, wherein no writ of *venire facias juratores* hath been issued, nor any jury summoned and panel returned, according to the directions of the act, entitled, "An act for more certainly obtaining returns of impartial juries, and their better regulation;" *Be it enacted by the authority aforesaid,* That no judgment rendered in any cause in the Supreme court, or in the court of Common Pleas, in any county in this State, wherein a writ of *venire facias juratores* hath not been issued, nor any jury summoned and panel annexed, shall be reversed or reversible, by any writ of error, hereafter to be brought or sued out, for want of any such writ of *venire facias juratores*, or because a jury hath not been summoned and panel annexed, according to the directions of the said act.

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Chap. 8, c. 2
vol. 1071.

Judgments shall not be reversible for want of writ of *venire facias juratores*, &c.

SECT. 21. *And be it enacted by the authority aforesaid,* That the act, entitled, "An act against jurors absenting themselves, being lawfully summoned to attend the several courts of judicature within this government;" and the act, entitled, "An act directing and empowering the several sheriffs within this government, to summon a sufficient number of freeholders to serve as jurors in the several counties thereof;" and the act, entitled, "An act for summoning of jurors, and about trials by twelve men," repealed in the eighth section of said last before recited act; and the act, entitled, "An act for more certainly obtaining returns of impartial juries, and their better regulation," shall be and are hereby repealed: *Provided*, that all fees which have accrued under the said acts, or any of them, and all fines and penalties which have been incurred, shall be paid, prosecuted and recovered, in like manner as if such acts had not been repealed.

Repeal—chap.
48, a. 1 vol. 116;

Chap. 94, a. 1
vol. 241.

Chap. 94, a. 1
vol 244, sec. 8.

Chap. 8, c. 2
vol. 1071.

Proviso.

SECT. 22. Whereas in the act, entitled, "An act for amending the laws relating to testamentary af-

Chap 186, a. 1
vol. 417.

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Chap. 146, b.
2 vol. 888.

Chap. 178, b.
2 vol. 924.

fairs, and for the better settling intestates' estates," it is enacted, in the fourteenth section thereof, that all actions upon administration or guardian bonds, thereafter executed, should be commenced within six years after the passing the said bonds; and all actions to be commenced on any such bonds, then already given, should be brought within six years after the publication of that act, and not after, saving the right of any person or persons who shall be within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond sea or out of this government, of bringing such action or actions, within three years after their coming to or being of full age, discoverture, of sound memory, at large, or returning into this government: and in the act, entitled, "An act to compel executors to give security for the faithful discharge of the duty reposed in them, by their testators, and for other purposes," in the second section thereof, it is enacted, that all actions, upon such testamentary bonds, thereafter executed, should be commenced within six years after the passing the said bonds, and not after; saving the right of any person or persons, who shall be within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond sea, or out of this State, of bringing such action or actions, within three years after their coming to or being of full age, discoverture, of sound memory, at large, or returning into this State; and in the act entitled, "An act directing the manner and form of securities to be given by sheriffs for the due execution of their trust, and prescribing a time for their returns of writs of *feri facias*," it is provided and enacted in the third section thereof, that all actions or suits thereafter to be brought, on sheriff's recognizances thereafter to be entered into, should be sued or brought, within the space of seven years after the entering into such recognizance, and not afterwards, saving the right of any person or persons, who shall be within the age of twenty-one years, *feme covert*, *non compos mentis*, or imprisoned, beyond sea, of bringing such actions or suits

within one year after such impediment removed; and in the act, entitled, "An additional supplement to an act, entitled, 'An act for the limitation of actions, and proving accounts against the estates of persons dying within this State,'" it is provided in the second section of the last aforesaid act, that if any person or persons, who is or shall be entitled to any such action of trespass, detinue, trover, replevin, actions upon account and upon the case, other than as therein aforesaid, all actions upon the case for words and actions of debt, as therein are mentioned, is or are at the time of any cause of such action given or accrued, fallen or come, shall be within the age of twenty-one years, *feme covert*, *non compos mentis*, imprisoned, beyond sea or out of this State, then and in such case, such person or persons, shall be at liberty to bring the same actions, so as the same be brought within one year next after their coming to or being of full age, discovery, of sound memory, at large, or returning into this State; and also in the sixth section of said last mentioned act, it is provided, that nothing in that act, so far as the same respects the proving accounts against the estates of persons dying within this State, should affect or injure the rights or demands of infants, *feme coverts*, persons who are of insane memory, imprisoned or out of this State, so that their accounts be proved and their claims prosecuted within one year next after the removal of such disability: and whereas, the courts of law of this State, and the courts of law of the United States, held in this State, are open to all persons equally, whether they reside in this State or out of the State, to commence and prosecute actions therein, and the saving allowed to persons beyond sea, or out of the State, is injurious to the inhabitants of the State; *Be it therefore enacted by the authority aforesaid*, That so much of each and every of the said recited acts, as saves or gives to persons beyond sea, or out of this State, the right or liberty of bringing or commencing any action or actions mentioned in the said acts, or in any of them, or of

Chap. 248. b.
2 vol. 1031-2.

Ibid—1033.

Savings in the
afore recited
acts in favour
of persons be-
yond sea, or out
of this State,
repealed.

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Within what
time such per-
sons shall bring
their actions.

proving accounts against the estates of persons dying in this State, as mentioned in the said sixth section of the said last recited act of Assembly, for the time as limited in the said acts respectively, after their return from beyond sea, or returning to or being in this State, shall be, and is hereby repealed, from and after the first day of January, in the year of our Lord, one thousand eight hundred and twelve; and all persons beyond sea, or out of the State, shall commence or bring their said actions within the same times as are limited in the said acts respectively, for persons to whom no saving is given, to commence or bring their actions, and not after.

Preamble.

Grants, &c. of
husband and
wife, of lands
belonging to
the husband, in
his own right,
heretofore, &c.
bona fide made,
&c. confirmed.

SECT. 23. And whereas in some parts of this State it hath frequently happened, that married women have joined with their husbands in selling and conveying the lands of such husbands, and the examinations of such married women have not been taken by the chancellor, or by any judge of the Supreme court or of the court of Common Pleas; and great doubts have been entertained, whether such married women, after the deaths of their husbands, could not recover their dower in such lands, notwithstanding such conveyances: therefore, to confirm the rights and quiet the possessions of such persons as have bona fide purchased lands of husbands with their wives;—*Be it enacted by the authority aforesaid,* That all grants, bargains or sales of lands belonging to the husband in his own right, lying within any of the counties in this State, which have been heretofore, bona fide, made and executed by husband and wife, or which shall be bona fide made and executed by husband and wife, before the first day of May next, and no examination of such married woman apart from her husband, hath been or shall be taken by the chancellor, or by any judge of the Supreme court, or of the court of Common Pleas of this State, and endorsed on the deed, grant bargain or sale, made for the conveyance of such lands, shall be good and available in law, and be an

effectual bar against the recovery by any such married woman, after the death of her husband, of dower in any such lands.

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SECT. 24. *And be it enacted by the authority aforesaid,* That no grant, bargain or sale, made after the first day of May next, by any husband and wife, during her coverture of any lands belonging to the husband in his own right, lying within any of the counties in this State, shall be valid and effectual in law, to bar the said wife of her dower in such lands, unless the said grant, bargain or sale, shall appear to have been made by such *feme covert*, without the compulsion of her husband, of her own free will, declared by the *feme covert*, granting the same on her examination taken apart from her said husband by the chancellor, or by some judge of the Supreme court, or of the court of Common Pleas, and certified or endorsed on such deed, by the chancellor or judge who takes the same, and the time when the same was taken.

Grants, &c. of lands belonging to the husband in his own right, made after the first day of May next, shall not bar the wife of dower, unless she be examined apart by the chancellor or some judge, &c.

SECT. 25. *And be it enacted by the authority aforesaid,* That all grants, bargains or sales, made and executed after the first day of May next, by husband and wife, during her coverture, of any lands belonging to the husband, in his own right, lying within any of the counties of this State, where the husband and wife do not reside within the county in which such lands are, the examination of such *feme covert*, apart from her husband, being taken, in the manner directed by this act, by the chancellor, or by some judge of the Supreme court, or of the court of Common Pleas of this State, certified or endorsed as aforesaid; or by any mayor, chief magistrate or officer of the city, town or county, or judge of any court, where such grants, bargains or sales are or shall be made and executed, and certified, under the common or public seal of such city, town or county, shall be valid and effectual in law.

How examination of wife to be taken, in case of lands of husband granted, &c. they not residing in the county where the lands lie.

Lands may be
sold by order of
the chancellor,
&c.

Surplus money
on such sale how
to be disposed
of.

Such sales shall
be as available
in law, as sales
upon judgment
and execution.

Proviso.

Further proviso.

Chap. 54. §.
1 vol. 131—2.

SECT. 26. *And be it enacted by the authority aforesaid,* That all lands, tenements and hereditaments within this State, shall be liable to be sold by order of the chancellor, upon such terms and in such manner as shall be directed by him, by the sheriff, or by any party to a suit in chancery, when any such sale shall be necessary to give effect to, and to carry into execution a decree of the court of Chancery. And when any of the said lands, tenements and hereditaments, shall be sold, by the authority of this act, by order of the chancellor, and there shall be a surplus of money arising from such sale, more than will be sufficient for the purpose for which such sale shall be made, such surplus shall be paid over or applied in such manner as the chancellor shall order; and such sales shall be as available in law to the vendees, as sales of land, seized and sold upon judgment and execution are, by virtue of any law of this State: *Provided,* That if any of the said decrees which do or shall warrant any such order, whereupon any lands, tenements or hereditaments shall be sold, shall be reversed by a decree of the High court of Errors and Appeals, then and in every such case, none of the said lands, tenements or hereditaments, so sold, nor any part thereof, shall be restored, nor the sale thereof avoided; but restitution shall be made in such cases, of the money or price only for which such lands were, or shall be sold: *And provided also,* That no such sale shall be valid, until return thereof shall be made to the court of Chancery, and such sale shall be approved and confirmed by the chancellor.

SECT. 27. AND WHEREAS, by the twenty-fourth section of the act, entitled, "An act for the establishing courts of law and equity within this government," it is enacted that any person aggrieved by any decree made in equity, may appeal therefrom, forthwith: And whereas, by the constitution, no other time hath been limited within which appeals shall be made from interlocutory or final orders or decrees of

the chancellor: *Be it therefore enacted by the authority aforesaid*, That no appeal shall be taken from any interlocutory order, or final decree of the chancellor, but within one year next after the making and signing the final decree, unless the person entitled to such appeal, be an infant, *feme covert, non compos mentis*, or a prisoner: *Provided*, That nothing in this section shall be taken or construed to repeal any part of an act, entitled, "An act to regulate certain proceedings in the court of Chancery, in the Orphans' court, and in the Register's court, and to compel justices of the peace to furnish copies of their records."

Limitation in taking appeals from any interlocutory order or final decree of the chancellor.

This section not to repeal chap. 21. 4 vol. 32.

SECT. 28. *And be it enacted by the authority aforesaid*, That whenever any appeal shall be taken from any interlocutory order or final decree of the chancellor, if the same, together with the record and proceedings of the court of Chancery, shall not be removed and taken up by the party appealing to the High court of Errors and Appeals, and there entered on record at or before the term of the High court of Errors and Appeals, next after such interlocutory order shall be made, or next after such final decree shall be made and signed by the chancellor, as the case may be, such appeal shall be void, and shall afterwards be stricken off and discharged by the chancellor, and shall not be allowed, and the records and proceedings in such appeal, shall not be removed from the court of Chancery, and the said appeal shall not be received or proceeded in by the High court of Errors and Appeals, but shall be dismissed therefrom, if the same shall by any means after the term of the High court of Errors and Appeals next after such interlocutory order shall be made, or next after such final decree shall be made and signed as aforesaid, be entered on the docket, or placed on the files or among the records of the High court of Errors and Appeals; and the clerk of the High court of Errors and Appeals is hereby required to enter on his docket, and endorse upon every such record removed into the said court, the day, month and year when the same was received by him.

Within what time the record shall be taken up, &c. in appeal from the court of Chancery.

Duty of the clerk of the H. court of Errors and Appeals, in relation to appeals from the court of Chancery.

Repeal—see
chap. 54 a.
1 vol. 131—2.

SECT. 29. *And be it enacted by the authority aforesaid, That so much of the twenty-fourth section of the act, entitled, "An act for the establishing courts of law and equity within this government," as is hereby altered, shall be and is hereby repealed.*

Passed at Dover, February 2, 1811.

C H A P. CLIX.

An ACT to authorize the owners and possessors of the marsh, cripple and low grounds, lying on Heron-gut, in Little-creek hundred, Kent county, and State of Delaware, to ditch, drain and embank the said low grounds, marsh and cripple, and to preserve the same when so ditched, drained and embanked.

Passed at Dover, Feb. 3, 1811.—Private act.

C H A P. CLX.

An ACT to enable certain trustees to sell the real estate of James Caldwell, late of New-Castle county, deceased, for the benefit of his heirs.

Passed at Dover, Feb. 3, 1811.—Private act.

C H A P. CLXI.

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An ACT for embanking or wharfing out the waters of a certain ditch, leading from Little-bay, in Baltimore hundred, and county of Sussex, to the head waters of Synnepuxcent bay; and for other purposes.

Passed at Dover, Feb. 3, 1811—Private act.

C H A P. CLXII.

An ACT for raising the sum of ten thousand dollars, by a lottery, for the use and benefit of the trustees of the college of Wilmington, in the State of Delaware, and their successors.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the managers herein after named, to institute, carry on and draw a lottery for raising the sum of ten thousand dollars, clear of all expenses, to be applied to and for the use and benefit of the trustees of the college of Wilmington, in the State of Delaware, and their successors.

10,000 dollars to be raised by lottery, for the use of the college of Wilmington.

SECT. 2. *And be it enacted, That James Tilton, James A. Bayard, Thomas I. Macomb, Outerbridge Horsey, Lewis M'Lane, James Jeffries, James Broberson, John Torbert, Edward Roche and Robert Hamilton, and the survivors of them, shall be, and they are hereby appointed managers of the said lottery.*

Managers appointed.

Managers shall
give bond with
condition, &c.

SECT. 3. *And be it enacted*, That the said managers, or the survivors of them, previously to selling any tickets in the said lottery, shall enter into a bond to the governor, in the name of the State of Delaware, in the sum of fifty thousand dollars, conditioned for the faithful execution of this act, and due payment of all the prizes that may be drawn in said lottery, at the expiration of forty days after the drawing of said lottery shall be completed, if demanded; and further condition to pay over all such sum or sums of money as may be raised by the said lottery, clear of all expenses, to the trustees of the college of Wilmington, in the State of Delaware, for the use and benefit of the said college; and further, for the faithful performance of their duty as managers of the said lottery; which said bond is hereby declared to be for the use and benefit of all and every person and persons, and bodies corporate, injured or aggrieved by the said managers, and may be put in suit by any person or persons, or body corporate, injured and aggrieved as aforesaid.

Managers to be
qualified, &c.

SECT. 4. *And be it enacted*, That each of the said managers shall, previously to his entering on the duties of his appointment as manager, take and subscribe an oath or affirmation, diligently, faithfully and honestly to perform the duties of a manager of the said lottery, which said oath or affirmation, any judge or justice of the peace is hereby authorized to administer; and the said managers, or two of them at least, shall attend the drawing of each day, and when the drawing shall be completed, they shall forthwith cause an accurate list of the fortunate numbers in the said lottery, to be published in one or more of the news-papers printed in Philadelphia and in this State.

To attend the
drawing, and
publish the for-
tunate numbers.

Prizes when
payable, &c.

SECT. 5. *And be it enacted*, That all prizes not demanded within one year, from the publication as aforesaid, shall be retained by the said managers, and paid over to the trustees of the said college, for the use of the said college.

SECT. 6. *And be it enacted*, That if the said lottery shall not be drawn within three years, from the approval of the said scheme by the governor, that the said managers shall return and pay over to every person, on demand, the respective sums that may have been received for tickets sold in said lottery.

Within what time, lottery shall be drawn, &c.

Passed at Dover, Feb. 3, 1811.

C H A P. CLXIII.

An ACT to enable John Fisher, surviving administrator de bonis non of John Patten, deceased, to convey and assure to Nicholas G. Williamson and Sarah his wife, certain lands therein mentioned.

Passed at Dover, Feb. 4, 1811.—Private act.

C H A P. CLXIV.

An ACT enjoining certain duties on justices of the peace, trustees of the poor, and constables.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all fines and forfeitures which from and after the first day of March next, shall be set or imposed by, or forfeited before any justice or justices of the peace, in the several counties of this State, according to the provisions of any law of this State, shall, by the said justice or justices of the peace, be certified unto the auditor of accounts, once in every three months in every year hereafter; which certificates shall contain the several fines imposed, together with the name or names of the officer or officers whose duty it shall be

All fines and forfeitures before justices of the peace, shall be certified by them to the auditor, quarterly.

What such certificates shall contain.

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to receive the same, and be delivered unto the said auditor, by the said justice or justices of the peace respectively.

Justices, constables, &c. shall pay over such fines, &c. within thirty days.

SECT. 2. *And be it further enacted,* That the said justice or justices of the peace, constables and all other persons who shall receive or be accountable for any fine or fines, forfeiture or forfeitures, so as aforesaid to be imposed or forfeited, shall, within thirty days after he or they might or could have received any such sum or sums of money, pay the same to and for such use or uses as such fine or fines, forfeiture or forfeitures, are by law directed to be paid or applied.

Penalty on justices and constables not conforming to this act, or clandestinely taking off, &c. or concealing fines, forfeitures, &c.

SECT. 3. *And be it enacted,* That if any of the said justices, constables, or other person or persons, shall neglect or refuse to do and perform the several duties required of him or them by this act, shall, willingly or wilfully spare, take off, discharge or conceal any fine or forfeiture whatsoever, which shall or ought to be imposed or forfeited as aforesaid, or which shall be due and payable according to the laws of this State, and ought to be certified and paid as herein directed, such justice or justices, constable or other person, shall be indicted and fined for every such offence, any sum not less than five dollars, and not exceeding five hundred dollars, at the discretion of the court.

Information to be given by constables, of children of free negroes or free mulattoes unable to support such children, &c.

SECT. 4. *And be it enacted,* That from and after the passing of this act, it shall be the duty of the constables in the respective counties of this State, when and so often as it shall come to their knowledge, or they be informed that any free negro or free mulatto, free negroes or free mulattoes, hath or have any child or children, to give information thereof, to any justice of the peace, or trustee of the poor of the county where such child or children shall reside: and such justice or trustee to whom such information as shall be given, shall, by an order under his hand and seal, directed to such or some

How justices and trustees of the poor shall

other constable, cause such free negro or free mulatto, together with such child or children, to be brought before him or the trustees of the poor, on a certain day, to be specified in said order, and such justice or trustee, or trustees of the poor, together with some other justice or trustee, or trustees of the poor, shall proceed to an examination of the situation of such child or children; and if on such examination, it shall be made appear to the satisfaction of said justices or trustees, or one justice and one trustee, that such negro or mulatto is not of sufficient ability to maintain and support such child or children, or shall not have such employment for such child or children, as in the opinion of said justices or trustees, such child or children ought to have, then and in such case, the said justices or trustees, shall proceed to bind out apprentices to trades or otherwise, such child or children for such term or terms, as the said justices or trustees shall see proper, so as that any such male child be not bound longer than until he shall arrive to the age of twenty-one years, and a female, until she shall arrive to the age of eighteen years: *Provided*, said justices or trustees, or one justice or one trustee, shall secure to such child, such pecuniary advantages as they shall deem reasonable and just, and that the constable giving information as aforesaid, shall, for each and every child so bound, receive three dollars, to be paid by the person to whom such child is bound.

act on such information.

Proviso.

Passed at Dover, Feb. 4, 1811.

C H A P. CLXV.

An ACT to prevent injury by dogs in New-Castle county.

See vol 5 p. 242

WHEREAS the frequent depredations committed by dogs upon sheep, greatly tend to

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discourage the raising of that valuable, and in our present situation, highly important and necessary animal.

The owner of a dog killing a sheep or lamb, shall pay to the owner of the sheep, the value thereof.

How recoverable.

Dogs seen worrying, &c. sheep, may be killed.

Owner of any dog 3 months old and upwards shall pay a tax of 25 cents,

50 cents for every dog above the number of one.

Duty of assessors.

Duty of the commissioners of the tax, and

of the clerk of the Levy court.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That if any dog or dogs shall kill or wound any sheep or lamb, the owner or possessor of such dog or dogs, shall pay to the owner of such sheep or lamb, the value thereof, to be recovered, with costs of suit, in such manner as damages to an equal amount are now recoverable by the laws of this State: and further, that it shall be lawful for any person, who shall see any dog worry, wound or kill any sheep or lamb, to kill such dog.

SECT. 2. *And be it further enacted,* That the owner or possessor of any dog of three months old and upwards, kept by any one person or family, shall pay a yearly tax for the same, of twenty-five cents, and if more than one dog be so kept, fifty cents for every dog above the number of one; and it shall be lawful for the assessors of each hundred in the said county, yearly, at the time of making their annual assessments, to enter in a book to be kept for that purpose, the name of every person in their respective hundreds, owning or keeping any dogs, and the number thereof, and it shall be the duty of such assessors to make a fair copy thereof, and deliver the same to the commissioner of the tax for the county aforesaid, at the same time that they make return of the assessment of their respective hundreds: and it shall be the duty of the said commissioners of the tax, to make return thereof to the Levy court at the usual time, and together with the return of the assessments of the several hundreds; and it shall be the duty of the clerk of the Levy court, to make out and deliver to the collectors of the several hundreds, a correct copy of the aforesaid return, to be by them collected as other taxes are now collected.

SECT. 3. *And be it further enacted,* That if the owner or possessor of any one or more dogs, shall neglect or refuse to pay the tax on the same, as aforesaid, within twenty days after demand thereof made by the collector, such collector may enforce the payment thereof in the same manner, and by the same process by which the State, county, road and poor-taxes are now collected; and every person in possession of, or who shall suffer any dog to remain about his house for the space of twenty days before demand made by the collector, as aforesaid, such person shall be deemed the owner of such dog, and liable to pay the tax for the same, and such person may lawfully kill such dog; if no other person within the said twenty days shall appear to claim him.

Dog tax, how to be collected.

Any person in possession of, or suffering a dog to remain 20 days about his house, shall be deemed the dog's owner, &c

SECT. 4. *And be it further enacted,* That the several collectors aforesaid, may retain out of the money so collected, five per centum, as a compensation for their trouble, and shall pay the residue thereof to the treasurer of the county of New-Castle, to be disposed of by the trustees of the poor of said county, by warrant upon the said treasurer, towards the support of the poor thereof; and further, if any collector aforesaid, shall neglect or refuse to do any thing herein before required of him to do, he shall for every offence, forfeit and pay the sum of twelve dollars, to be recovered by action of debt, with costs, before any justice of the peace of said county, by any person who shall sue for the same, the one half, when recovered, to belong to the prosecutor, and the other half to be applied to the uses aforesaid.

Compensation to collectors, &c.

Penalty on collectors refusing to comply with this act.

How recovered and applied.

SECT. 5. *Provided always, and be it enacted,* That none of the provisions of this act shall extend to the counties of Kent and Sussex.

This act not to extend to Kent & Sussex counties.

Passed at Dover, Feb. 4, 1811.

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discourage the raising of that valuable, and in our present situation, highly important and necessary animal.

The owner of a dog killing a sheep or lamb, shall pay to the owner of the sheep, the value thereof.

How recoverable.

Dogs seen worrying, &c sheep, may be killed.

Owner of any dog 3 months old and upwards shall pay a tax of 25 cents,

50 cents for every dog above the number of one.

Duty of assessors.

Duty of the commissioners of the tax, and

of the clerk of the Levy court.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That if any dog or dogs shall kill or wound any sheep or lamb, the owner or possessor of such dog or dogs, shall pay to the owner of such sheep or lamb, the value thereof, to be recovered, with costs of suit, in such manner as damages to an equal amount are now recoverable by the laws of this State: and further, that it shall be lawful for any person, who shall see any dog worry, wound or kill any sheep or lamb, to kill such dog.

SECT. 2. *And be it further enacted,* That the owner or possessor of any dog of three months old and upwards, kept by any one person or family, shall pay a yearly tax for the same, of twenty-five cents, and if more than one dog be so kept, fifty cents for every dog above the number of one; and it shall be lawful for the assessors of each hundred in the said county, yearly, at the time of making their annual assessments, to enter in a book to be kept for that purpose, the name of every person in their respective hundreds, owning or keeping any dogs, and the number thereof, and it shall be the duty of such assessors to make a fair copy thereof, and deliver the same to the commissioner of the tax for the county aforesaid, at the same time that they make return of the assessment of their respective hundreds: and it shall be the duty of the said commissioners of the tax, to make return thereof to the Levy court at the usual time, and together with the return of the assessments of the several hundreds; and it shall be the duty of the clerk of the Levy court, to make out and deliver to the collectors of the several hundreds, a correct copy of the aforesaid return, to be by them collected as other taxes are now collected.

SECT. 3. *And be it further enacted,* That if the owner or possessor of any one or more dogs, shall neglect or refuse to pay the tax on the same, as aforesaid, within twenty days after demand thereof made by the collector, such collector may enforce the payment thereof in the same manner, and by the same process by which the State, county, road and poor-taxes are now collected; and every person in possession of, or who shall suffer any dog to remain about his house for the space of twenty days before demand made by the collector, as aforesaid, such person shall be deemed the owner of such dog, and liable to pay the tax for the same, and such person may lawfully kill such dog, if no other person within the said twenty days shall appear to claim him.

Dog tax, how to be collected.

Any person in possession of, or suffering a dog to remain 20 days about his house, shall be deemed the dog's owner, &c

SECT. 4. *And be it further enacted,* That the several collectors aforesaid, may retain out of the money so collected, five per centum, as a compensation for their trouble, and shall pay the residue thereof to the treasurer of the county of New-Castle, to be disposed of by the trustees of the poor of said county, by warrant upon the said treasurer, towards the support of the poor thereof; and further, if any collector aforesaid, shall neglect or refuse to do any thing herein before required of him to do, he shall for every offence, forfeit and pay the sum of twelve dollars, to be recovered by action of debt, with costs, before any justice of the peace of said county, by any person who shall sue for the same, the one half, when recovered, to belong to the prosecutor, and the other half to be applied to the uses aforesaid.

Compensation to collectors, &c.

Penalty on collectors refusing to comply with this act.

How recovered and applied.

SECT. 5. *Provided always, and be it enacted,* That none of the provisions of this act shall extend to the counties of Kent and Sussex.

This act not to extend to Kent & Sussex counties.

Passed at Dover, Feb. 4, 1811.

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C H A P. CLXVI.

Chap. 219. b.
2 vol. 999.

A supplement to the act, entitled, "An act to authorize the courts of Quarter Sessions, to appoint the constables of each hundred."

No person shall be appointed constable for more than 3 years successively, out of any term of 6 years, &c.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That hereafter it shall not be lawful to appoint any person to the office of constable, in any of the hundreds of the respective counties of this State, for more than three years successively, out of any term of six years; nor shall any person who hath served in such office three years successively, next immediately preceding the passing of this act, be again re-appointed to such office, until he shall have been out of office for the space of three years.

Within what time constables shall give bond, &c.

SECT. 2. *And be it enacted,* That the constables hereafter to be appointed, in the respective hundreds of the several counties of this State, shall, within twenty days after the time of their appointment, give bond, in the name of the State of Delaware, in the sum of sixteen hundred dollars, with two good and substantial freeholders, as their security, to be approved of by the judges of the court of Common Pleas, or any one of them in vacation, conditioned for the faithful performance of their duty; and if any constable or constables, hereafter to be appointed, shall die, remove out of the hundred, neglect or refuse to give bond and security as aforesaid, then and in such case, any two justices of the peace of the county where such death, removal out of the hundred, neglect or refusal, shall or may happen, may appoint some other person or persons, to serve in his or their stead, who shall give bond and security as aforesaid; which said bonds shall be transmitted to, and filed in the office of the clerk of the peace of the several counties respectively.

In case of death &c of constable who shall appoint a person in his stead.

SECT. 3. *And be it enacted*, That the nineteenth section of the act, entitled, "An act for the more easy and speedy recovery of small debts," be, and the same is hereby repealed, made null and void.

Repeal—chap.
250. 2 vol.
1048—9.

Passed at Dover, Feb. 4, 1811.

C H A P. CLXVII.

An ACT to prevent the increase of banking companies

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, it shall not be lawful for any persons to associate together for the purpose of forming themselves into a banking company, without first obtaining from the General Assembly, an act of incorporation; and if any persons shall associate together, with an intention of creating a banking company, and shall proceed to appoint a day to receive subscriptions for the shares into which the capital stock is to be divided, each person who shall act as commissioners, directors or managers, for receiving such subscriptions, shall forfeit and pay the sum of two thousand dollars, to be recovered by action of debt, bill, plaint or information, in any court of record within this State, one moiety thereof to be applied to the use of the State, and the other to the person or persons who will sue for the same.

No associations for forming a banking company, shall be lawful, without an act of incorporation.

Penalty on persons acting as commissioners, &c. to such associations.

How recovered and applied.

SECT. 2. *And be it enacted*, That if any person or persons, co-partnership, or body politic, shall subscribe for any share or shares, in such contemplated bank, he, she or they shall forfeit and pay the sum of five hundred dollars, to be recovered and applied in manner aforesaid.

Penalty on subscribing for shares therein.

Persons associating for the purpose of banking, shall not utter or issue any bills or notes, &c.

Penalty for so doing.

SECT. 3. *And be it enacted*, That from and after the passing of this act, it shall not be lawful for any association of persons that may hereafter originate or become connected for the purposes of banking, to make, utter or issue any bills or notes in the nature of bank-notes, payable to bearer or order, or loan any sum or sums of money, upon any actual or accommodation note or notes, or receive any sum or sums of money in the nature of deposits, or to do or perform any other act, which an incorporated banking company may lawfully do; and if any person or persons, principals or agents of any such association, for the purpose of banking, shall do or perform any of the acts hereby prohibited, each and every person so offending, shall forfeit and pay for every such offence, the sum of five hundred dollars, to be recovered and applied as herein before directed.

Unlawful to offer or accept in payment, such notes, &c.

Payments wherein such notes shall be the medium, null and void.

SECT. 4. *And be it enacted*, That from and after the passing of this act, it shall not be lawful for any person or persons, to offer or accept in payment any note or notes issued from any such unincorporated bank or banks, knowing it to be such; and all payments which may be made or accepted from and after the passing of this act, wherein any such note or notes shall be the medium, shall be, and the same are hereby declared to be null and void.

How far this act shall extend.

SECT. 5. *And be it enacted*, That nothing in this act contained, shall extend to any partnership in trade or business, in such manner and for such purposes as hath hitherto been usual and lawful, but only to the business of banking or making, issuing or uttering of any bills or notes, payable to bearer or order, or otherwise, to receive deposits and loaning money on discount, in the manner herein before mentioned, by any banking company who may hereafter originate, and become associated or connected for the purposes aforesaid.

Limitation.

SECT. 6. *Provided always, and be it enacted*, That

this act shall continue in force until the last day of next December, and from thence until the end of the next session of the General Assembly thereafter holden, and no longer.

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1811

Passed at Dover, Feb. 4, 1811.

C H A P. CLXVIII.

An ACT authorizing the purchase of stock for the use of the State.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of twelve thousand dollars, part of the sum now in the treasury of this State, shall be, and the same is hereby appropriated to the purchase of bank stock in some one of the banks in this State, or in the bank of Pennsylvania, or in the stocks of the United States of America; and the State treasurer is hereby authorized and required to purchase for the use of the State, on the lowest and best terms to be obtained, with the said money, the said bank or other stock, in the United States; and the said stock when so purchased, shall be entered by him in the treasury books of this State, specifying therein the number and amount of each certificate, the date thereof, to whom the same issued, of whom bought, and the price paid for the same; and the State treasurer is hereby directed to return to the auditor in his quarterly settlements with him, an account of such purchase of stock, with a specification thereof, as before mentioned.

Passed at Dover, Feb. 4, 1811.

CHAP.
CLXIX.
1811

C H A P. CLXIX.

An ACT authorizing the treasurer of this State, to pay certain claims therein mentioned, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the treasurer of this State be, and he hereby is authorized and directed to pay to doctor John Groome, or his order, the sum of sixteen dollars, for medical services, rendered Nathan Pearson, an alien, whose property escheated to the State; to Thomas Clayton, esquire, late secretary of State, or to his order, for expenses incurred in conveying the acts of Assembly of this State, to the counties of New-Castle and Sussex, the sum of twenty-two dollars and twenty cents; to James Harper, late clerk of the peace of Kent county, or his order, the sum of thirty dollars, for making out an account of the valuation of the real and personal property in said county; to James Wilson, printer, or his order, for inserting the governor's proclamation of the election of representatives to congress, the sum of ten dollars and fifty cents; to John B. Wootten, or his order, for printing done for the use of the State, the sum of three dollars; and that Henry Molleston be authorized to retain in his hands the sum of seventeen dollars and fifty cents, for extra expenses, incurred in procuring stock, as directed by law, out of such public monies as are or hereafter may come into the treasury, not otherwise appropriated by law.

To Dr. John
Groome.

To T. Clayton,
esquire.

To James Har-
per, esq.

To J. Wilson,
printer.

To J. B. Woot-
ten.

H. Molleston,
to retain \$17
50, for extra ex-
penses, &c in
procuring stock

Whereas it appears from an account of John Hall, escheator of New-Castle county, that he has heretofore received, for rents of lands in said county, escheated to the State, the sum of three hundred and forty-one dollars and fifty-one cents, and that in performing the duties of escheator, for costs and

expenses incurred, and for commissions now allowed, has expended the sum of two hundred and thirty-five dollars and five cents, leaving a balance in his hands, of one hundred and six dollars and forty-six cents :

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SECT. 2. *Therefore be it enacted by the authority aforesaid,* That John Hall, esquire, escheator of New-Castle county, be allowed to retain out of the monies in his hands, as the escheat officer of said county, the sum of two hundred and fifty-six dollars and five cents, the costs and expenses incurred in holding escheats and commissions on the sums received by him.

J. Hall, esq. escheator of New-Castle county, authorized to retain \$ 256 05.

And whereas the sum of one hundred dollars, which is appropriated by the third section of the act entitled, "An act for devising and establishing a seal to be used by the auditor of accounts of this State, and for other purposes," to the purchase of a screw for the secretary's office, is found to be insufficient for that purpose :

Chap. 117. 4 vol. 321.

SECT. 3. *Be it therefore further enacted,* That the further sum of twenty-five dollars be, and the same is hereby appropriated to that purchase, to be drawn for and paid as in the said act is directed.

Further sum appropriated to the purchase of a screw for the secretary's office.

Passed at Dover, February 4, 1811.

CHAP. CLXX.

An ACT to prevent swine running at large within the village of Milton, and the bounds therein prescribed, in the county of Sussex.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That

Swine not to run at large in Milton, and certain limits.

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1811

from and after the first day of May next, no swine, hog or hogs, shall be permitted or suffered to run at large by any inhabitant or inhabitants, or other person or persons whatsoever, residing within the bounds and limits hereinafter mentioned; that is to say, beginning at the mouth of the Round-pole branch, and up said branch and the south-most fork thereof, until it is crossed by the road leading from Clowes' to Cool-spring, thence up said road to John Conwell's mill, thence down said mill-stream to the fork of Broadkill-creek, thence up the north-west fork thereof to Lavinia's bridge, thence from said bridge a north-west course to the line between James Ponder and William Perry, thence with the said line to the neck road, thence with the said neck road to the north-east corner of the cleared lands of Thomas Fisher, thence down the fence of the said Thomas Fisher, to the Broadkill-creek.

Penalty.

SECT. 2. *And be it enacted*, That if any person or persons, inhabitants within the bounds aforesaid, shall keep or suffer any of their hogs or swine to run at large, after the said first day of May, within the bounds or limits aforesaid, the owner or owners of all such hogs or swine, shall forfeit the same to and for the use of such person or persons taking up and securing said swine or hog or hogs, or pay the sum of one dollar for each and every hog suffered to run at large as aforesaid, to be levied with costs, by distress and sale of the offender's goods and chattels, by warrant under the hand and seal of any justice of the peace of the county of Sussex, to be paid to the treasurer of the county aforesaid.

How recovered
and appropriated.

May be killed.

SECT. 3. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful, to and for any person or persons, whatsoever, residing within the bounds aforesaid, to shoot or kill all such hog, hogs or swine so kept, permitted or suffered to run at large as aforesaid, and to give notice thereof within three hours thereafter, to the owner or owners, or leave notice at his or her dwelling, *Provided*, the owner or owners be known, and not otherwise.

Notice thereof
to be given to
the owner.

SECT. 4. *And be it further enacted by the authority aforesaid,* That nothing in this act contained, shall be taken or construed to affect the hog or hogs of any person or persons, living or residing without the bounds or limits described in this act, unless such hog or hogs be kept or fed by any person or persons living or residing within the bounds or limits aforesaid, and suffered to run at large.

Not to extend to hogs of persons residing without the limits described, unless, &c.

SECT. 5. *And be it enacted,* That if any suit or action shall be commenced, brought or prosecuted against any person residing within the bounds aforesaid, for any act or thing by him, her or them done in pursuance of this act, it shall and may be lawful to and for the defendant or defendants in such suit or action, to plead the general issue, and to give this act in evidence on the trial thereof, whereof all justices of the several courts in this State, are hereby strictly required and enjoined to take notice and govern themselves accordingly.

In case of suit, general issue may be pleaded and this act given in evidence.

Passed at Dover, February 4, 1811.

C H A P. CLXXI.

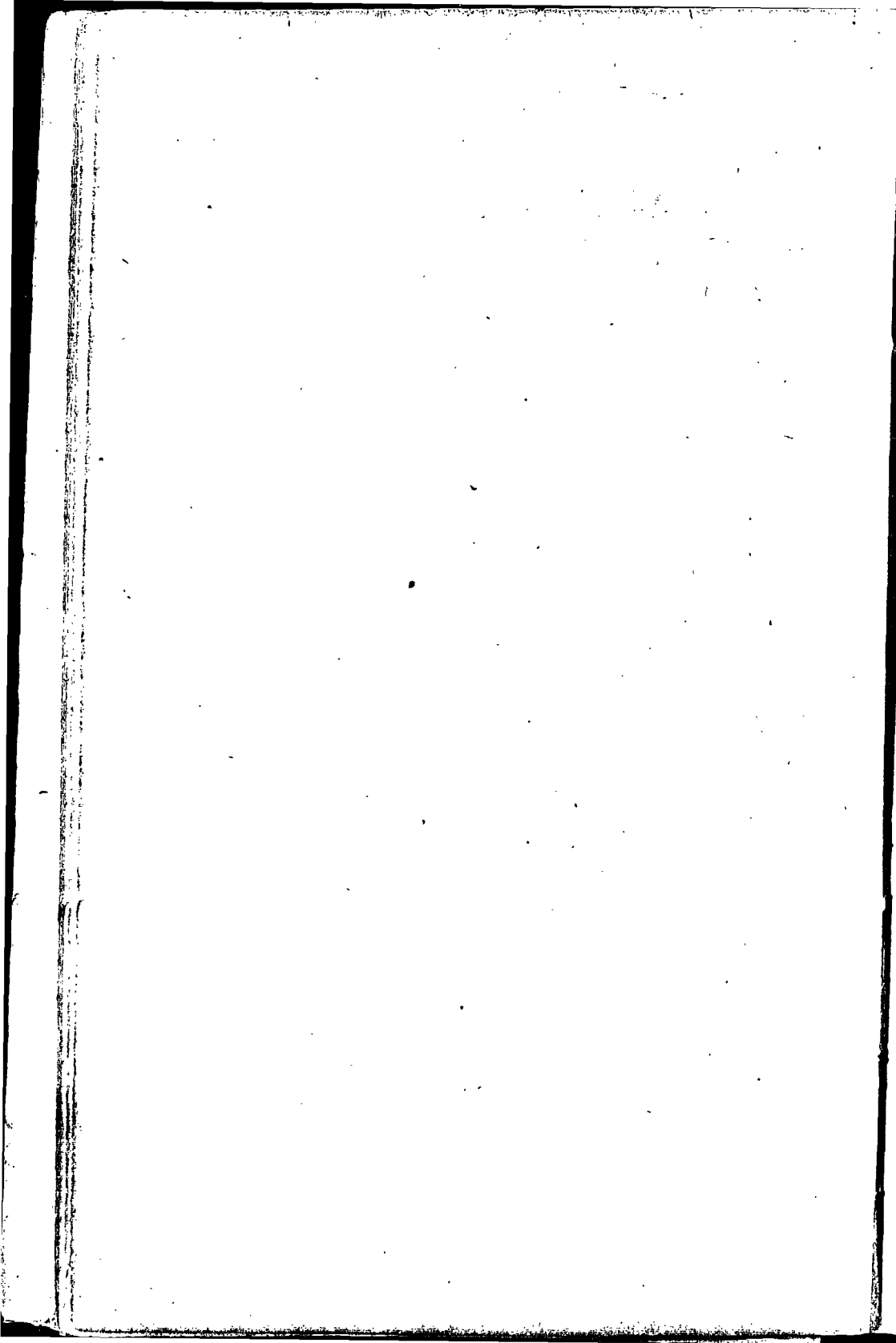
A Supplement to an act, entitled, "An act to enable the owners and possessors of the meadow ground, marsh and cripple, on Red-lion creek, in New-Castle county, to put the banks, dams, sluices and flood-gates in repair, and to raise a fund to defray the expenses thereof."

PRIVATE ACT.

WHEREAS, by a joint resolution, of the General Assembly, passed at the last session, it was required that the secretary of State should report to the General Assembly, on the first Tuesday of January then next ensuing, a list of all such balances as might be due for licenses or otherwise, by the clerks of the peace, and such other persons as might be indebted on the books of accounts of the said secretary and his predecessors, or otherwise, subsequent to the year 1792: and whereas, the secretary of State hath informed the Senate, that he found it impossible to make out a list of said balances, and hath therefore begged leave to report the books to the Senate, and it appears to the General Assembly, that there are considerable sums of money due from sundry persons charged on said books: therefore—

RESOLVED, *By the Senate and House of Representatives*, That the secretary of State is hereby required and enjoined, within three months from the date hereof, to call upon all and every person or persons who may appear to be indebted to the State, either by the accounts standing open against them on said books, or by any other satisfactory evidence, to settle and adjust the same; and that he is hereby required to demand such sum or sums of money as shall, upon such liquidation, appear to be due, and that, if any person or persons so indebted, shall not, within three months after such demand, pay all such balances as may be found due from them respectively, then and in every such case, the secretary of State is hereby required and enjoined to apply to the attorney general, and to procure suits to be brought in all cases where there remains a probability of recovery, and to make report of his proceedings to the next General Assembly.

Adopted, January 15, 1811.



The two acts immediately following, passed at the January session, 1811, are now published in obedience to a resolution of the General Assembly of the 8th of February, 1812.

C H A P. CLXXII.

An ACT to enable aliens, in certain cases to purchase and hold lands, or other real estate within this State.

See vol. 5 p. 119

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, it shall and may be lawful for any alien or aliens, actually resident within this State, and not being the subject or subjects of some sovereign State or power, which is or shall be, at the time or times of such purchase or purchases, at war with the United States of America, to purchase lands, tenements and hereditaments, within this State, and to have and to hold the same in fee-simple, or for any less estate, as fully to all intents and purposes, as any natural born citizen or citizens may or can do: *Provided always*, That such alien or aliens, shall previously to such purchase or purchases, have declared his, her or their intention to become a citizen or citizens of the United States of America, agreeably to any law of the said United States, at that time in force upon that subject: *And provided also*, That no such alien or aliens shall

What description of aliens may purchase and hold land within this state

Proviso:

Further proviso

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be competent to purchase, and hold more than one thousand acres, until he or they shall have actually become a citizen or citizens of the United States.

In what cases
purchases here-
tofore made by
aliens are decla-
red valid.

SECT. 2. *And be it further enacted by the authority aforesaid,* That where any alien or aliens, resident, as aforesaid, may have heretofore purchased any land or other real estate within this State, having previously or subsequently to such purchase, declared his, her or their intention to become a citizen, in conformity to an act of congress at that time in force, upon that subject, the same purchase shall be valid, to all intents and purposes, and shall be construed to vest the said land or real estate in the said alien or aliens, fully and absolutely, to all intents and purposes whatsoever.

Passed at Dover, January 22; 1811.

C H A P. CLXXIII.

An ACT to enable certain persons therein named, to raise a sum of money not exceeding four thousand dollars, by a lottery, for the purpose of paving or turnpiking the street in the village of Newark, in New-Castle county, and for repairing the English school-house, and market-house of said village.

4,000 dollars to
be raised by lot-
tery, for the
turnpiking, &c.
the main-street.

SECT. 1. *AND be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That it shall and may be lawful for the persons hereinafter

appointed managers, to institute, carry on and draw a lottery, for raising a sum of money, not exceeding four thousand dollars, clear of all expenses; and the said sum, when so raised, shall be applied to the turnpiking or paving the main street in the village of Newark, in the county of New-Castle, and to the repair of the English school-house, and market-house of said village.

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the village of
Newark, &c.

SECT. 2. *And be it enacted*, That James Tilton, James Snow, George Russel, Levi Boulden, Andrew Grey, Frederick H. Holtzbecker and John Herdman, or their survivors, shall be, and are hereby appointed managers of the said lottery, who shall respectively, before they enter upon the duties required of them by this act, give bond in the name of the State, in the sum of eight thousand dollars, conditioned for the faithful performance of the trust reposed in them respectively by this act, which bonds shall be lodged in the office of the secretary of State, who shall thereupon give six weeks notice in the Watchman, or some other public news-paper printed within this State, that such bonds are executed, and lodged in his office, in pursuance of the directions of this act, and are hereby declared to be in trust for, and may be sued by all and any of the persons aggrieved by the managers of said lottery, in conducting and carrying on the same.

Managers ap-
pointed, who

Shall give bond
with condition,
&c.

Where to be
lodged.

SECT. 3. *And be it enacted*, That the said managers shall, on or before the first day of December next, if at that time a sufficient number of tickets shall have been sold, and if not, as soon after as conveniently may be, proceed to the drawing and finishing the said lottery, and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within six months after the drawing of said lottery: but if not demanded within that time, the said prizes shall remain in the hands of the said managers, to be applied to and for the purposes and uses aforesaid.

Within what
time lottery
shall be drawn,
&c.

Prizes when
payable.

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Money raised,
how to be ap-
propriated, &c.

SECT. 4. *And be it enacted,* That the said managers, or the survivors of them, shall superintend and direct the expenditure of the said sum of four thousand dollars, or so much thereof as may be found necessary for paving or turnpiking the street aforesaid, and for the repair of said school and market-house, and the said managers shall report their proceedings, and settle their accounts before the Levy court of New-Castle county, at their next sitting after such work shall have been completed.

Compensation
to the mana-
gers.

SECT. 5. *And be it enacted,* That the said managers shall have, for their trouble in the discharge of the duties assigned them by this act, the sum of five per centum, on the whole sum which shall be raised by the said lottery, and expended, as aforesaid.

Passed at Dover, Feb. 1, 1811.

C H A P. CLXXIV.

An ACT making provision for the support of government, for the year one thousand eight hundred and twelve.

§ 12,500 to be
raised and paid
into the treasury.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of twelve thousand five hundred dollars shall be raised and paid into the treasury of this State, within the time and manner as directed by an act of the General Assembly of this State, entitled, "An act making provision for the support of government for the year of our Lord, one thousand eight hundred and ten, and for the more effectual ordering, assessing, levying and collecting all such taxes as may be granted by the General Assembly," and shall be assessed and levied in the several counties of this

State, in the following proportions; that is to say, for the county of New-Castle, the sum of four thousand seven hundred and sixty-one dollars and ninety cents; for the county of Kent, the sum of four thousand one hundred and sixty-six dollars and sixty-seven cents; and for the county of Sussex, the sum of three thousand five hundred and seventy-one dollars and forty-three cents.

Each county's proportion.

SECT. 2. *And be it enacted*, That the aforesaid sums of money, shall be appropriated and applied to and in the following manner; that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due, and to become due to the governor, chancellor, judges of the Supreme court and court of Common Pleas, attorney general, secretary and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and thirteen; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General Assembly, their clerks, and other expenses, and for printing the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof, and the residue, (if any there be) shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

Appropriation for the payment of salaries.

For the expenses of the General Assembly.

For the payment of debts due to citizens.

C H A P. CLXXV.

An ACT to enable certain persons therein mentioned, to raise by lottery, the sum of fifteen thousand dollars, for building a grand Masonic hall in the borough of Wilmington, and State of Delaware.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall

15,000 dollars to be raised by lottery, for the

erection of a grand Masonic hall, in the borough of Wilmington.

and may be lawful for the managers herein after mentioned, to institute, carry on and draw a lottery, for raising the sum of fifteen thousand dollars, clear of all expenses, to be applied to the erection of a grand Masonic hall in the borough of Wilmington, and State of Delaware.

Managers appointed.

SECT. 2. *And be it enacted*, That George Monroe, John Sellars, Joseph Robinson, Caesar A. Rodney, Frederick Leonard, Archibald Hamilton, John Rumsey, Edward Roche and John Gordon, and the survivors of them, shall be, and they are hereby appointed managers of the said lottery.

Managers shall give bond with condition, &c.

SECT. 3. *And be it enacted*, That the said managers, or any four of them, previously to selling any tickets in said lottery, shall enter into a bond to the governor, in the name of the State of Delaware, in the sum of thirty thousand dollars, conditioned for the faithful execution of this act, and due payment of all the prizes that may be drawn in said lottery; at the expiration of sixty days after the drawing of said lottery shall be completed, if demanded; and further condition, faithfully to apply all such sum or sums of money as may be raised by said lottery, clear of expenses, to the erection and completion of said building: And further, for the true and faithful performance of their duty as managers of said lottery; which said bond is hereby declared to be for the use and benefit of all and every person and persons, and bodies corporate, injured or aggrieved by the said managers, and may be put in suit by any person or persons, or body corporate, injured and aggrieved as aforesaid.

Managers to be qualified, &c.

SECT. 4. *And be it enacted*, That each of the said managers shall, previously to his entering on the duties of his appointment, as manager, take and subscribe an oath or affirmation, diligently, faithfully and honestly to perform the duties of a manager of the said lottery; which said oath or affirmation, any judge or justice of the peace, is hereby authori-

zed to administer; and the said managers, or two of them, at least, shall attend the drawing of each day, and when the drawing shall be completed, they shall forthwith cause an accurate list of the fortunate numbers in the said lottery, to be published in one or more of the news-papers printed in this State, and in Philadelphia.

To attend the drawing, and publish the fortunate numbers.

SECT. 5. *And be it enacted*, That all prizes not demanded within one year from the publication, as aforesaid, shall be retained by the said managers, and applied to the completion of the said building.

Prizes, when payable, &c.

SECT. 6. *And be it enacted*, That if the said lottery shall not be drawn within two years from the approval of the scheme, by the governor, that the said managers shall return and pay over to every person, on demand, the respective sums that may have been received for tickets sold in said lottery.

Within what time the lottery shall be drawn, &c.

C H A P. CLXXVI.

An ACT to incorporate the Newport Grammar-school, in New-Castle county.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Mordecai M'Kinney, Aaron Justis, Zeonas Wells, Alexander Robinson and Samuel Paulson, shall be, and they are hereby constituted a body politic and corporate, by the name of the Trustees of the Newport Grammar-school, in the county of New-Castle; and by that name, shall have perpetual succession, and a common seal; may sue and be sued, plead and be impleaded, in any court of law or equity.

Newport Grammar school incorporated.

Style of the corporation.

SECT. 2. *And be it enacted*, That the said trustees, and their successors, by the name aforesaid, shall

May hold property, and

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Dispose of the
same.

be capable in law to purchase, receive and hold, any lands, tenements, rents, goods or chattels, which shall be given, conveyed or devised to them, for the use of the said school; and to sell, rent or dispose of the same, in such manner as to them shall seem most beneficial to said school.

Powers.

SECT. 3. *And be it enacted*, That the said trustees, or any three of them, shall have power, from time to time, to make and establish such bye-laws, rules and ordinances, not contrary to the laws and constitution of this State, as they shall judge necessary and proper for the good government of said school, and to appoint a president, secretary, tutor or tutors, and treasurer, the last of whom shall receive all monies accruing to the said school and property delivered to his care, and pay or deliver the same to the order of the said trustees. The said treasurer, before he enters upon the duties of his office, shall give bond and security, in such sum as the said trustees shall direct, payable to them and their successors, conditioned for the faithful discharge of the trust reposed in him, and that he will, when required by said trustees, render a true and just account of all monies, goods and chattels received by him, on account of and for the use of the said school, which treasurer shall receive such salary as the said trustees shall allow.

Treasurer shall
give bond, with

Condition.

Trustees may
receive sub-
scriptions for
the use of the
school.

Vacancies, how
supplied.

SECT. 4. *And be it enacted*, That the said trustees shall have power to take and receive subscriptions for the use and benefit of said school; and in case any person shall fail to comply with his or her subscription, to enforce the payment thereof; and in case of the death, resignation or other legal disability of any of the said trustees herein named, the vacancy thereby occasioned, shall be supplied by the remaining trustees.

C H A P. CLXXVII.

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1812

An ACT to authorize the commissioners therein named, to obstruct and stop up two communications or passages of water, between Rehoboth-bay and Indian-river, called the Thoroughfare and Bridge-Gut.

PRIVATE ACT.

C H A P. CLXXVIII.

A supplement to the act, entitled, "An act vesting in Thomas Boulden, the title to a certain parcel of land therein mentioned, for a term of years, in trust, for Mary Bantam, an infant."

PRIVATE ACT.

C H A P. CLXXIX.

An ACT to divorce Susanna Stilly, from the bed and board of her husband, John Stilly.

PRIVATE ACT.

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CLXXX.
1812

C H A P. CLXXX.

4 vol. chap. 135.
p. 352.

A supplement to an act, entitled, "An act to incorporate a company for making a turnpike road from the borough of Wilmington, to the line between this State and Pennsylvania, at or near the house now occupied by Charles Twaddle."

Preamble.

WHEREAS it is represented to this General Assembly, that the turnpike road authorized to be laid out by the act, to which this is a supplement, would better answer the purposes for which the same was intended, if it were extended from the line of said borough, to Market-street in the same; and it appearing, that the burgesses and borough council of the borough of Wilmington, by an ordinance, passed the third day of June, one thousand eight hundred and eleven, have, under certain limitations therein contained, declared and expressed their assent to the same, so far as any rights or privileges heretofore granted to the said corporation by law, are in any degree affected thereby.

Now far the
Kennet turnpike
company may
extend the
turnpike road,
from the bo-
rough line into
the borough of
Wilmington.

NOW be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Wilmington and Kennett turnpike company, are hereby authorized to lay out and make or extend the said turnpike road from the borough line, at the place where the said road is now laid out, and made along the Kennett road, until it shall intersect Chesnut-street, and thence along Chesnut to Market-street, all in said borough, in the same manner as if it were originally contained within the limits of the road authorized by the said act; and the same rights, privileges, immunities and tolls, are hereby granted; and the same conditions, provisions, restrictions and penalties are hereby imposed to, and upon the said company, and all manner of persons, as are granted or imposed in relation to the other parts of the said road; (and

the said act is hereby extended to the said road,) within the said borough, in like manner as if the said act were here set forth: *Provided*, That the said road be made conformably to the ground plan of elevation and descent of the streets, as established by law: *Provided always nevertheless*, That, nothing herein contained, shall give to the said company, any right or controul, or power over said Kennett road and Chesnut-street within said borough, further than from the middle of said road and street, to a line to be drawn on each side of said road and street at the distance of twelve feet from each side thereof, respectively, as they are now established, nor erect any toll-gate within the said borough, nor prevent the borough council from erecting such common sewers, gutters and water-pipes, as they may deem necessary, or from carrying the same under or across the said road; the said council doing as little injury as possible, to the rights of the said company, and repairing the same without delay, upon pain of being subjected to the like penalties and forfeitures as are provided by the original act, to which this is a supplement, in other like cases; nor to prevent any person or persons from paving in front of their lands, or the said council from paving any street or streets, to join the turnpike road of the said company, the said persons or council, doing no injury to the rights of the said company, and complying with the established curvature of said road, and leaving suitable gutters for the conveyance of water from said road.

Proviso.

Further proviso.

C H A P. CLXXXI.

An ACT to authorize the administrators of Samuel Howell, to make a deed to George Temple, for a house and lot in Camden.

PRIVATE ACT.

C H A P.
CLXXXII.
1812

C H A P. CLXXXII.

4 Vol. chap 64.
p. 196.

A Supplement to an act, entitled, "An act to incorporate a company for making a turnpike road from the borough of Wilmington, to the line between this State, and Pennsylvania, or to communicate with the artificial road contemplated from the Gap to Newport.

Preamble.

WHEREAS it is represented to this General Assembly, that the turnpike road authorized to be laid out by the act to which this is a supplement, would better answer the purposes for which the same was intended, if it were extended from the line of said borough to Market-street in the same, and it appearing that the burgesses and borough council of the borough of Wilmington, by an ordinance, passed the third day of June, one thousand eight hundred and eleven, have, under certain limitations therein contained, declared and expressed their assent to the same, so far as any rights or privileges heretofore granted to the said corporation, by law, are in any degree, affected thereby.

How far the
Wilmington
turnpike com-
pany, may ex-
tend the turn-
pike road from
the borough line
into the borough
of Wilmington.

NOW be it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Wilmington turnpike company are hereby authorized to lay out and make, or extend the said turnpike road from the borough line, at the place where the said road is now laid out and made, along the Lancaster road and Front-street, until it shall intersect Market-street in the said borough, in the same manner as if it were originally contained within the limits of the road authorized by the said act; and the same rights, privileges, immunities and tolls, are hereby granted; and the same conditions, provisions, restrictions and penalties, are hereby imposed to and upon the said company, and all manner of persons, as are granted or imposed in

relation to the other parts of the said road; and the said act is hereby extended to the said road, within the said borough, in like manner as if the said act were here set forth: *Provided*, That the said road be made conformably to the ground-plan of elevation and descent of the streets, as established by law: *Provided nevertheless*, That nothing herein contained, shall give to the said company any right or controul over said Lancaster road and Front-street, within said borough, further than from the middle of said road and street, to a line to be drawn on each side of said road and street, at the distance of twelve feet from each side thereof, respectively, as they are now established, nor erect any toll-gate within the said borough, nor prevent the borough council from erecting such common sewers, gutters and water-pipes, as they may deem necessary, or from carrying the same under or across the said road, the said council doing as little injury as possible to the rights of said company, and repairing the same without delay, upon pain of being subjected to like penalties and forfeitures as are provided by the original act to which this is a supplement, in other like cases, nor to prevent any person or persons from paving in front of their lands, or the said council from paving any street or streets to join the turnpike road of the said company, the said persons or council doing no injury to the rights of the said company, and complying with the established curvatures of said road, and having suitable gutters for the conveyance of water from said road.

C H A P.
CLXXXIII.

1812

Proviso.

Further proviso.

C H A P. CLXXXIII.

An ACT to incorporate the trustees of the George-town school, in George-town, Sussex county.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That

George-town
school incorpo-
rated.

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Style of the corporation.

Isaac Tunnell, Benton Harris, William Russell, Robert D. Stout, Francis Brown and Peter Robinson, and their successors, be and they are hereby declared to be one body politic and corporate, to have continuance forever, by the name of the "Trustees of the George-town School," and by the same name they shall have perpetual succession forever.

Vacancies how supplied.

SECT. 2. *And be it enacted*, That in case of the death, resignation or other legal disability of any of the trustees of said school, the vacancy thereby occasioned, shall be supplied by a majority of the remaining trustees.

May hold property, and

dispose of the same,

SECT. 3. *And be it enacted*, That the said trustees and their successors in office, by the name aforesaid, shall be capable in law to purchase, receive and hold, any lands, tenements, rents, goods or chattels, which shall be given, conveyed or devised to them, for the use of the said school, and to sell, rent or dispose of the same, in such manner, as to them shall seem most beneficial to the said school.

Trustees, their powers.

SECT. 4. *And be it enacted*, That the said trustees, or a majority of them, shall have power, and they are hereby authorized, to make, alter, repeal and re-enact all laws, regulations and ordinances which they may deem necessary, for the better government of the said school: *Provided*, That the said laws, regulations and ordinances, are not repugnant to the laws or constitution of this State, and the United States.

May appoint tutors, and

fix their compensations.

SECT. 5. *And be it enacted*, That the said trustees may, and shall appoint such professors, tutors, or such other officers or persons as they may deem requisite for the said school, under such rules and stipulations, and for such pecuniary compensations, as they shall consider adequate and proper.

SECT. 6. *And be it enacted,* That the said corporation shall be able and capable, in law, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or any other place whatsoever, and to do and execute all other matters and things, which bodies politic and corporate may lawfully do.

Capacity to sue,
&c.

SECT. 7. *And be it enacted,* That the said corporation shall have full power and authority to have and use a common seal, and to change the same, and establish another or others, with such devices as they shall think proper; and that all acts certified under that or any other seal of the said corporation, shall have full faith and credit.

May establish a
common seal,
&c.

SECT. 8. *And be it enacted,* That the trustees of the said school, shall not, on any pretence whatsoever, take or receive any compensation for their services rendered in the discharge of any duty or duties performed by them.

Trustees to act
without com-
pensation.

C H A P. CLXXXIV.

An ACT providing for the payment of certain instalments due on the stock held by this State, in the Farmer's Bank of the State of Delaware, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer shall, on the third day of February next, and on the third Tuesday of July next, pay out of any money in the treasury, not otherwise appropriated, such sums of money as may be at those periods respectively, necessary to discharge the instal-

State treasurer
to pay instal-
ments becoming
due on shares
held by the
State in the
Farmers' Bank.

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ments then respectively becoming due on the shares held by this State in the stock of the Farmers' Bank of the State of Delaware.

Trustee of the school fund, to pay instalments becoming due on shares belonging to that fund.

SECT. 2. *And be it enacted*, That the trustee of the fund for establishing schools in the State of Delaware, shall in like manner, at the periods respectively abovementioned, pay out of any money belonging to the said fund, such sums as may be necessary to discharge the instalments then respectively becoming due on the shares held by the said trustee in the stock of the said bank.

State, how repaid for such instalments as it may pay for the school fund, &c.

SECT. 3. *And be it enacted*, That the said trustee, at the periods abovementioned respectively, shall transfer for the use of this State, at the then market price thereof respectively, so many shares in the stock of the said bank, as with the money belonging to the said fund in his hands at those periods, respectively, will be sufficient to discharge the instalments, then due on the remaining shares held by him in the said stock; and that the State treasurer is hereby empowered and required to receive the said transfers, as abovementioned, and to pay the money therefor unto the said trustee.

Six per cent. stock held by this State, to be sold by the State treasurer.

SECT. 4. *And be it enacted*, That the State treasurer is hereby authorized, empowered and required to sell for the best price, which can by him be obtained, the six per centum stock of the United States held by this State.

Compensation to the State treasurer, for selling the six per cent. stock.

SECT. 5. *And be it enacted*, That the said treasurer shall have and receive, as commissions for selling said stock, one fourth of one per centum, and no more, on the whole amount by him sold.

C H A P. CLXXXV.

C H A P.
CLXXXV.
1812

An ACT to incorporate a company for the purpose of cutting and making a canal from St. Jones' creek, near Dover, to the tide waters of the Delaware bay.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful to open books for receiving and entering subscriptions, to the amount of thirty thousand dollars, in shares of twenty-five dollars each, under the management of Willard Hall, James Sykes, Henry M. Ridgely, James Harper, Jacob Stout, Joseph H. Raymond and Samuel White, or any one or more of them, for the purpose of cutting and making a canal from St. Jones' creek, near Dover, in an easterly direction to the tide waters of Delaware bay, to commence at such place upon the said creek, and to extend to such place upon the said tide waters. as may be deemed most suitable; that the said books shall be opened on the first day of June next, and continued open till the first day of July next, and that in the mean time, the said managers may also appoint any times and places when and where, they or any two of them, will attend with books for receiving and entering such subscriptions, they giving ten days notice by advertisements, of the respective times and places so by them appointed, and that every subscriber shall at the time of subscribing, pay to the manager or managers receiving such subscriptions, five dollars on each and every share so by him or her subscribed for, which shall be deemed in part of the share or shares subscribed for; which sums so received, shall be deposited in the Farmers' Bank of the State of Delaware.

Subscription
books to be
opened.

Managers.

Books, when
and how long
to be open.

Money, when
to be paid and
where deposi-
ted.

SECTION 2. *Be it further enacted,* That there shall be a general meeting of the subscribers, at Dover, on

Subscribers to
meet at Dover
&c. and

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May adjourn
from time to
time, &c.

Overplus in the
capital, how to
be reduced.

Incorporation of
the company.

the second day of July next, and the said managers, or such of them as shall act, shall lay before the subscribers then and there meeting, all the books containing the subscriptions which shall be made as aforesaid: and if it shall appear that the said capital sum shall not have been subscribed, the said managers are authorized to receive further subscriptions, to make up the deficiency, at the time and place of such meeting: and if the subscriptions received and entered before and at such meeting, shall not amount to the sum of ten thousand dollars, then the subscribers so meeting as aforesaid, or a majority of them, are authorized to adjourn the said meeting to such further time, and from time to time, as they or a majority of them, may deem proper, and that in the mean time, the said books shall continue open, under the management of the persons aforesaid, or any one or more of them, and they shall be authorized to take and receive subscriptions, and appoint times and places for that purpose, according to the provisions of the first section of this act; that upon every share subscribed, the sum of five dollars shall be paid and deposited as aforesaid, and that before every meeting to be held, pursuant to such adjournment, the books containing the subscriptions, shall be laid before the meeting: *Provided*, That ten days public notice of the time and place of every meeting of the subscribers, shall be given by the said managers, or such of them as shall act; and if more than the stipulated number of shares on the said second day of July aforesaid, should be subscribed for, the said managers are authorized to apportion the same among the several subscribers, by deducting from the highest subscriptions, until they are reduced to their proper number.

SECT. 3. *And be it further enacted*, That the aforesaid subscribers, and their heirs and assigns, from the time of their said meeting, on the second day of July aforesaid, in case subscriptions shall then have been or be received, and entered in the books

aforesaid, to the amount of ten thousand dollars, or upwards; and if not, then from the time of their subsequent meeting, pursuant to adjournment, according to the provision of the second section of this act, at which time it shall appear that the subscriptions received, and entered in said books, amount to the said sum of ten thousand dollars, or upwards, shall be, and they are hereby declared to be incorporated by the name of "The Dover Canal Company," and may and shall have perpetual succession, and sue and be sued, and make and use a common seal, which they may break, alter and renew, at pleasure; and shall have and enjoy all the privileges and franchises incident to a corporation; and such of the said subscribers as shall be present at the said meeting at which the said subscribers shall be incorporated, according to the foregoing provision, are empowered and required to elect, by ballot, a president, and five directors, for conducting, directing and completing said canal, and managing the business of said corporation, for and during such time, not exceeding three years, as the said subscribers present at said meeting, or a majority of them, may deem proper: and every subscriber shall be allowed one vote for every share, not exceeding five shares, and one vote for every three shares above ten shares, and not exceeding fifteen shares; and any subscriber may, by writing, under his or her hand and seal, executed before two credible witnesses, depute any other subscriber to vote, and act as his or her proxy, at any general meeting.

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Style of the corporation.

May elect president and directors.

Votes, how apportioned.

Proxy, how to be deputed.

SECT. 4. *And be it further enacted*, That the said president and directors, so elected, and their successors, or a majority of them, assembled, shall have full power and authority to agree with any person or persons, on behalf of the said company, to cut such canals and erect and make such dams and locks, and perform such other works as may be necessary, in their opinion, for opening, improving and extending the navigation between St. Jones' creek

Powers of the president and directors.

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May appoint
officers.

Treasurer shall
give bond and
security.

President and
directors may
draw on the
subscribers.

aforesaid, and the waters of Delaware bay, and carrying on the same from place to place, and from time to time, and upon such terms and in such manner, as they shall think fit, and out of the money from the subscriptions and tolls, and other aids herein after given, to pay for the same; and to repair and keep in order the said canals, locks, dams and other works necessary thereto, and to defray all incidental charges; and also to appoint a treasurer, clerk, and such other officers and toll-gatherers, managers and servants, as they shall deem requisite, and to agree for, and settle their respective allowances and wages, and settle, pass and sign their accounts, and also make and establish rules of proceedings, and to transact all other business and concerns of said company, in and during the intervals between the general meetings of the same: and they shall be allowed for their trouble therein, as shall be determined in a general meeting of the subscribers: *Provided always*, That the treasurer shall give bond, in such penalty, and with such security, as the said president and directors, or a majority of them, shall direct, for the faithful discharge of the trust reposed in him; and no officer of the company, shall have a vote in settling or passing his own account.

SECT. 5. *And be it further enacted*, That the said president and directors, or a majority of them, shall have full power and authority, from time to time, as money shall be wanted, to make and sign orders for that purpose, and direct in what manner and in what proportions, and at what time, the subscribers shall advance and pay the sums by them respectively subscribed; and the said president and directors, or a majority of them, are authorized and empowered to demand and receive of the said subscribers respectively, the sums of money so ordered to be advanced, for carrying on and executing, or repairing and keeping in order the said canal, dams, locks and other works, until the sums subscribed, shall be fully paid, and to order the

said sums to be deposited in the hands of the treasurer, to be by him disbursed, as the said president and directors, or a majority of them, shall order and appoint : *Provided*, That the said president and directors shall give thirty days public notice of such orders ; and if any subscriber shall refuse or neglect to pay the sum which he or she ought to pay, according to such order, in one month after the time appointed by such order, for that purpose, the same may and shall be recovered, by action of debt in any court of record in this State, in the name of the said company.

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SECT. 6. And to continue the succession of the said president and directors, and to keep up the same number, *Be it enacted*, That upon the expiration of the term for which the said president and directors were appointed, the proprietors of the said company, at the next general meeting, shall either continue the said president and directors, or any of them, or chuse others in their stead, or in case of death, removal or resignation, or incapacity of the said president, or any of the directors, may and shall elect any other person or persons, to be president and directors, in the room of him or them so dying, removing or resigning, or becoming incapable, and may, at any of their general meetings, remove the president or any of the directors, and appoint others for and during the remainder of the term for which such person or persons were at first to have acted.

Succession of
the president &
directors, how
to be continued.

SECT. 7. *And be it enacted*, That every president and director, before he acts as such, shall take an oath or affirmation, for the due execution of his office.

President and
directors to be
qualified.

SECT. 8. *And be it enacted*, That the presence of a majority of the proprietors, at least, shall be necessary to constitute a general meeting, and there shall be a general meeting, of proprietors, on the first Monday of May, in every year, at the town

Majority of the
proprietors may
constitute a ge-
neral meeting,
&c.

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President, &c.
shall render ac-
counts of their
proceedings.

of Dover ; but if a sufficient number should not attend, on that day, the proprietors, who do attend on that day, may adjourn such meeting from time to time, till a general meeting of proprietors shall be had, which may be continued from day to day, till the business of the company is finished ; at which meeting, the president and directors shall make report, and render distinct and just accounts of all their proceedings, and in finding them fairly and justly stated, the proprietors then present, or a majority of them, shall give a certificate thereof, a duplicate of which shall be entered on the said company's books, and at such yearly general meetings, after leaving in the hands of the treasurer, such sum as the proprietors, or a majority of them, shall judge necessary for repairs and contingent charges, an equal dividend of all the nett profits arising from the tolls hereby granted, shall be ordered and made to and among all the proprietors of the said company, in proportion to their several shares.

Profits, &c. of
the canal, vested
in the corporation.

SECT. 9. *And be it enacted*, That for and in consideration of the expenses the said stock-holders will be at, not only in cutting the said canal, and other works for opening the said navigation, but in maintaining and keeping the same in repair, the said canal and works, with all their profits, under the limitations aforesaid, shall be, and the same are hereby vested in the said corporation, subject nevertheless to the condition hereafter mentioned, and that it shall and may be lawful for the said president and directors, after the said canal shall be made navigable, to demand and receive the following tolls, at such place or places in the canal, as they may hereafter direct : *Provided*, That the whole toll received, shall not amount to more than the rates fixed by this act : that is to say,

	<i>Dolls. cts.</i>
Rate of toll. For every pipe of wine, brandy or gin	30
For every hogshead of wine, rum or spirits	25
For every quarter cask of ditto	10
For every barrel of ditto	06

For every hogshead of sugar, molasses or rice	20
For every hogshead of beer, cider or vinegar	10
For every barrel of flour, sugar, coffee, pork, beef or fish, or other barrel containing articles therein	04
For every box of soap, candles or chocolate	02
For every bushel of peas, beans, salt, wheat, corn or other grain, or fruit	01
For every ton of bar or pig iron, copper or lead	25
For every one hundred pipe or hogshead staves or heading	05
For every one hundred barrel staves or heading	02
For every one thousand shingles, two feet long or more	25
For every one thousand shingles, less than two feet long	20
For every one thousand feet of plank or scantling	25
For every one thousand rails or posts	25
For every cord of hickory wood	50
For every cord of oak or other fire wood	35
For every cord of bark	50
For every hogshead of bark	25

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And for all other commodities, in the same proportion, agreeably to the articles herein enumerated :

And every boat or vessel, which has not commodities on board to pay the sum of two dollars, shall pay so much as with the commodities on board, shall yield the sum aforesaid :

And every empty boat or vessel, one dollar, except an empty boat or vessel returning, whose load has already paid the tolls affixed ; in which case, she shall re-pass toll-free ; provided such boat or vessel shall return within twenty days after paying said tolls.

SECT. 10. *And be it enacted*, That in case of refusal or neglect to pay the toll at the time of offering

Penalty on refusing to pay toll.

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Proprietors may
lessen the tolls.

Canal to be
deemed a pub-
lic highway.

Company may
agree with the
owners of land,
for the purchase
thereof.

Proceedings in
case of disagree-
ment with the
owners of land.

to pass through the said canal, and previous to the vessel passing through the same, the collector of the tolls may lawfully refuse passage to such vessel, and, if any vessel shall pass, without paying the said toll, then the said collectors may seize such vessel, when- ever found, and sell the same at auction, for ready money ; which, so far as is necessary, shall be appli- ed towards paying said toll, and all expenses of sei- zure and sale, and the balance, if any, shall be paid to the owner ; and the person having the direction of such vessel, shall be liable for such toll, if the same is not paid by the sale of such vessel, as afore- said : *Provided*, That the said proprietors, or a ma- jority of them, holding, at least, two hundred shares, shall have full power and authority, at any general meeting, to lessen the said tolls, or any of them.

SECT. 11. *And be it enacted*, That the said ca- nal, and the works to be erected thereon, in virtue of this act, when completed, shall forever thereafter be esteemed and taken to be navigable as a public high- way, free for the transportation of all goods, commo- dities or produce whatsoever, on paying of the tolls imposed by this act.

SECT. 12. *And be it enacted*, That it shall and may be lawful for the president and directors, or a majority of them, to contract and agree with the owner or owners of any land and tenements, for the purchase of so much thereof, as shall be necessary for making, digging and perfecting the said canal, and of erecting and establishing all the necessary locks, dams, works and devices, to such a navigation be- longing, if they can agree with such owners ; but in case of disagreement, or in case the owner thereof shall be a feme covert, under age, non compos men- tis, or out of the State, or otherwise incapacitated to convey, then it shall and may be lawful to and for the said president and directors, to apply to the clerk of the Supreme court of Kent county, who upon such application, is hereby authorized, empowered and re-

quired to issue one or more writ or writs, as occasion shall require, in the nature of a writ of ad quod damnum, to be directed to the sheriff of said county of Kent, describing the said lands and tenements, and naming the owner thereof, and commanding the said sheriff that by the oaths or affirmations of twelve good and lawful men of his bailiwick, who shall be indifferent to the parties, he shall enquire whether the person or persons owning any lands or tenements, necessary to be used by the said president and directors, or which shall be injured by the said establishment of the said canal, will suffer and sustain any, and what damages by reason or means of taking any such lands, tenements, or other real hereditaments, necessary for the use of the said canal and navigation, and the dams, locks and works thereto belonging, or by reason of the said canal passing through any such lands and tenements, and separating the same, or by any ways and means whatsoever, and to return the same writ, together with the finding of the said jury, to the next Supreme court of Kent county after such finding; and upon such writ being delivered to the said sheriff, he shall give at least ten days notice, in writing, to the parties in the said writ named, or their representatives, of the time of executing the same; and shall cause to come upon the premises, at the time appointed, twelve good and lawful men of his bailiwick, who shall be selected in such manner as struck jurors usually are, to whom he shall administer an oath or affirmation, that they will diligently enquire concerning the matters and things in the said writ specified, and a true verdict give according to the best of their judgment and ability, without favour or partiality to any; and thereupon the said sheriff and inquest, shall proceed to view all and every the lands and tenements, or other real hereditaments, in such writ specified, and having considered the quantity and quality of so much as shall be necessary to be vested in the said company, for the purpose aforesaid, they shall cause the same to be minutely and exactly described, by metes and bounds, or other

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Writ to be returned by the sheriff to the Supreme court and

notice the parties,

Oath of the jury

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Jury to assess
damages.

Sheriff and jury
to make inquisi-
tion, and return
the same to the
Supreme court,
who

may enter judg-
ment.

Company, on
payment of da-
mages, entitled
to the land.

particular descriptions, and shall value and appraise the injury and damages which the owner or owners of such lands, tenements or hereditaments, or other improvements, will, according to their best skill and judgment, sustain and suffer, by means of the same being vested in the said company, or by means of any works being destroyed or rendered useless, or of less value, or by reason of said canal passing through any such lands or tenements, and separating the same, or by means of any water-course being diverted and turned or emptied into the said canal, or by any means whatsoever, defining and ascertaining, as well all such lands and tenements, liberties and privileges, so to be vested in the said company, as the several sums at which the injuries and damages shall be so assessed; and the said sheriff and jury, shall make an inquisition under their hands and seals, distinctly setting forth all the matters and things aforesaid; and the sheriff shall forthwith return the same, together with the said writ, to the office of the clerk of the Supreme court; and at the first Supreme court which shall be held next after the return of any such writ, the judges of the said court shall examine the same, and if the said writ shall appear to have been duly executed, and the return thereof be sufficient to ascertain the lands and tenements, rights, liberties and privileges, intended to be vested in the said company, and the several compensations awarded to the owners thereof, then the said court shall enter judgment, that the said company paying the owners, as aforesaid, the several sums of money in the said inquisition assessed, or bringing the same into court, for the use of such owners, and also paying the costs of the said writ, and of executing and returning the same, shall be entitled to have and to hold to them and their successors and assigns, forever, all and every the lands, tenements, rights, liberties and privileges, in the said inquisition described, as fully and effectually, as if the same had been granted to them by the respective owners thereof: and if any return, so to be made, shall not

be sufficiently certain for the purposes aforesaid, the said court shall award an inquisition, "*de novo*:" *Provided nevertheless*, That the jurors to be summoned, as aforesaid, shall in all and every the cases, take into consideration, in forming their verdict, the benefits and advantages which the respective holders of the lands, tenements and hereditaments, to be condemned, as aforesaid, will derive from the said canal, and the improvements and increase in value of the said lands, in consequence thereof; and if the said jurors shall consider that the benefits and advantages, improvement or increase in value, will be equal in value to the lands so to be condemned, then they shall return the fact, and not assess any damages.

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Proviso.

SECT. 13. *And be it enacted*, That the said president and directors, or a majority of them, are hereby authorized to agree with the proprietors for the purchase of a quantity of land, not exceeding one acre, at or near a convenient place or places, for the receipt of tolls aforesaid, for the purpose of erecting necessary buildings; and in case of disagreement, or any of the disabilities aforesaid, or the proprietors being out of the State; then such land may be valued, condemned and paid for, as aforesaid, for the purpose aforesaid: and the said company shall, upon payment of the valuation of the said land, be seized thereof, in fee-simple, as aforesaid.

Company may purchase land for the erection of buildings.

SECT. 14. *And be it enacted*, That it shall and may be lawful for every of the said proprietors, to transfer his share or shares, by deed executed before two witnesses, and registered after proof of the execution thereof, in the company's books, and not otherwise, except by devise; which devise shall also be exhibited to the president and directors, and registered in the said company's books, before the devisee or devisees shall be entitled to draw any part of the profits from the said tolls: *Provided*, that no transfer whatsoever shall be made, except

How shares may be transferred.

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for one or more whole share or shares; and not for part of such shares; and that no share shall at any time be sold, conveyed, transferred or held in trust, for the use and benefit, or in the name of another, whereby the said president, directors or proprietors of said company, or any of them, shall or may be challenged, or made to answer concerning any such trust; but that every person appearing as aforesaid, to be a proprietor, shall, as to others of the said company, be to every intent taken absolutely as such; but as between any trustee and the person for whose benefit any trust shall be created, the common remedy may be pursued.

The capital
proving insuffi-
cient, may be
increased by
the company.

SECT. 15. *And be it enacted*, That if the said capital, and the other aids already granted by this act, shall prove insufficient, it shall and may be lawful for the said company, from time to time, to increase the said capital, by the addition of so many more whole shares as shall be judged necessary by the said proprietor, or a majority of them, holding at least two hundred shares, present, at any general meeting of the said company, and the said president and directors, or a majority of them, are hereby empowered and required, after giving at least one month's previous notice thereof, in some newspaper printed in the State of Delaware, to open books at such place or places, as shall be directed by said meeting, for receiving and entering such additional subscriptions, in which the proprietors of the said company, for the time being, shall and are hereby declared to have the preference of all others, for the first twenty days after the said books shall be opened as aforesaid, and of taking and subscribing for so many whole shares as any of them shall choose; and the said president and directors, are hereby required to observe in all other respects, the same rules therein, as are by this act prescribed for receiving and adjusting the first subscriptions, and all proprietors of such additional shares, shall be, and they are hereby declared to be from thenceforward, incorporated into the said company.

SECT. 16. *And be it enacted,* That if the stockholders, or the president and directors aforesaid, should neglect or omit, or be by any accident prevented from performing any act or thing, on the particular day on which it is directed by this act to be done and performed, such neglect or omission, shall not be construed or taken in any manner to destroy or invalidate this charter, but the said act may be done at the next convenient day.

Neglect of duty by the stockholders, shall not destroy this charter.

SECT. 17. *And be it enacted,* That the said managers, appointed in the first section of this act, or any two or more of them, shall have, at any time or times, after the passing of this act, full power and authority to enter upon and view, and pass and re-pass, over any lands on and adjacent to the contemplated route of said canal, for the purpose of ascertaining and fixing on the most eligible route for the same, and to take with them such engineer, surveyor and other assistants, as may be necessary for that purpose; provided, that the same be done without injury to the fences or inclosures thereon, or to the said land, or any thing growing thereon, more than will arise from the mere passing over the same.

Managers may pass over any lands for the purpose of ascertaining the route of the canal.

C H A P. CLXXXVI.

An ACT for raising a sum, not exceeding eight thousand dollars, by a lottery, for the purpose of erecting a suitable building for the accommodation of St. John's Lodge, No. 2, and the New-Castle Library Company.

WHEREAS the encouragement of all benevolent and literary institutions, is an object eminently worthy of the attention of a wise government:—

Preamble.

8,000 dollars to be raised by lottery, for the erection of a building for the use of St. John's Lodge, and the New-Castle Library company.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That it shall and may be lawful for the persons herein after named, to institute, carry on and draw a lottery, in two or more classes, if the said persons herein after named shall deem it expedient, for raising a sum of money not exceeding eight thousand dollars, clear of all expenses; and the sum when so raised, shall be applied in the manner herein after directed, to the erection of a suitable building for the accommodation of St. John's Lodge, No. 2, and the New-Castle Library Company.

Managers appointed, who

shall give bond.

SECT. 2. *And be it further enacted,* That James Rogers, Thomas Stockton, George Read, James Couper, junior, and Evan Thomas, or the survivor or survivors of them, be, and they are hereby appointed managers of the said lottery, and that each of the said managers, before entering upon the duties required by this act, shall give bond to the treasurer of this State, in the sum of sixteen thousand dollars, conditioned for the faithful discharge of the trust reposed in them by this act.

Drawing, when to commence.

Prizes, when payable, &c.

SECT. 3. *And be it further enacted,* That the said managers, or the survivor or survivors of them, shall proceed to the drawing and completion of said lottery, either by classes or otherwise, as soon as conveniently the same can be done; and the holders of tickets, against whose numbers prizes are drawn, shall be paid by the said managers, the survivor or survivors of them, on demand, at any time within six months after the said lottery is finished drawing, or at any time within six months after any class is finished drawing, in which such prize may be drawn; subject, however, to a deduction of fifteen per centum; and if any prize which may be drawn, be not demanded within that time, then the same shall remain in the hands of the said managers, to be applied to the purpose aforesaid.

SECT. 4. *And be it further enacted,* That the said managers, or the survivor or survivors of them, shall, with the nett sum raised by the said lottery, after the same shall be finished drawing, or with the nett sum raised by any class or classes of said lottery, if it shall be deemed by them expedient, proceed to have erected with the said money, a suitable building, and purchase ground for the same, if it should be necessary, for the purpose herein before-mentioned.

Nett sum raised
how to be appli-
ed.

SECT. 5. *And be it further enacted,* That whenever the said building shall be erected and completed, the apartment or apartments on the first floor of the said building, and the southern moiety of the cellar under the same, and a moiety of the lot on which the said building may be erected, shall of right belong, and forever be held in fee-simple, by the New-Castle library company; and the apartment or apartments on the second floor of the said building, and the northern moiety of the cellar under the same; and one moiety of the lot of ground on which said building may be erected, are hereby vested in James Rogers, Thomas Stockton and James Couper, junior, to be held by them, the survivor or survivors of them, in fee-simple, in trust, for the use, benefit and behoof of the brethren, for the time being, of St. John's lodge, number two, forever.

Building, &c.
when completed
how its apart-
ments shall be
appropriated.

SECT. 6. *And be it further enacted,* That if after the erection and completion of the said building, any money raised by virtue of this act, should remain in the hands of the said managers, the survivor or survivors of them, in that case, the said money shall be equally divided between St. John's lodge, number two, and the New-Castle library company, to be appropriated by them respectively, as may be thought proper; and the said money shall be paid over by the said managers, the survivor or survivors of them, when the same shall be demanded, and in such manner, as may be directed by St. John's lodge, number two, and the New-Castle library company.

How the surplus
money shall be
applied.

Managers may employ agents to dispose of the tickets.

Proviso.

SECT. 7. *And be it further enacted*, That if the said managers shall deem it expedient for furthering the object of this act, to employ an agent or agents in this State, or elsewhere, to sell or dispose of the whole, or any number of the tickets of the said lottery, or to sell and dispose of the whole, or any number of tickets of any class or classes of said lottery, it shall and may be lawful for the said managers, so to do: *Provided*, The said managers shall take such security from the said agent or agents, which may be employed, for the faithful discharge of the trust which may be thus reposed in such agent or agents, as shall be approved by the chief justice of the court of Common Pleas, or the chief justice of the Supreme court; and in such case, the said managers shall not be responsible for any loss or losses which may happen or accrue, by reason of employing such agent or agents.

Money for tickets, in what case to be refunded.

SECT. 8. *And be it enacted*, That if the said lottery shall not be drawn within two years from the passing of this act, that the said managers shall return and pay over to every person, on demand, the respective sums that may have been received for tickets sold in said lottery.

C H A P. CLXXXVII.

An ACT authorizing Robert May, administrator of Stephen Hayes, deceased, to convey and confirm to John Evans; the right to a certain tract or parcel of land in New-Castle county.

PRIVATE ACT.

C H A P. CLXXXVIII.

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An ACT to incorporate the subscribers of the New-Castle library company, their heirs and assigns.

WHEREAS it has been represented to this General Assembly, by the petition of the directors of the New-Castle library company, that a number of the inhabitants of the town of New-Castle, and its vicinity, have associated together, for the object of establishing a library in the said town; and have, by their own contribution, collected upwards of one thousand volumes, and have yet remaining, a fund, whereby the said library will be further enlarged about five hundred volumes. Preamble.

And whereas the directors of the said library company have prayed, that the subscribers of the said library company, their heirs and assigns, may be incorporated; that thereby the interest of the said institution may be the better protected, and more extensively advanced. And whereas the constitution has assigned it as a special duty to the legislature, to encourage and promote the arts and sciences, by legislative provision :

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the subscribers of the New-Castle library company, their heirs and assigns, be, and they are hereby constituted a body politic and corporate, to have continuance by the name of the New-Castle library company, for the term of twenty years, from the passing of this act, and no longer. Subscribers incorporated.

SECT. 2. *And be it enacted by the authority aforesaid,* That the New-Castle library company, shall and may forever hereafter, be authorized in law and equity, to purchase, take, hold, receive and enjoy any messuages, lands, tenements or hereditaments, May hold property, and

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dispose of the
same.

in fee-simple, or otherwise, and also goods and chattels, rights and credits, to any amount not exceeding eight thousand dollars; and to grant, alien, demise, sell and dispose of the same, in such manner and form, as the said library company may deem expedient.

Capacity to sue,
&c.

SECT. 3. *And be it enacted by the authority aforesaid,* That the said corporation shall be able and capable, to sue and be sued, implead and be impleaded, answer and be answered, defend and be defended, in all courts of judicature whatsoever, by the said corporate name; and may hereafter have and use a common seal, with such device or devices, as the said corporation shall think proper, with the power of altering or changing the same, as may be thought proper.

Present and future directors,
their powers, &c.

SECT. 4. *And be it enacted by the authority aforesaid,* That James Rogers, James R. Black, James Couper, junior, George Strawbridge, Thomas Stockton, Alexander Reynolds and George Read, junior, the present directors of the said library company, or their successors, shall and may make, alter, repeal, and again re-enact all laws, regulations and ordinances, which they may deem expedient or necessary, for the government of the said library company, or for enlarging the said library: *Provided,* That nothing herein contained, shall be construed to authorize them to exercise any powers repugnant to the constitution or laws of this State.

Proviso.

C H A P. CLXXXIX.

A Supplement to the act, entitled, "An act to establish and regulate a ferry over Nanticoke river, at the village of Seaford, in Sussex county."

PRIVATE ACT.

C H A P. CXC.

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An ACT to authorize a lottery to raise seven hundred dollars, for the purpose of erecting and making a bridge over Choptank river, at Jones' fording-place in this State.

WHEREAS divers citizens of this State, have represented to this General Assembly, that the passing of Choptank river, at Jones' Fording-place, on the direct road from Milford, and other places in this State, to Centreville, Chester town, Kent Island, and other places in the State of Maryland, is frequently rendered impracticable by inundations, and have therefore prayed for permission to raise a sum of money by lottery, to erect a bridge over said river at that place ;

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That it shall and may be lawful for the managers herein after named, or the survivors of them, to institute, carry on and draw a lottery, for the purpose of raising seven hundred dollars, clear of all expenses, to be applied to the erecting and making of a bridge over Choptank river, at the place called Jones' Fording Place, and of the making of such causeway or causeways, as may be necessary to the convenient passing of said bridge: *Provided nevertheless,* That the said managers, or the survivors of them, shall, before they proceed to sell any tickets in such lottery, give a bond to, and in the name of the State of Delaware, in the penalty of eight thousand dollars, upon condition to be void, if the said managers, or the survivors of them, shall faithfully discharge the trust reposed in them, by this act; which bond, the State treasurer of this State, is authorized and required to take; and the said bond shall remain in his hands, and be in trust and for the use of all and

Preamble.

700 dollars to be raised by lottery, for making a bridge, &c. over Choptank river, &c.

Managers shall give bond, with condition, &c.

Bond by whom to be taken.

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every the person and persons, and bodies corporate, who may be aggrieved by the said managers, or the survivors of them, in conducting and carrying on the said lottery.

Managers appointed.

SECT. 2. *Be it further enacted*, That Absalom Dehorty, Jonathan Neall, captain Thomas Smith, Thomas Jarrell and John Killen, be, and they are hereby appointed managers of the said lottery, and are authorized to devise and execute such scheme or schemes, for the said lottery, as they may deem most suitable for attaining its objects.

Drawing, when to commence.

SECT. 3. *Be it further enacted*, That the said managers, or the survivors of them, shall, as soon as conveniently may be, after a sufficient number of tickets have been sold, proceed to draw and finish said lottery, and the fortunate adventurers shall be paid the prizes drawn against their numbers respectively, on demand, at any time within six months after the drawing of said lottery shall be completed, subject nevertheless to such deductions, as may be prescribed and provided in and by the said scheme or schemes: but the prizes, if not demanded in six months, shall remain in the hands of the said managers, or the survivors of them, to be applied, if necessary, to the completing of said bridge and causeway, or causeways.

Prizes, when payable, &c.

Managers to direct the expenditure of the money, and

SECT. 4. *Be it further enacted*, That the said managers, or the survivors of them, shall superintend and direct the expenditure of all monies raised by the said lottery, so far as shall be necessary, to the erecting and making a bridge over Choptank river, at the place aforesaid, and such causeway or causeways as may be necessary to the convenient passing of said bridge; and shall make a report of the money by them raised by said lottery, and of their expenditures, to the Levy court of Kent county, and the said court are authorized and required to settle their accounts, and the money remaining in their hands, if any, shall be paid to the State treasurer,

shall report to the Levy court of Kent county.

to and for the use of this State: provided, that the said managers shall be entitled to an allowance of six per cent. on the sum raised by the said lottery; for their care and trouble.

Allowance to the managers.

SECT. 5. *Be it further enacted,* That if the tickets in said lottery, shall not be sold in three years after the publication of the scheme of said lottery, the said managers, shall, on demand, return and pay over to all and every person and persons, the respective sums which he, she or they may have paid for tickets in said lottery.

In what case money for tickets shall be refunded.

C H A P. CXCI.

An ACT requiring the fees therein mentioned, to be paid to the secretary of State, for the use of the State.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, each and every justice of the peace, hereafter commissioned, shall, at the time of receiving the commission, pay to the secretary of State, for the use of the State, the sum of ten dollars.

C H A P. CXCI.

An ACT to authorize the trustees of the Glasgow Grammar-school, in the county of New-Castle, to raise the sum of one thousand dollars, by lottery, for the use of the said school.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall

1,000 dollars to be raised by a lottery.

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and may be lawful for the persons hereinafter appointed managers, to institute, carry on and draw a lottery, for raising a sum not exceeding one thousand dollars, clear of all expenses.

Managers appointed, who

shall give bond, &c.

SECT. 2. *And be it enacted*, That Jacob Ferris, William Cook, Oliver H. Howell, Solomon Underwood and Samuel H. Black, or the survivors of them, shall be, and they are hereby appointed managers of said lottery, who shall respectively, before they enter upon the duties required by this act, give bond, in the name of the State, in the sum of two thousand dollars, conditioned for the faithful discharge of the trust reposed in them respectively by this act; which bonds shall be lodged in the office of the secretary of State, who shall thereupon give six weeks notice in some public newspapers in this State, that such bonds were executed, and lodged in his office, in pursuance of the directions of this act, and are hereby declared to be in trust for, and may be sued by all and any of the persons aggrieved by the managers of the said lottery, in conducting and carrying on the same.

Lottery, when to be drawn.

Prizes, when payable.

SECT. 3. *And be it enacted*, That the said managers shall, on or before the first Tuesday of December next, if at that time a sufficient number of tickets should have been sold; and if not, as soon after as conveniently may be, proceed to the drawing and finishing the said lottery; and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within six months after the drawing of said lottery; but if not demanded within that time, the said prizes shall remain in the hands of said managers, to be applied to and for the uses and purposes hereinafter mentioned.

Money raised, how to be applied.

SECT. 4. *And be it enacted*, That the said managers, or the survivors of them, shall superintend and direct the expenditure of the said sum of one thousand dollars, or so much thereof as may be found ne-

cessary to discharge the debts incurred by them, as the trustees of the Glasgow grammar-school, in the county of New-Castle, in building and finishing a brick school-house for the use of the said institution; and that the balance remaining after the payments of such accounts, if any, be retained in the hands of the said trustees, and by them applied as they may deem most advisable, from time to time, in the education of poor children.

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SECT. 5. *And be it enacted*, That if the said lottery shall not be drawn within three years from and after the passing of this act, the said managers shall pay over to every person, on demand, the respective sums that may have been received for tickets sold in said lottery.

In what case money for tickets, shall be refunded.

C H A P. CXIII.

An ACT for the interchange of laws.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the governor be, and he is hereby empowered and required to transmit to the executive of each State, of the United States, three copies of the laws that have heretofore been enacted; and also, three copies of all laws that shall be hereafter enacted annually, and request a like interchange from them.

See vol. 5 p 158

SECT. 2. *And be it further enacted*, That the secretary of State cause such further number of copies of the laws of this State, to be annually printed, over and above the number required by law, for the use of the officers and citizens, so as to enable the governor to comply with this act.

Passed at Dover, January 27, 1812.

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C H A P. CXCIV.

An ACT to authorize Francis C. Hall, to remove and carry out from this State, into the State of Maryland, certain negro slaves therein mentioned:

Passed at Dover, Feb. 2, 1812.—Private act.

C H A P. CXCIV.

An ACT to prevent the discharging of fire-arms within the towns and villages, and other public-places within this State, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the first day of June next, if any person or persons shall presume to fire or discharge any gun, ordnance, musket, fowling-piece, fusée or pistol, within any of the towns or villages of this State, or within the limits thereof; or where the limits cannot be ascertained, within one quarter of a mile of the centre of such town or village, shall fire or discharge any gun, ordnance, musket, fowling-piece, fusée or pistol, within or on any of the greens, streets, alleys or lanes of any of the towns and villages within this State, whereon any buildings are or shall be erected, or within one hundred yards of any mill-dam, over or across where any of the main public or State roads may go or pass; every person or persons so offending, shall be fined or punished as hereinafter directed:

Firing guns, &c.
within any
towns, &c. of
this State, pro-
hibited.

Penalty on firing
guns, &c.

SECT. 2. *And be it enacted by the authority aforesaid, That if any free white person or persons,*

or the child or children of any such person or persons, shall fire or discharge any gun, ordnance, musket, fowling-piece, fusee or pistol, within any, or at any of the places or limits aforesaid, every such person or persons, or the child or children of every such person or persons, shall forfeit and pay for every such offence, any sum not exceeding five dollars, to be recovered from the person or persons, or from the parent of such child or children, before any justice of the peace of this State, on his own view, or on the oath or affirmation of any one or more credible witnesses, to be recovered as debts under forty shillings are recoverable by the laws of this State.

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How recover-
able.

SECT. 3. *And be it enacted by the authority aforesaid,* That if any free negro or mulatto, or the child or children of any such free negro or mulatto, or any manumitted negro or mulatto, or any servant or servants, slave or slaves, apprentice or apprentices, of any person or persons whatsoever, shall fire or discharge any gun, ordnance, musket, fusee, fowling-piece or pistol, within the limits herein before described, and be thereof convicted by the view of any one justice of the peace, or on the oath or affirmation of one or more credible witnesses, every person so offending, shall forfeit and pay any sum not exceeding five dollars.: *Provided nevertheless,* That in all and every case, where the money is not immediately paid on such conviction, into the hands of the justice before whom such conviction is had, it shall and may be lawful, and the said justice is hereby directed and commanded to commit such person or persons to the jail of his county, there to remain, until the forfeitures and costs are paid.

Penalty on free
negroes, or free
mulattoes, &c.
firing guns, &c.

Proviso.

SECT. 4. *And be it enacted by the authority aforesaid,* That all fines and forfeitures incurred under this law, shall be paid over for the use of the poor of the county where the offence shall have been committed.

Fines how appli-
ed.

This act not to extend to days of public rejoicing, &c.

SECT. 5. *Provided nevertheless, and be it enacted, by the authority aforesaid, That nothing in this act shall extend, or be construed to prevent any such firing, on any day or days of public rejoicing, or where it is authorized by any law of this State, or where it shall be deemed by the justice before whom the information is lodged, that the necessity of the case required the same.*

Passed at Dover, February 4, 1812.

C H A P. CXCVI.

Chap. 96. c. 2
vol. p. 1236.

A Supplement to an act, entitled; "An act to incorporate a bank, in the borough of Wilmington, in this State."

Original act revived and continued, till Sept. 1, 1822.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the said act entitled, "An act to incorporate a bank in the borough of Wilmington; in this State;" passed on the ninth day of February, in the year of our Lord, one thousand seven hundred and ninety-six; and every section and clause thereof, excepting so much thereof as may by this act be altered; supplied or amended, shall remain, continue and be in full force and effect, until the first day of September in the year of our Lord, one thousand eight hundred and twenty-two.

Forging, &c.
how punished.

SECT. 2. *And be it further enacted, That if any person shall counterfeit the common seal of the president; directors and company; of the Bank of Delaware, incorporated by the aforesaid act, or shall forge any bank-bill or note, for the payment of money, made or given out, or to be made or given out; by or for the said president, directors and company, or*

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purporting so to be, or shall utter, vend, barter, exchange or tender in payment, any such forged bill or note, or shall demand the money therein contained, or pretended to be due thereon, or any part thereof, of the said president, directors and company, or any other person, knowing such bill or note to be forged, and shall be thereof duly convicted; such person, so offending, shall be subject to the same pains and penalties, and suffer the same punishment, as are provided against counterfeiting and forging the common seal of the president, directors and company of the Bank of North America, or any bank-bill or note, made or given out, or to be made or given out, for the payment of any sum of money, by or for the said president, directors and company, and against tendering in payment, uttering, vending, exchanging or bartering such forged bill or note, knowing the same to be forged, with intent to defraud the said president, directors and company, or any other person or persons, bodies politic or corporate, according to the form of an act of the General Assembly of this State, entitled, "An act for preventing and punishing the counterfeiting of the common seal, bank-bills and bank-notes of the president, directors and company of the Bank of North America, and for other purposes therein mentioned," passed February the eighth, one thousand seven hundred and eighty-three.

Chap. 96. b. 2
vol. p. 773.

SECT. 3. *And be it enacted*, That no subscriber or stock-holder, or member of the said company, shall be answerable in his person or individual property, otherwise than is provided in the fourth section of this act, for any contract or engagement of said company, or for any losses, deficiencies or failures of the capital stock of said company: but the whole of the said capital stock, together with all property, rights and credits belonging to the said institution, and nothing more, excepting as is mentioned in the said fourth section, shall at all times, be answerable for the demands against the said company.

How far stock-holders are answerable, individually, for the contracts of the company.

Limitation of
the debts of the
corporation.

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Directors liable,
in case of excess.

Funds of the
corporation, al-
so liable.

How absent or
dissenting di-
rectors, may ex-
onerate them-
selves.

Present capital
not to be enlarg-
ed.

SECT. 4. *And be it enacted*, That the total amount of the debts which the president, directors and company of the said bank, shall at any time owe, whether by bond, bills or notes, in circulation, or other contract, shall not exceed double the amount of the capital, actually paid into the said bank, (unless the contracting of any greater debt shall have been previously authorized by a law of this State;) *And provided also*, That the money deposited in the said bank, for safe-keeping, shall not be considered as the debts of the bank, within the provisions of this clause. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt, may, in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record of this State, or the United States, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for and chargeable with the same excess. Such of the said directors, who may have been absent, when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the governor of the State, and to the stock-holders at a general meeting, which they shall have power to call for that purpose.

SECT. 5. *And be it further enacted*, That nothing contained in the ninth section of the act to which this is a supplement, or in the fundamental rules therein mentioned, shall be construed to empower the said president, directors and company of the said bank to enlarge the present capital stock of the said bank.

SECT. 6. *And be it enacted,* That the thirteenth section of the act to which this is a supplement, is hereby repealed, made null and void. Repeal—see 2 vol. 1239.

SECT. 7. *And be it enacted,* That the president, directors and company, of the said Bank of Delaware, shall pay or cause to be paid to the treasurer of this State, for the use of the State, every year during the continuance of this act, at the rate of one half per centum on the capital stock of the said bank; which said payment shall be made at the said bank, in the following manner: to wit, the first payment to be made on the first day of May next, or as soon thereafter as the said president, directors and company, shall have declared their acceptance of this act, in manner and form herein after prescribed, and to be computed at the above rate, from the end of the present session, until the said first day of May; and the succeeding payments to be made on the first days of every succeeding months of November and May, respectively, or as soon thereafter as the same may be demanded by the said treasurer, during the continuance of this act as aforesaid. One half per centum on the capital stock, payable yearly, for the use of the State.

Payments when to be made.

SECT. 8. *And be it enacted,* That the said president, directors and company, shall signify their acceptance of this act, through their president, and under the seal of their corporation, to the governor of this State, within six months after the passing of this act, to be by him transmitted to the legislature, otherwise the same shall be void and of no effect. Acceptance of this act, how to be evidenced.

SECT. 9. *And be it enacted,* That it is on the conditions contained in the fifth and seventh sections of this act, that this act is passed; and in case the said conditions, and every part thereof, should not be complied with, by the president, directors and company, according to the true intent and meaning thereof, the authority hereby given to them, shall cease and be of no effect; any thing herein contained to the contrary thereof in any wise notwithstanding. Conditions not being complied with, this charter to cease.

Passed at Dover, Feb. 4, 1812.

C H A P.
CXCVII.
1812

C H A P. CXCVII.

An ACT to incorporate the Bank of Wilmington and Brandywine, in the borough of Wilmington.

Preamble.

WHEREAS, it has been represented to this General Assembly, that divers persons have subscribed and united, for the purpose of founding a bank in the borough of Wilmington, in this State, and have advanced a capital, which is now employed and put in operation, and have chosen a president, directors and other officers, for the management of the business of the said institution, and have taken upon themselves the name and style of "The president, directors and company of the Bank of Wilmington and Brandywine," and have formed rules and regulations for the conduct of the same.

And whereas, the president and directors of the said bank, on behalf of themselves and the subscribers aforesaid, have by their petition, prayed the legislature to pass an act to incorporate the said president, directors and company, in like manner and form as such institutions are usually incorporated.

Company incorporated.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That those who are at the time of the passing of this act, and those who shall hereafter be, and become holders of stock in the said Bank of Wilmington and Brandywine, be, now are, and hereafter shall be, one body politic and corporate, in deed and in law, to all intents and purposes, by the name, style and title of "The president, directors and company of the Bank of Wilmington and Brandywine."*

Style of the corporation.

Powers.

SECT. 2. *And be it further enacted, That the corporation are hereby declared and made capable in law and equity, to have, take, purchase, receive, pos-*

sess and enjoy, any lands, tenements and hereditaments, goods, chattels, rights, credits and effects, of what nature, kind or quality, soever, to the amount of five hundred thousand dollars, lawful money of the United States, and no more, and to sell, grant, dispose, alien or demise the same, in such manner and form as they shall think proper.

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OXCIV.
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Limitation of stock.

SECT. 3. *And be it further enacted,* That the said corporation be, and hereafter shall be able and capable in law, to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in courts of law and equity, or any other place whatsoever, and to do and execute all and singular other matters and things which bodies politic or corporate lawfully may do.

Capacity to sue, &c.

SECT. 4. *And be it further enacted,* That the president, directors and other officers of the said corporation who now are chosen and appointed, and who shall hereafter be elected and appointed, in pursuance of the powers herein granted, shall be, and continue the president, directors and officers of the said corporation, until others shall be elected and appointed, in virtue of the said powers in their places: *Provided,* That nine directors, one of whom shall be president of the corporation, be of the number of their officers.

Continuance of officers, &c.

Proviso.

SECT. 5. *And be it further enacted,* That the president and directors of the said corporation, shall be capable of exercising such powers, for the well-governing and ordering the said corporation, and the affairs and business thereof, and of holding such occasional meetings, for the purpose as has been or shall be fixed, described and determined by the rules, laws, regulations and ordinances of the said corporation.

Powers of the president and directors.

SECT. 6. *And be it further enacted,* That the rules already established by the president and directors of the said bank, shall be and be taken and consi-

Corporation may establish by laws, &c.

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Proviso.

dered as regulations and ordinances of the said corporation, and that the said corporation shall, and may hereafter make, ordain and establish such other laws, regulations and ordinances, as to them shall seem necessary and convenient for the government of the said corporation: *Provided always nevertheless*, That nothing herein contained, shall be construed to authorize the said corporation to exercise any powers repugnant or contrary to the laws or constitution of this State.

May have a
common seal,
&c.

SECT. 7. *And be it further enacted*, That the said corporation shall have full power and authority to have and use a common seal, and to break and alter the same, and establish another or others, with such devices as they shall think proper; and that all acts certified under that or any other seal of the said corporation, relating to the affairs thereof, shall have full faith and credit in and before all and every the courts and jurisdictions within this State.

Forging, &c.
how punished.

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vol. p. 773.

SECT. 8. *And be it further enacted*, That the forging or counterfeiting, or uttering, passing or attempting to utter or pass, any check or order on the cashier of the said bank, knowing the same to be forged or counterfeited, shall be subject to the same pains and penalties, and be in like manner punished as the forging, counterfeiting or altering the common seal, or any bank-bill or note, or other bank paper, security or evidence, is liable to be punished in and by an act of Assembly of this State, entitled, "An act for preventing and punishing the counterfeiting of the common seal, bank-bills or bank-notes of the president, directors and company of the Bank of North America, and for the purposes therein mentioned;" passed the eighth day of February, one thousand seven hundred and eighty-three; and the second section of the same act is hereby adopted and made a part of this act, as fully and to all intents, constructions and purposes, as if the same act were herein and hereby repeated and enacted in the words thereof.

SECT. 9. *And be it further enacted,* That nothing herein contained, shall be taken to defeat or impair the terms and conditions upon which the subscriptions to the said bank were made, but that the same shall be and remain the fundamental rules of the said institution, and shall not be altered, except in the manner therein provided and agreed: *Provided nevertheless,* That nothing contained in the said rules, or in this act, shall be construed to authorize the entire capital of the said bank to exceed the sum of one hundred and twenty thousand dollars, to which amount it is hereby expressly stipulated and required that the said capital shall be restricted and confined.

This act not to impair the terms of subscription.

Capital restricted.

SECT. 10. *And be it enacted,* That the president, directors and company, of the said Bank of Wilmington and Brandywine, shall pay or cause to be paid to the treasurer of this State, for the use of the State, every year during the continuance of this act, at the rate of one half per centum on the capital stock of the said bank; which said payment shall be made at the said bank, in the following manner: to wit, the first payment to be made on the first Monday of July next, or as soon thereafter as the said president and directors, and company, shall have declared their acceptance of this act, in manner and form hereinafter presented, and to be computed at the above rate, from the end of the present session, until the said first Monday of July; and the succeeding payments to be made on the first Mondays of every succeeding months of January and July respectively, or as soon thereafter as the same may be demanded by the said treasurer, during the continuance of this act as aforesaid.

One half per centum on the capital stock, payable yearly, for the use of the State.

SECT. 11. *And be it enacted,* That it is on the condition contained in the clause immediately preceding; and upon that mentioned in the proviso of the ninth section of this act, that the present act of incorporation is passed; and in case the said conditions, and every part thereof, should not be complied with,

Conditions not being complied with, this charter to cease.

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by the president, directors and company of the said Bank of Wilmington and Brandywine, according to the true intent and meaning thereof, the authority hereby given to them, shall cease and be of no effect; any thing herein contained to the contrary thereof in any wise notwithstanding.

Limitation of
this act.

SECT. 12. *And be it enacted,* That this act shall continue in force until the first day of September, in the year of our Lord, one thousand eight hundred and twenty-two, and no longer.

How far stock-
holders shall be
answerable, in-
dividually, for
the contracts of
the company.

SECT. 13. *And be it enacted,* That no subscriber or stock-holder, or member of the said company, shall be answerable in his person or individual property, otherwise than is provided in the fourteenth section of this act, for any contract or engagement of said company, or for any losses, deficiencies or failures of the capital stock of the said company: but the whole of the said capital stock, together with all property, rights and credits belonging to the said institution, and nothing more, excepting as is mentioned in the said fourteenth section, shall at all times, be answerable for the demands against the said company.

Limitation of
the debts of the
corporation.

SECT. 14. *And be it enacted,* That the total amount of debts which the president, directors and company of the said bank, shall at any time owe, whether by bonds, bills or notes, in circulation, or other contracts, shall not exceed double the amount of the capital, (unless the contracting of any greater debt shall have been previously authorized by a law of this State;) *And provided also,* That the money deposited in said bank, for safe keeping, shall not be considered as the debts of the bank, within the provisions of this clause. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt, may, in such case be brought against them, or any

Proviso.

Directors liable,
in case of excess.

of them, or their heirs, executors or administrators, in any court of record in this State, or the United States, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for and chargeable with the said excess. Such of the said directors, who may have been absent, when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the governor of the State, and to the stock-holders at a general meeting, which they shall have power to call for that purpose.

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Funds of the corporation, also liable.

How absent or dissenting directors, may exonerate themselves.

SECT. 15. *And be it enacted*, That if any person shall counterfeit the common seal of the president, directors and company, of the said Bank of Wilmington and Brandywine, or shall forge any bank-bill or note, for the payment of money, made or given out, or to be made or given out, by or for the said president, directors and company, or purporting so to be, or shall utter, vend, barter, exchange or tender in payment, any such forged bill or note, or shall demand the money therein contained, or pretended to be due thereon, or any part thereof, of the said president, directors and company, or any other person knowing such bill or note to be forged, and shall be thereof duly convicted, such person, so offending, shall be subject to the same pains and penalties, and suffer the same punishment, as are provided against counterfeiting and forging the common seal of the president, directors and company of the Bank of North America, or any bank-bill or note, made or given out, or to be made or given out, for the payment of any sum of money, by or for the said presi-

Forging, &c.
how punished.

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dent, directors and company, and against tendering in payment, uttering, vending, exchanging or bartering such forged bill or note, knowing the same to be forged, with intent to defraud the said president, directors and company, or any other person or persons, bodies politic or corporate, according to the form of an act of the General Assembly of this State, entitled "An act for preventing and punishing the counterfeiting of the common seal, bank-bills and bank-notes of the president, directors and company of the Bank of North America, and for other purposes therein mentioned," passed on the eighth day of February, in the year of our Lord, one thousand seven hundred and eighty-three.

Acceptance of
this act, how to
be evidenced.

SECT. 16. *And be it enacted*, That the president, directors and company of the said Bank of Wilmington and Brandywine, shall signify their acceptance of this act, through their president, to the governor of this State, within six months from the passing this act, to be by him transmitted to the legislature, otherwise the same shall be void and of no effect.

Passed at Dover, Feb. 4, 1812.

C H A P. CXCVIII.

An ACT for the payment of certain claims, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the treasurer of this State be, and he is hereby authorized and directed to pay to his excellency, the governor of this State, four hundred dollars, with the discount for sixty-three days, for that sum by him advanced to procure certain fugitives from justice,

and the return of Jacob Riggen and family, who were kidnapped : to pay John B. Wootten, seventeen dollars and fifty cents, for printing twenty quires of marriage licenses and bonds : to pay Matthew R. Lockerman, thirty dollars, for binding twenty volumes of the journals : and to pay John Fisher, esquire, sixty dollars, for his services in collecting debts due to the State, out of such monies as are, or hereafter may come into the treasury, not otherwise appropriated by law.

To J. B. Wootten :

To M. R. Lockerman :

To J. Fisher :

SECT. 2. *And be it enacted*, That the treasurer of this State, whenever monies come into his hands, arising from military fines from Kent county, of sufficient amount, shall pay to Philemon Green, the sum of fourteen dollars and eighty cents, for costs by him incurred in collecting military fines : and the said treasurer is hereby directed to pay to the persons employed to procure Jacob Riggen and others, such sums as the justices of the court of Common Pleas shall deem a reasonable compensation : *Provided*, That the four hundred dollars herein before directed to be paid to the governor, be first deducted, or in case the expenses do not amount to the sum of four hundred dollars, then the governor shall repay the balance to the State treasurer.

To P. Green :

To persons employed to reclaim Jacob Riggen, &c.

SECT. 3. *And be it enacted*, That the State treasurer is hereby empowered, and required to invest the money which may be in the treasury in the course of the present year, beyond what may be sufficient to satisfy all legal demands upon the same, in such funds or stock, as in his opinion, will be most advantageous to the State.

Surplus money, how to be invested.

SECT. 4. *And be it enacted*, That the State treasurer pay to each of the counsel employed, on the part of the State, to defend the same against the proprietary claims, one hundred dollars.

To the counsel defending, &c. against proprietary claims.

Passed at Dover, Feb. 4, 1812.

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CHAP. CXCIX.

An ACT to enable William Pierce to introduce negroes into this State, for certain purposes.

Passed at Dover, Feb. 6, 1812---Private act.

CHAP. CC.

An ACT to establish a bank, and incorporate a company under the name of the Accommodation Bank of Delaware.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That a bank to be called and known by the name of the Accommodation Bank of Delaware, shall be established at the town of Laurel, in Sussex county.

Bank established at Laurel.

Capital limited.

By whom subscriptions to be taken.

SECT. 2. *And be it further enacted,* That the capital stock of said bank, shall not exceed seventy-five thousand dollars, divided into fifteen hundred shares, at fifty dollars each, to be subscribed for, under the direction of Jesse Green, Nathan Vickers, Solomon Moore, Curtis Jacobs, John Collins, John Dashiell, Manaan Bull, William B. Cooper, and James Derrickson, or any two of them.

Books for subscriptions, when to be opened, &c.

Proviso.

SECT. 3. *And be it further enacted,* That books for said subscriptions shall be opened by the commissioners aforesaid, between the hours of ten and eleven o'clock in the forenoon, on the first Monday in April next, and shall continue open until four o'clock, post meridian, and shall remain open between those hours, for three days, at least, and for the term of six days, unless sooner filled, *Provided nevertheless,* That the citizens of this State, shall

have the preference for the three first days the books are opened; and if it should happen that more than the stipulated number of shares should be subscribed for on the first day, then the said commissioners are hereby authorized and directed to apportion the shares subscribed among the several subscribers, by deducting from the highest subscriptions, until they are reduced to their proper number.

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SECT. 4. *And be it enacted*, That it shall be lawful for any person, co-partnership, or body politic, (except banking establishments,) in person or by attorney, to subscribe for a share or any number of shares, not exceeding ten, in any one day, while the subscription books shall remain open; and the amount of the share and shares subscribed for, shall be paid by the several and respective subscribers, one half in gold or silver, and the residue in notes of the banks established by law in Pennsylvania, Delaware, Maryland, or District of Columbia, or any of them, in the manner following: that is to say, every subscriber shall pay to the commissioners aforesaid, at the time of subscribing for the same, the sum of five dollars, on each share that shall be by him or her subscribed; and each subscriber shall within thirty days thereafter, pay the further sum of five dollars on each share, to the directors of the said bank, and so in like manner, the sum of five dollars shall be paid on each share, at the expiration of every thirty days, to the said directors, as the case may be, until twenty-five dollars shall have been paid on each and every share, and the remainder shall be paid in such proportions, and at such times, as the directors may appoint: *Provided however*, That not more than ten dollars,

Regulations for
subscribing, &c.

Proviso.

SECT. 5. *And be it enacted*, That if any stockholder shall fail to pay his or her instalments, to the

Forfeiture for
default of pay-
ment, &c.

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amount of ten dollars on each share, at the times and in the manner before specified, such stock-holders shall forfeit to the use of the company, all monies paid antecedently to such failure or default; but no forfeiture shall take place after ten dollars on each share shall have been paid; but as it is requisite that means should be taken to secure the regular payment of the subsequent instalments; *therefore*, if any stock-holders shall fail to make regular payments of any instalments, after ten dollars shall have been paid, such stock-holders' money in bank, shall remain free from interest, and not be entitled to dividend, until such instalment or call shall be made good; and the dividends thereafter to be paid to such stock-holders, (as well upon the money by him or her regularly paid, as upon the money paid after default,) shall be calculated only from the time when said last instalment was made good or paid.

Incorporation of
the subscribers.

Style.

Capacity to sue,
&c.

May establish
bye-laws, &c.

SECT. 6. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, shall be and hereby are created and made a corporation and body politic, in law and in fact, by the name and style, of "The president, directors and company of the Accommodation Bank of Delaware," and shall so continue until the first day of September, one thousand eight hundred and twenty-two; and by that name, shall be, and are hereby made able and capable, in law, to have, take, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality, soever, to an amount not exceeding in the whole, three hundred thousand dollars, including the capital stock aforesaid, and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or any other place whatsoever, and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execu-

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tion, such bye-laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of this State, or of the United States; and for the making whereof, general meetings of the stock-holders shall and may be called by the directors, in the manner hereinafter specified; and generally, to do and execute all and singular the acts, matters and things which to them it shall or may appertain to do, subject nevertheless to the rules, regulations and provisions herein after prescribed and declared.

SECT. 7. *And be it further enacted,* That no subscriber or stock-holder, or member of the said company, shall be answerable in his person or individual property, for any contract or engagement of said company, or for any losses, deficiencies or failures of the capital stock of the said company: but the whole of the said capital stock, together with all property, rights and credits belonging to the said institution, and nothing more, shall at all times, be answerable for the demands against the said company.

Stockholders individually, not answerable for contracts of the company.

SECT. 8. *And be it further enacted,* That for the well-ordering of the affairs of the said corporation, there shall be nine directors, who shall be elected by the stock-holders, or proprietors of the capital stock of the said corporation, in proper person or by proxy, and by plurality of the votes actually given in at a general meeting of the sated stock-holders, to be annually held at Laurel, on the first Tuesday of May, in every year, for that purpose; and the said directors, at their first meeting after their election, shall choose one of their number, he being a resident of Sussex county, as the president of the said bank.

Number of directors to be chosen.

Election of president.

SECT. 9. *And be it further enacted,* That in case it should at any time happen, that a choice of directors should not be made, upon any day, when pursu-

In case of failure in choice, &c. of directors, cor-

poration not to be dissolved. ant to this act they ought to have been made, the corporation shall not, for that cause be deemed to be dissolved; but it shall be lawful for the stock-holders, at any other day, to hold and make an election of directors, in such manner, as shall have been regulated with respect to such election, by the laws and ordinances of the corporation: *And it is also further hereby provided*, That in case of the death, absence from the United States, resignation or removal of a director, or his ceasing to be a stock-holder, his place may be filled-up by a new choice, by the directors, for the remainder of the year.

Proviso.

Who may be directors.

SECT. 10. *And be it further enacted*, That no person shall be admitted to take his seat, as a director, unless he shall be, at the time, a stock-holder; and if he shall at any time cease to be a stock-holder, he shall cease to be a director.

Directors, their powers.

SECT. 11. *And be it further enacted*, That the directors for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well-governing and ordering the affairs of the said corporation, as shall be described, fixed and determined by the laws, regulations or ordinances of the same.

Fundamental articles of the corporation.

SECT. 12. *And be it further enacted*, That the following rules, restrictions, limitations and provisions, shall form the fundamental articles of the constitution of the said corporation: that is to say,

Voting regulated.

First. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold, in the proportion following, that is to say, for one share, and

not more than two shares, one vote ; for every two shares above two, and not exceeding ten, one vote ; for every four shares above ten, and not exceeding thirty, one vote ; for every six shares above thirty, and not exceeding sixty, one vote ; for every eight shares above sixty, and not exceeding one hundred, one vote ; and for every ten shares above one hundred, one vote ; but no person, co-partnership or body politic, shall be entitled to a greater number of votes than thirty ; and after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election.

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Second. Not more than three-fourths of the directors in office, who shall have been chosen by the stock-holders, exclusive of the president, shall be eligible for the next succeeding year.

Rotation of office, &c.

Third. No director shall be entitled to any emolument, unless the same shall have been allowed by the stock-holders, at a general meeting : the stock-holders shall make such compensation to the president, for his extraordinary attendance at the bank, as shall appear to them reasonable.

Compensation to the president, &c. allowable.

Fourth. The directors shall have occasional meetings at Laurel, at such times as may be previously appointed by them.

Meetings of the directors.

Fifth. Not less than five directors shall constitute a board, for the transaction of the business at the bank, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director, whom a majority of the directors present, may appoint.

Number of directors to form a board.

Sixth. Any number of stock-holders, not less than twenty, who together, shall be proprietors of one hundred shares or upwards, shall have power, at any time, to call a general meeting of the stock-

Number of stock-holders requisite to call a general meeting.

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holders, for the purposes relative to the institution, giving at least five weeks notice in one public gazette in the State of Delaware, and in one public gazette of the city of Philadelphia, and in one public gazette of the State of Maryland; and specifying in such notice, the object or objects of such meeting.

Cashier shall
give bond.

Seventh. The cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with one or more sureties, to the satisfaction of the directors, together with a warrant of attorney, to enter judgment or judgments thereon, in a sum not less than twenty-five thousand dollars, with condition of good behaviour.

What lands cor-
poration may
hold, &c by
way of security,
&c.

Eighth. The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its accommodation, in relation to the convenient transaction of its business, and such as shall have been, *bona fide*, mortgaged to it, by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Allowable per
centum.

Ninth. The said corporation shall take no more than at the rate of six per centum per annum upon its loans or discounts.

Stock, how to
be assignable.

Tenth. The stock of the said corporation, shall be assignable and transferrable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same.

Bills of credit,
under seal of the
corporation, as-
signable, &c.

Eleventh. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable, by indorsement thereupon, under the hand or hands of such person or persons, and of his, or her, or their assignee or assignees, and so as absolutely to

vest and transfer the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her or their own name; and all bills or notes which may be issued by order of the corporation aforesaid, signed by the president, and countersigned by the cashier thereof, promising the payment of money to any person or persons, his, her or their order or bearer, though not under the seal of the corporation aforesaid, shall be binding and obligatory on the same, in like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their natural capacity or capacities, and shall be assignable and negotiable in like manner, as if they were so issued by such private person or persons, that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable, by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which shall be payable to bearer, shall be negotiable and assignable by delivery only.

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Bills or notes
under the hand
of the president
&c. obligatory,

and in what
manner assign-
able, &c.

Twelfth. Half-yearly dividends shall be made of so much of the profits of the said institution, as shall appear to the directors advisable, and once in every three years, the directors shall lay before the stock-holders, at a general meeting for their information, an exact and particular statement of the debts, and of the surplus profits, if any, after deducting losses and dividends: *Provided however*, That nothing in this rule contained, shall be construed in any manner to invalidate or contravene any of the provisions contained in the fifth section of this act.

Dividends to be
made half-year-
ly, &c.

Proviso.

Thirteenth. The surplus profits arising from the operations of the bank, shall be divided every third year, or such proportions thereof, as the directors may deem advisable.

Surplus profits
to be divided.

What articles
the company
may be concern-
ed in, &c.

SECT. 13. *And be it further enacted,* That the said company shall, in no case, be concerned in any article, but notes, bills of exchange, mortgages, stock of the United States, or bullion, except in case of debts due to the bank, then they may and shall be lawfully justifiable in taking any kind of security which they can obtain.

How unsubscri-
bed shares may
be sold.

SECT. 14. *And be it further enacted,* That should it happen that a part of the shares in the said bank, shall not be subscribed for, the commissioners shall return the same to the directors of the bank, and they may sell and dispose of the same at such times as they see proper, giving at least four weeks public notice of the number of shares, which shall not be subscribed for, and the time and place when and where they will open a subscription for the disposal of such shares.

Limitation of
the debts of
corporation.

Proviso.

Directors liable
in case of excess

Funds of the
corporation, al-
so liable.

SECT. 15. *And be it further enacted,* That the total amount of the debts which the said corporation shall at any time owe, whether by bond, bill or note, or other contract, shall not exceed double the amount of the capital actually paid into the said bank; *And provided also,* that the money deposited in the said bank, for safe keeping, shall not be considered as the debts of the bank, within the provisions of this clause. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record in this State, or the United States, by any creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for and chargeable with the said excess. Such of the said directors who may have been ab-

sent, when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was so contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the stock-holders at a general meeting, which they shall have power to call for that purpose.

Absent or dissenting directors, how they may be exonerated.

SECT. 16. *And be it further enacted,* That before the president and directors shall act as such, they shall take an oath or affirmation, that they will faithfully, diligently and honestly perform the duties of their station; which oath or affirmation may be administered by any judge or justice of the peace of this State; and the cashier, the book-keeper and clerk, shall also take a similar oath or affirmation, and shall besides give bond with security, to the satisfaction of the board of directors, for the faithful discharge of their duties, in their respective stations.

Qualification of the officers.

SECT. 17. *And be it further enacted,* That all notes offered for discount by any person or persons, shall on the face thereof, be made negotiable at the Accommodation Bank of Delaware; and when the drawer shall not reside in Laurel, or within one mile, such note shall be payable at the house of some person at Laurel, and notice given by the proper officer of the bank, at said house, that such note hath become due, shall be, to all intents and purposes, held and considered to be as completely binding on the drawer and endorser, as if notice had been personally served on each of them.

In what manner notes shall be made negotiable

SECT. 18. *And be it further enacted,* That the directors of the said bank, are hereby empowered, on the application of any farmer, mechanic or manufacturer of this State, to loan out to such person or persons, a sum not less than fifty dollars, nor exceeding two thousand dollars, for six months: *Provided*

Directors authorized to loan money, &c.

Proviso. *however,* That no person shall obtain the benefit of such loan, until he shall give such reasonable personal, or landed security as the directors of the bank may require: *Provided also,* That the directors of the bank shall not be obliged to loan out for such length of time, more than one eighth of their capital stock, and the interest shall always be paid at the time of obtaining the loan.

Further proviso.

**Forging, &c.
how punished.**

SECT. 19. *And be it further enacted,* That if any person or persons shall forge, counterfeit or alter the common seal of the said president, directors and company, or any bank-bill or note, made or given out, or to be made or given out for the payment of any sum of money, by or for the said president, directors and company, or shall tender in payment, utter, vend, exchange or barter any such forged, counterfeited or altered bill or note, or shall demand to have the same exchanged for ready money, by the said president, directors and company, or any other persons, knowing such bill or note, so tendered, to be forged or counterfeited, or shall forge, counterfeit, alter or utter, pass or attempt to utter or pass, any check or order on the cashier or clerk of the said bank, knowing such check or order to be forged, counterfeited or altered, shall be subject to the same pains and penalties, and be in like manner punished as the forging, counterfeiting or altering the common seal, or any bank-bill or note, or other bank paper, security or evidence, is liable to be punished in and by an act of the General Assembly of this State, entitled, "An act for preventing and punishing the counterfeiting the common seal, bank-bill or bank-notes of the president, directors and company of the Bank of North America, and for other purposes therein mentioned;" passed the eighth day of February, one thousand seven hundred and eighty-three; and that the second section of the same act is hereby adopted and made a part of this act, as fully and to all intents, constructions and purposes, as if the same section were herein and hereby repeated and enacted in the words thereof.

**Chap. 96. b. 2
vol. p. 773.**

**Second section
adopted.**

SECT. 20. *And be it enacted*, That the president, directors and company of the said bank, after it has been in operation for two years, shall pay or cause to be paid to the treasurer of this State, for the use of the State; every year during the continuance of this act, at the rate of one half per centum on the capital stock of the said bank actually paid in: to wit, the first payment to be made on the expiration of the third year after the said bank is in operation, and so on at the end of every succeeding year, or as soon thereafter as the same may be demanded by the said treasurer, during the continuance of this act as aforesaid.

One half per centum on capital stock to be paid yearly, for use of the State.

SECT. 21. *And be it enacted*, That it is on the conditions contained in the clause immediately preceding, and upon that mentioned in the proviso of the sixth section of this act, that the present act of incorporation is passed; and in case the said conditions, and every part thereof, should not be complied with by the said president, directors and company of the said bank, according to the true intent and meaning thereof, then the authority hereby given them, shall cease and be of no effect; any thing contained herein to the contrary thereof in any wise notwithstanding.

Conditions not being complied with, this act shall cease.

SECT. 22. *And be it enacted*, That the president, directors and company of the said bank, shall signify their acceptance of this act, through their president, to the governor of this State, within twelve months from the passing this act, to be by him transmitted to the legislature, otherwise the same shall be void and of no effect.

Acceptance of this act, how to be evidenced, &c.

SECT. 23. *Provided always, and be it enacted*, That if any sum not less than thirty-seven thousand, five hundred dollars, shall not have been subscribed prior to the tenth day of October next, that then, and in that event, this charter and act of incorporation shall cease and be of no effect.

In what event this charter to be void.

Passed at Dover, Feb. 7, 1812.

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An ACT to establish a bank, and to incorporate a company under the name of the Commercial Bank of Delaware.

Bank and
branches estab-
lished.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That a bank to be called and known by the name of the Commercial Bank of Delaware, shall be established at the town of Smyrna, in Kent county, and a branch thereof shall be established at the town of Milford, in the same county, and the proportion to be allotted to the branch bank, shall be as is herein after directed.

Capital limited,
&c.

SECT. 2. *And be it further enacted,* That the capital stock of the said bank, shall not exceed two hundred thousand dollars, divided into four thousand shares, of fifty dollars each, and shall be allotted and subscribed for, in the manner following: that is to say, at the town of Smyrna, in Kent county, for two thousand shares, under the direction of John Cummins, Robert Patterson, Presley Spruance, junior, Benjamin Coomb, Ebenezer Blackiston, John Clark, John Lowber and Isaac Davis, or any two of them; and at the town of Milford, in Kent county aforesaid, two thousand shares, under the direction of John Adams, James B. Ralston, John Mitchell, Elias Shockley, Robert Hill, John Williams, Thomas Peterkin and Louder Layton, or any two of them.

Books for sub-
scriptions, when
to be opened, &c.

SECT. 3. *And be it further enacted,* That books for said subscriptions shall be opened by the commissioners aforesaid, between the hours of ten and eleven o'clock in the forenoon, on the first Monday in April next, and shall continue open until four o'clock, past meridian, and shall remain open between those hours, for three days, at least, and for

Proviso.

Regulations for subscribing, &c.

Proviso.

Forfeiture for
default of pay-
ment, &c.

SECT. 5. *And be it further enacted*, That if any stock-holder shall fail to pay his or her instalments, to the amount of ten dollars on each share, at the time and in the manner before specified, such stock-holders shall forfeit to the use of the company, all monies paid antecedently to such failure or default, but no forfeiture shall take place after ten dollars on each share shall have been paid; but as it is requisite that means should be taken to secure the regular payment of the subsequent instalments; *therefore*, if any stock-holders shall fail to make regular payments of any instalments, after ten dollars shall have been paid, such stock-holders' money in bank, shall remain free from interest, and not be entitled to dividend, until such instalment or call shall be made good; and the dividends thereafter to be paid to such stock-holders, (as well upon the money by him or her regularly paid, as upon the money paid after default,) shall be calculated only from the time when said last instalment was made good or paid.

Incorporation of
the subscribers.

Style.

SECT. 6. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, shall be and hereby are created and made a corporation and body politic, in law and in fact, by the name and style, of "The president, directors and company of the Commercial Bank of Delaware," and shall so continue until the first day of September, one thousand eight hundred and twenty-two; and by that name, shall be, and are hereby made able and capable, in law, to have, take, purchase, receive, possess, enjoy and retain to them and their successors, lands, rents, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality, soever, to an amount not exceeding in the whole, five hundred thousand dollars, including the capital stock aforesaid, and the same to sell, grant, demise, alien, or dispose of; to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended, in courts of law and equity, or any other place whatsoever, and also to make, have and use a common seal,

Capacity to sue,
&c.

and the same to break, alter and renew at their pleasure; and also to ordain, establish and put in execution, such bye-laws, ordinances and regulations, as shall seem necessary and convenient for the government of the said corporation, not being contrary to the constitution and laws of this State, or of the United States; and for the making whereof, general meetings of the stock-holders shall and may be called by the directors, in the manner hereinafter specified; and generally, to do and execute all and singular the acts, matters and things which to them it shall or may appertain to do, subject nevertheless to the rules, regulations and provisions herein after prescribed and declared.

Authorized to establish bye-laws, &c.

SECT. 7. *And be it further enacted*, That no subscriber or stock-holder, or member of the said company, shall be answerable in his person or individual property, for any contract or engagement of said company, or for any losses, deficiencies or failure of the capital stock of the said company: but the whole of the said capital stock, together with all property, rights and credits belonging to the said institution, and nothing more, shall at all times, be answerable for the demands against the said company.

Stockholders not answerable individually, for contracts of the company.

SECT. 8. *And be it further enacted*, That for the well-ordering of the affairs of the said corporation, there shall be eighteen directors, nine for Smyrna, and nine for Milford, who shall be elected by the stockholders, or proprietors of the capital stock of the said corporation, in proper person or by proxy, and by plurality of the votes actually given in at a general meeting of the said stock-holders, to be held at the town of Smyrna, on the first Thursday of May next, and first Thursday of May annually, thereafter; and those who shall be duly elected at any election by the stock-holders or proprietors aforesaid, shall be capable of serving as directors, by virtue of such choice, until the end or expiration of the first Thurs-

Number of directors to be chosen.

Their continuance in office.

Election of pre-
sidents.

Proviso—

In case of failure
in the choice,
&c. of directors.

day of May, next ensuing the time of such election, and no longer; and the said directors, at their first meeting after each election, shall choose one of their number, as president of the principal bank; and also another of their number as president of the branch bank at Milford: *And it is hereby expressly provided, and further enacted,* That in case it should at any time happen, that an election of directors should not be made, upon any day, when pursuant to this act it ought to have been made, the corporation shall not, for that cause, be deemed to be dissolved; but it shall be lawful for the stock-holders, at any other day, to hold and make an election of directors, in such manner, as shall have been regulated with respect to such election, by the laws and ordinances of the corporation: *And it is further hereby provided,* That in case of death, absence from the United States, resignation or removal of a director, or his ceasing to be a stock-holder, his place may be filled up by a new choice, by the directors, for the remainder of the year.

Who may be di-
rectors.

SECT. 9. *And be it further enacted,* That no person shall be admitted to take his seat, as a director, unless he shall be, at the time, a stock-holder; and if he shall at any time cease to be a stock-holder, he shall cease to be a director.

Directors, their
powers.

SECT. 10. *And be it further enacted,* That the directors for the time being, shall have power to appoint such officers, clerks, and servants, under them, as shall be necessary for executing the business of the said corporation, and to allow them such compensation for their services respectively, as shall be reasonable; and shall be capable of exercising such other powers and authorities, for the well-governing and ordering the affairs of the said corporation, as shall be described, fixed and determined by the laws, regulations or ordinances of the same.

SECT. 11. *And be it further enacted*, That the following rules, restrictions, limitations and provisions, shall form the fundamental articles of the constitution of the said corporation : that is to say,

Articles of the constitution.

First. The number of votes to which each stockholder shall be entitled, shall be according to the number of shares he or she shall hold, in proportions following, that is to say, for one share, and not more than two shares, one vote ; for every two shares above two, and not exceeding ten, one vote ; for every four shares above ten, and not exceeding thirty, one vote ; for every six shares above thirty, and not exceeding sixty, one vote ; for every eight shares above sixty, and not exceeding one hundred, one vote ; and for every ten shares above one hundred, one vote ; but no person, partnership or body politic, shall be entitled to a greater number than thirty votes ; and after the first election, no share or shares shall confer a right of suffrage, which shall not have been holden two calendar months previous to the day of election.

Voting regulated.

Second. No director shall be entitled to any emolument, unless the same shall have been allowed by the stock-holders, at a general meeting : the stockholders shall make such compensation to the presidents respectively, for their extraordinary attendance, at the banks, as shall appear to them reasonable.

Compensation to the president, &c. allowable.

Third. The directors shall hold occasional meetings at the principal bank and at the branch bank, at such times as may be previously appointed by them.

Meetings of the directors.

Fourth. Not less than five directors shall constitute a board, for the transaction of the business at the principal bank, of whom the president shall always be one, except in case of sickness or necessary absence, in which case, his place may be supplied by any other director, whom a majority of the directors present, may appoint.

Number of directors to form a board at the principal bank.

And at the
branch.

Fifth. Not less than five directors at the branch bank, shall constitute a board, for the transaction of business at the said bank, of whom the president thereof, shall always be one, except in case of sickness or necessary absence, in which case his place may be supplied by any other director there, whom a majority of the directors present may appoint.

Number of
stock-holders
requisite to call
a general meet-
ing.

Sixth. Any number of stock-holders, not less than twenty, who together, shall be proprietors of two hundred and fifty shares or upwards, shall have power, at any time, to call a general meeting of the stock-holders, for purposes relative to the institution, giving at least five weeks notice in one public gazette in the State of Delaware, and in one public gazette of the city of Philadelphia, and in one public gazette of the State of Maryland; and specifying in such notice, the object or objects of such meeting.

Cashier to give
bond, &c.

Seventh. Every cashier or treasurer, before he enters upon the duties of his office, shall be required to give bond, with one or more sureties, to the satisfaction of the directors, together with a warrant of attorney, to enter judgment or judgments thereon, in a sum not less than fifty thousand dollars, with condition for his good behaviour.

What lands, &c.
the corporation
may hold, by
way of security,
&c.

Eighth. The lands, tenements and hereditaments which it shall be lawful for the said corporation to hold, shall be only such as shall be requisite for its accommodation, in relation to the convenient transaction of its business, and such as shall have been, *bona fide*, mortgaged to it, by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.

Allowable per
centum.

Ninth. The said corporation shall take no more than at the rate of six per centum per annum upon its loans or discounts.

Tenth. The stock of the said corporation, shall be assignable and transferrable, according to such rules as shall be instituted in that behalf, by the laws and ordinances of the same. Stock, assignable.

Eleventh. The bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable, by endorsement thereof, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to vest and transfer the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon, in his, her or their own name; and all bills or notes which may be issued by order of the corporation aforesaid, signed by the president, and countersigned by the principal cashier or treasurer thereof, promising the payment of money to any person or persons, his, her or their order or bearer, though not under the seal of the corporation aforesaid, shall be binding and obligatory on the same, in the like manner, and with the like force and effect, as upon any private person or persons, if issued by him, her or them, in his, her or their natural capacity or capacities, and shall be assignable and negotiable in like manner, as if they were issued by such private person or persons, that is to say, those which shall be payable to any person, his, her or their order, shall be assignable, by endorsement, in like manner, and with the like effect, as foreign bills of exchange now are; and those which shall be payable to bearer, shall be negotiable and assignable by delivery only. The bills of credit, under the seal of the corporation, assignable, &c.

Bills or notes under the hand of the president &c. obligatory,

and in what manner assignable, &c.

Twelfth. Half-yearly dividends shall be made of so much of the profits of the said institution, as shall appear to the directors advisable, and once in every three years, the directors shall lay before the stock-holders, at a general meeting, for their information, an exact and particular statement of the debts, and of the surplus profits, if any, after de- Dividends to be made, &c.

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ducting losses and dividends: *Provided, however,* That nothing in this rule contained, shall be construed in any manner to invalidate or contravene any of the provisions contained in the fifth section of this act.

Surplus profits
to be divided.

Thirteenth. The surplus profits arising from the operations of the bank, shall be divided every third year, or such proportions thereof, as the directors may deem advisable.

Meetings of the
directors regulated.

Fourteenth. The directors shall after their first election under this act, meet on the first Thursday of June next, at the town of Smyrna, and the directors shall meet annually, on the first Thursday of May, at the bank in the town of Smyrna, in each year hereafter: books shall be kept at Smyrna and Milford, in which shall be fairly entered, the stock subscribed and paid for by the stock-holders, in either of the said books, as the case may be, and transfers from A to B shall be made on the books of the principal bank, or at the branch bank, as the case may be, on proper application by the stock-holders; the general accounts shall be kept at the principal bank, and the course of operation shall be as follows: the directors of the principal bank at Smyrna, shall furnish the directors of the branch bank, with a proportionate amount of notes signed by the president of the principal bank at Smyrna, and countersigned by the cashier, made payable at the branch bank; and each note, shall on the face of it, have a blank, to be filled up by the president of the branch bank, with his name in his own hand writing; and the branch bank shall stand charged on the books of the principal bank at Smyrna, with all such remittances; and it shall be the duty of the directors of the branch bank, within six months after the commencement of the said banks; and half yearly thereafter, to render to the directors of the principal bank at Smyrna, a clear account of all expenses attending the conducting said branch, together with the account of the nett profits resulting

Books to be
kept, &c.

Principal bank
to furnish notes,
&c.

Branch to render
accounts.

thereupon, in order to the striking of the dividends, which shall be done at the principal bank at Smyrna; and the dividends on stock standing on the branch bank, shall be paid at the branch bank.

Dividends, to be ascertained.

SECT. 12. *And be it further enacted*, That the said company shall, in no case, be concerned in any article, but notes, bills of exchange, mortgages, stock of the United States, or bullion, except in case of debts to the bank, then they may and shall be fully justifiable in taking any kind of security which they can obtain.

Articles in which the company may be concerned, &c.

SECT. 13. *And be it further enacted*, That should any part of the shares allotted to the said branch bank, not be subscribed for, the commissioners at Milford, shall return the same to the directors of the principal bank at Smyrna, and the directors of the said bank, may sell and dispose of the same at such times as they see proper, giving at least four weeks public notice of the number of shares, which shall not be subscribed, and the time and place when and where they will open a subscription for the disposal of such shares.

How unsubscribed shares may be disposed of.

SECT. 14. *And be it further enacted*, That the total amount of debts which the said corporation shall at any time owe, whether by bond, bill or note, or other contract, shall not exceed double the amount of the capital actually paid into the said banks; (unless the contracting of any greater debts shall have been authorized by a law of this State,) *And provided also*, That the money deposited in the said banks, for safe keeping, shall not be considered as the debts of the banks, within the provisions of this clause. In case of excess, the directors under whose administration it shall happen, shall be liable for the same, in their natural and private capacities, and an action of debt may, in such case be brought against them, or any of them, or their heirs, executors or administrators, in any court of record of this State, or of the United States, by any

Limitation of the debts of the corporation.

Proviso.

In case of excess directors liable.

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Funds of the
corporation, al-
so liable.

How absent or
dissenting di-
rectors, may ex-
onerate them-
selves.

creditor or creditors of the said corporation, and may be prosecuted to judgment and execution, any condition, covenant or agreement to the contrary notwithstanding; but this shall not be construed to exempt the said corporation, or the lands, tenements, goods or chattels of the same, from being also liable for and chargeable with the said excess. Such of the said directors who may have been absent, when the said excess was contracted or created, or who may have dissented from the resolution or act, whereby the same was contracted or created, may respectively exonerate themselves from being so liable, by forthwith giving notice of the fact, and of their absence or dissent, to the stock-holders at a general meeting, which they shall have power to call for that purpose.

Qualification of
the officers.

SECT. 15. *And be it further enacted*, That before the president and directors shall act as such, they shall take an oath or affirmation, that they will faithfully, diligently and honestly perform the duties of their station; which oath or affirmation may be administered by any judge or justice of the peace of the State; and the cashier, book-keeper and clerks, shall also take an oath or affirmation, of a similar import, (to be administered as aforesaid) and shall besides give bond with security, to the satisfaction of the board of directors, for the faithful discharge of their duties, in their several stations.

Forging, &c.
how punished.

SECT. 16. *And be it further enacted*, That if any person or persons shall forge, counterfeit or alter the common seal of the said president, directors and company, or any bank-bill or note, made or given out, or to be made or given out for the payment of any sum of money, by or for the said president, directors and company, or shall tender in payment, utter, vend, exchange or barter any such forged, counterfeited or altered bill or note, or shall demand to have the same exchanged for ready money, by the said president, directors and company, or any other person or persons,

knowing such bill or note tendered, uttered, vended, exchanged or bartered; or demanded so to be exchanged, to be forged or counterfeited, or shall forge, counterfeit, alter or utter, pass or attempt to utter or pass, any check or order on the cashiers or any of them, of the said bank, or of the said branch bank, knowing such check or order to be forged, counterfeited or altered, shall be subject to the same pains and penalties, and be in like manner punished as the forging, counterfeiting or altering the common seal, or any bank-bill or note, or other bank paper, security or evidence, is liable to be punished in and by an act of the General Assembly of this State, entitled, "An act for preventing and punishing the counterfeiting of the common seal, bank-bills or bank-notes of the president, directors and company of the Bank of North America, and for the purposes therein mentioned;" passed the eighth day of February, in the year of our Lord, one thousand seven hundred and eighty-three; and that the second section of the same act is hereby adopted and made part of this act, as fully and to all intents, constructions and purposes, as if the same section were herein and hereby repeated and enacted in the words thereof.

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SECT. 17. *Provided always, and be it further enacted,* That if the sum subscribed on the first day of September next, shall not amount to one hundred thousand dollars, then this charter and act of incorporation shall cease and be of no effect.

In what case
this charter
shall cease.

SECT. 18. *And be it enacted,* That all notes offered for discount by any person or persons, shall on the face thereof, be made negotiable at the Commercial Bank of Delaware; and when the drawer shall not reside in Smyrna or Milford, or within one mile, such note shall be payable at the house of some person at Smyrna or Milford, and notice given by the proper officer of the bank, at said house, that such note hath become due, shall be, to all intents and purposes; held and considered to be as completely

In what manner
the notes shall
be made negoti-
able.

binding on the drawer and endorser, as if notice had been personally served on each of them.

Directors authorized to loan money, &c.

SECT. 19. *And be it enacted*, That the directors of the said bank, shall, and they are hereby empowered, on the application of any farmer, mechanic or manufacturer of this State, to loan out to such person or persons, a sum not less than one hundred dollars, nor exceeding two thousand dollars, *Provided*

Proviso.

however, That no person shall obtain the benefit of such loan, until he shall give such reasonable personal, or landed security as the directors of the principal bank, or branch bank, may require: *Provided*

Further proviso.

also, That the directors of the principal bank, and branch bank, shall not be obliged to loan out for such length of time, more than one eighth of their capital stock, and the interest shall always be paid at the time of obtaining the loan.

One half per centum on the capital, payable annually, for the use of the State.

SECT. 20. *And be it enacted*, That the president, directors and company of the said bank, after it has been in operation for two years, shall pay or cause to be paid to the treasurer of this State, for the use of the State, every year during the continuance of this act, at the rate of one half per centum on the capital stock of the said bank actually paid in: to wit, the first payment to be made at the expiration of the third year after the said bank is in operation, and so on at the end of every succeeding year, or as soon thereafter as the same may be demanded by the said treasurer, during the continuance of this act as aforesaid.

Conditions not being complied with, this act shall cease.

SECT. 21. *And be it enacted*, That it is upon the condition contained in the last mentioned section, and upon the other conditions in this act mentioned, that this charter of incorporation is granted; and in case the said conditions, and every part thereof, should not be complied with by the president, directors and company of the said banks, according to the true intent and meaning thereof, then the authority hereby given to them, shall cease and be of no effect;

effect; any thing contained herein to the contrary thereof in any wise notwithstanding.

SECT. 22. *And be it enacted*, That the president, directors and company of the said bank, shall signify their acceptance of this act, through their president, to the governor of this State, within twelve months from the passing of this act, to be by him transmitted to the legislature, otherwise the same shall be void and of no effect.

Acceptance of this act, how to be evidenced.

Passed at Dover, February 9, 1812.

C H A P. CCII.

A Supplement to the act, entitled, "An act to establish a bank, and incorporate a company, under the name of the Accommodation Bank of Delaware."

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the said bank shall be called, and all its proceedings, conducted by, and under the name of the "Farmers' and Mechanic's Bank of Delaware," in place and stead of the Accommodation Bank of Delaware.

Style of the bank altered.

SECT. 2. *And be it enacted*, That the periods of thirty days mentioned in the fourth section of the said act, for the payment of the instalments therein mentioned, be, and the same are hereby extended to sixty days.

Time for payment of the instalments altered.

Passed at Dover, Feb. 10, 1812.

CH A P.
CCIII.
1812

C H A P. CCIII.

An ACT to authorize the recorder of Kent county, to transcribe certain records belonging to his office, and for other purposes.

Commissioners
to be appointed
to examine and
certify what re-
cords shall be
transcribed.

Recorder to
transcribe them
accordingly, &c.

Further duty of
commissioners.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall and may be lawful for the governor of this State, as soon as conveniently may be after the passing of this act, to appoint two commissioners, and when so appointed, the said commissioners are hereby authorized and required to examine the record books belonging to the office of the recorder of deeds, in and for Kent county aforesaid, and to make out a certificate, under their hands, stating therein which and how much of the said records it is proper and necessary to transcribe, and which and how many of said record books it is proper and necessary to be newly bound, and shall deliver the said certificate to the said recorder; who is thereupon hereby authorized and required, within twelve months thereafter, to transcribe, or cause such records to be transcribed, in one or more well bound books, by him provided for that purpose, and to make an alphabetical reference to such records, in proper form, and to cause such record books as the commissioners shall think proper and necessary, to be newly bound, to be completed in the time aforesaid; and after said recorder shall have transcribed the said records, it shall be the duty of the said commissioners to be appointed as aforesaid, to compare and correct the same by and with the original records, and the record books so transcribed, as aforesaid; and after so doing, to certify thereon, that they have collated the same with, and corrected them by, the original records, or the books so transcribed as aforesaid; and that they are true copies thereof; and the book or books where-

on the said papers are so recorded, shall thereafter be deemed and taken as public records, and it shall be lawful for the recorder to make out exemplifications thereof, which shall be taken and received as exemplifications, in the same manner as exemplifications from the original have heretofore been taken and received, and for each and every copy or exemplification, made from said records, the said recorder may ask and receive the same fees that he is entitled to receive for similar services, by the act, entitled, "An act for regulating and establishing fees."

Books in which such records shall be transcribed, to be deemed records

Fees for copies thereof

SECT. 2. *And be it enacted*, That the Levy court shall make such legal and reasonable allowance or compensation to said recorder, for transcribing and binding said records, and cost of said book or books, as they shall deem just and right, and shall draw an order on the treasurer of said county of Kent, for the payment thereof, which shall by him be paid and discharged out of the monies in his hands; and the said commissioners to be appointed, as aforesaid, shall have and receive, for their services, in performing the duties of them required by this act, for each and every day's attendance, a sum not exceeding three dollars per day, to be allowed by the Levy court of Kent county aforesaid, and they, and each of them, shall, before they enter upon the duties hereby required of them, take an oath or affirmation, before some judge or justice of the peace, faithfully and diligently to perform the trust reposed in them by this act.

Recorder's compensation, and how paid.

Commissioners, their compensation,

and oath.

SECT. 3. *And be it enacted*, That if any of the said commissioners to be appointed, as aforesaid, should die, or refuse or neglect to perform the duties herein required of him or them, it shall be lawful for the governor to appoint some other person or persons in his or their place or stead.

Vacancies in the commission, how to be supplied.

SECT. 4. *And be it enacted*, That the said recorder of deeds, shall keep a particular account of the

Account of commissioners

attendance to be kept by the recorder, &c.

day or days, time or times that the said commissioners shall attend, in performing the duties required of them by this act, and that he lay the same before the Levy court of Kent county, at their next meeting thereafter.

Passed at Dover, Feb. 10, 1812.

C H A P. CCIV.

An ACT to authorize the Levy court of Kent county, to remove lunatic and insane persons from the public gaol of Kent county, to the poor house.

Preamble.

WHEREAS it hath been represented to this General Assembly, that there are a number of lunatic and insane persons, now confined in the public gaol of Kent county, some of whom have been confined for a number of years, and maintained by said county at a great expense; that a large and commodious house has lately been erected for the accommodation of the poor of said county, with sufficient apartments therein to accommodate persons of that description, where they can be maintained at a much less expense to the county.

Sheriff of Kent county, to deliver up lunatics, &c. on the order of the Levy court, &c.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, it shall and may be lawful for the commissioners of the Levy court, and court of Appeals, to issue their order or orders to any constable of said county of Kent, therein authorizing and commanding him to demand and receive from the sheriff of said county, all such lunatics and insane persons as are now confined, or hereafter shall be confined in said gaol, who shall forthwith take such*

person or persons into his custody, and immediately convey him, her or them to the poor-house of said county, and deliver him, her or them to the overseer or keeper of said house, who is hereby authorized and required to receive and take every such person or persons under his care, into said house for safe keeping, and they shall from thenceforth be maintained and supported in the same manner as the other poor of said county are supported and maintained.

Overseer of the poor-house, to receive such lunatics, &c.

SECT. 2. *Provided always nevertheless, and be it enacted,* That it shall and may be lawful for the said overseer or keeper of said poor-house, under the direction of the trustees of the poor of said county, to keep any such person or persons that may be committed to his charge as aforesaid, in close confinement, if it be unsafe for him, her or them to have their liberty.

Lunatics, &c. may be closely confined, &c. in the poor-house.

Passed at Dover, Feb. 11, 1812.

C H A P. CCV.

A supplement to the act, entitled, "An act to prevent the increase of banking companies."

Chap. 167.
4 vol. p. 473.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the first, second, third, fourth and fifth sections of the act, entitled, "An act to prevent the increase of banking companies," passed in February last, be, and the same is hereby established, re-enacted, and continued in full force and effect, any thing in the said law to the contrary notwithstanding.

Passed at Dover, Feb. 11, 1812.

C H A P.
CCVI.
1812

C H A P. CCVI.

An ACT to authorize the commissioners of the Levy court and court of Appeals, to recover and receive the valuation money of the lands and premises of Robert Maxwell, a lunatic, now confined in the public jail of Kent county.

Preamble.

WHEREAS it hath been represented to this General Assembly, that Robert Maxwell, a lunatic, confined in the public jail of Kent county, is entitled to a share of the valuation money of the lands of his brother James Maxwell, deceased. And whereas great expenses have been incurred, and will be incurred by the said county, in his future support;

Levy court of Kent county, may receive and recover the valuation money, &c. due R. Maxwell, from his brother's lands, &c.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the Levy court of the county of Kent, be, and they are hereby authorized, empowered and required to ask, demand and receive, of and from such person or persons as may be accountable for the payment thereof, all the share of the said Robert Maxwell, of the valuation of the lands which were of his brother, the said James Maxwell, deceased, and on neglect or refusal of such person or persons to pay the same, after demand made as aforesaid, to commence a suit on the recognizance of such person or persons, and prosecute the same in the same manner, as the said Robert Maxwell could do, were he of sound mind.*

Valuation money, when received, how to be disposed of, &c.

SECT. 2. *And be it enacted, That the said money, when received, shall be deposited in the treasury of said county, and remain under the direction of the Levy court, in trust and for the use of said Robert Maxwell; and in case the said Robert Maxwell shall hereafter become of sound mind, or of his death, the said Levy court shall cause an account to*

be taken of the expenses incurred by the said county, in the support and maintenance of said Robert Maxwell, and if on such account, after a fair estimate of interest, on the money laid out, or expenses incurred on account of the said lunatic, and on the money received of his, into the treasury, there shall be a balance, after reimbursing the said expenses now incurred, and which shall hereafter be incurred, the same shall forthwith be paid over to the said Robert Maxwell, or his heirs:

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Passed at Dover, Feb. 11, 1812.

C H A P. CCVII.

An ACT to divorce Elizabeth Turrell and Esau Cox, her husband, from the bonds of matrimony.

Passed at Dover, Feb. 11, 1812—Private act.

C H A P. CCVIII.

An ACT to enable the owners and possessors of the second cove of marsh, to the northward of the wild marsh, on the north side of Appoquinimink creek, in St. George's hundred, and New-Castle county, to erect, maintain and repair banks and dams; and to construct, place, maintain and repair flood-gates, sluices and trunks; and to cut, open and repair canals and drains, for embanking, reclaiming and improving the said cove of marsh.

Passed at Dover, Feb. 12, 1812---Private act.

C H A P.
CCIX.
1812

C H A P. CCIX.

An ACT for the preservation of certain shell-fisheries within this State.

Penalty on taking or gathering oysters, &c. other than by citizens of this State.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That no person, not residing in this State, shall rake or gather any oysters, terrapins or clams within the same, and put them on board of any canoe, flat, scow, boat or other vessel, not wholly belonging to, and owned by some person or persons who live in this State, under the penalty of forfeiting such canoe, flat, scow, boat or other vessel, together with all the oysters, oyster-rakes, tongs, tackle, furniture and apparel, in and belonging to the same.

Proceedings on seizing any canoe, flat, &c.

Proviso.

SECT. 2. *And be it enacted*, That any person who shall seize and secure any such canoe, flat, scow, boat or other vessel aforesaid, shall immediately thereupon give information thereof to any two justices of the peace of the county, where such seizure shall have been made, who are hereby empowered and required to meet at such time and place as they shall appoint, for the trial thereof; and the same, if condemned, shall, with all things thereunto belonging, be sold by the order and under the direction of the said justices, who, after deducting all legal costs and charges, shall pay the one moiety of the proceeds to the treasurer of the county, for the use of the county, and the other moiety to the person who seized and prosecuted for the same: *Provided always nevertheless*, That nothing in this section contained, shall be deemed or construed to extend to any vessel, the crew of which, or any part thereof, may in the pursuit of a lawful voyage, stop within the limits aforesaid, for the purpose of taking any clams, oysters or terrapins, for their own immediate use only.

SECT. 3. *And be it enacted*, That if any person or persons on board of any such canoe, flat, scow, boat or other vessel aforesaid, shall refuse and not suffer to enter, or resist before or after entering, any of the said officers, or otherwise resist them, or any of them, in the execution of their office, then, every person so offending, shall forfeit and pay thirty dollars, to be recovered with costs by action of debt, by such officer in any court of record in this State, having cognizance of that sum, the one moiety to the use of such prosecutor, and the other moiety to the treasurer of the county, for the use of the county where the offence was committed.

Penalty on resisting of officers, &c.

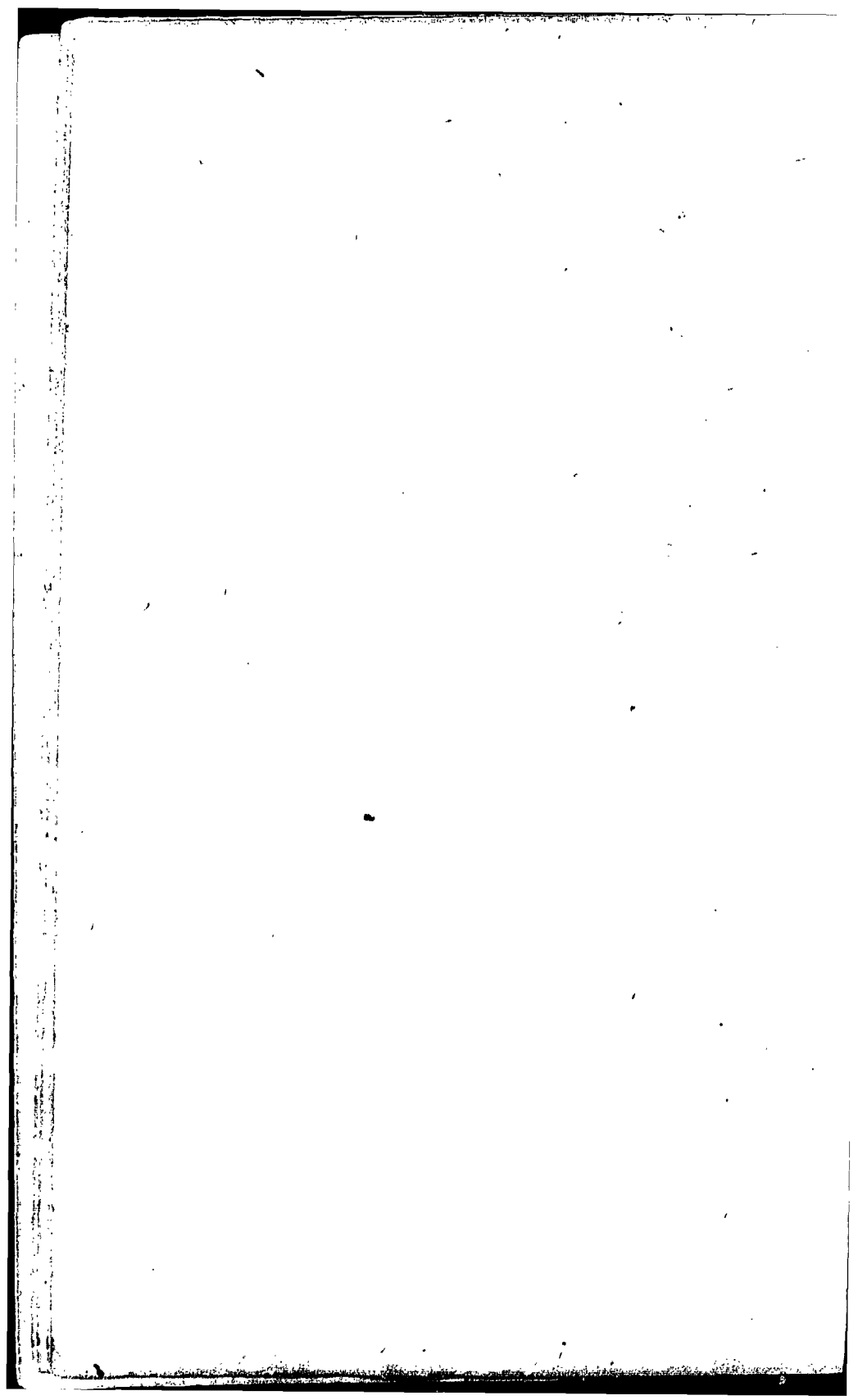
How recovered, and

applied.

SECT. 4. *Provided always, and be it further enacted*, That nothing contained in this act, shall be taken or construed to extend to the State of Maryland, or any citizen thereof, so long as the shell-fisheries of the waters of that State, shall remain free to the citizens of this State, and no longer.

This act not to extend to citizens of Maryland, &c.

Passed, at Dover, Feb. 12, 1812.



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CCXI.
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CHAP. CCX.

An act for the relief of Jonathan Lofland, a non-resident insolvent debtor.

Passed, May 22, 1812—Private act.

CHAP. CCXI.

A Supplement to the act, entitled, "An act authorizing the trustees of the Glasgow Grammar-school, in the county of New-Castle, to raise the sum of one thousand dollars, by lottery, for the use of the said school."

4 Vol. p. 519.
chap. 192.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Jacob Fearis, William Cooch, Oliver R. Howell, Levi Boulden and Samuel H. Black, be, and they or the survivors of them, are hereby appointed commissioners to institute and carry on the lottery authorized by the act to which this is a supplement; who shall jointly, or the survivors of them, before entering upon the duties assigned them by the said act, give bond to the governor of this State, in the sum of two thousand dollars, conditioned for the faithful discharge of the trust thereby reposed in them.

Commissioners
appointed:

To give bond in
2,000 dollars
jointly.

Repeal of cer-
tain part of for-
mer act, chap.
192, sect. 2.

SECT. 2. *And be it further enacted*, That so much of the act to which this is a supplement, as is by this act altered or supplied, be and the same is hereby repealed.

Passed, May 23, 1812.

C H A P. CCXII.

An ACT making the allowances therein mentioned.

Allowances to
the witnesses
who were sum-
moned at the
last session.

Allowances to
the persons who
summoned wit-
nesses.

How attendance
and services
proved.

J. Clarke, S.
White, C. Co-
megys, or any
two of them,
empowered to
draw warrants
on State treasu-
rer for such al-
lowances.

BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the witnesses summoned under the authority of the House of Representatives, to give evidence at their last session, on the complaints against two of the justices of the peace in and for the county of Kent, be allowed eighty cents each, per diem, during their necessary attendance at Dover, upon the said occasion, that they be allowed the mileage provided by law for witnesses attending the courts of justice in this State; and that the person or persons who summoned the witnesses, be allowed two dollars per diem, for each and every day they were actually employed therein; that their attendance and services as aforesaid, be made appear on oath or affirmation, to the satisfaction of John Clarke, Samuel White and Cornelius P. Comegys, esquires, or any two of them; and that the warrants of the said John Clarke, Samuel White and Cornelius P. Comegys, or any two of them, upon the State treasurer, for the said allowances, be paid out of any money in the treasury not otherwise appropriated.

Passed, May 23, 1812.

G. H. A. P.
CCXIII.
1812

C H A P. CCXIII.

An ACT to enable the governor to make a detachment of the militia, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the governor, as commander in chief of the militia of this State, be and he is hereby authorized and empowered, to take effectual measures for draughting the persons who shall compose the proportion of this State, of the detachment of one hundred thousand militia required by the act of congress, entitled, "An act to authorize a detachment from the militia of the United States," passed on the sixth day of February, in the year eighteen hundred and twelve.

Governor empowered to take effectual measures for draughting this States' proportion of the militia required pursuant to an act of congress.

SECT. 2. *And be it enacted,* That the governor is hereby authorized and empowered to ascertain the number of arms and other equipments, that may be necessary to be provided for carrying into effect the call made upon this State, in pursuance of the said act of congress; and to make contracts for purchasing the same, to be submitted for the approbation of the General Assembly, at its next session: *Provided however,* That the said contracts may be immediately fulfilled by the governor, on the part of this State, without a submission of them to the General Assembly, if before the next session thereof, war should ensue between the United States and any European nation: and in that event, the treasurer is hereby authorized, empowered and required to obtain upon loan, from any of the banks of this State, any sum not exceeding twenty-five thousand dollars, provided the same can be had at a rate not exceeding the usual bank discount allowed by law; and if a sum, sufficient with the money in the treasury unappropriated, to raise the said twenty-five thousand

Governor empowered to ascertain arms and equipments, &c.

and to make contracts, &c.

Proviso, in case of war, &c.

In that event, treasurer required to obtain any sum not exceeding 25,000 dollars, &c.

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Governor authorized to draw said sum from the treasury, in said event.

Treasurer to submit his proceedings to next General Assembly.

dollars, cannot be obtained upon loan, then the said treasurer shall dispose of so much of any of the funds of this State, not otherwise appropriated, as may be sufficient, with the money in the treasury, not otherwise appropriated, to raise the sum of twenty-five thousand dollars; that the governor, in the event aforesaid, be authorized to draw from the treasury the said sum of twenty-five thousand dollars, for the purposes aforesaid; and that the said treasurer shall submit to the next General Assembly, his proceedings under this law, by whom the compensation for his services shall be established.

Passed, May 23, 1812.

CHAP. CCXIV.

An ACT to confirm the title of a lot of land in Lewes, to David Wolfe.

Passed, May 23, 1812—Private act.

CHAP. CCXV.

An ACT to authorize John W. Bordley, to remove certain negroes therein named, from this State into the State of Maryland.

Passed, May 23, 1812.—Private Act,

C H A P. CCXVI.

C H A P.
CCXVI.
1812*An ACT for the appointment of the auditor of accounts.*

WHEREAS it is ordained by the eighth section of the third article of the constitution, that the governor shall appoint all officers whose offices are established by the constitution, or shall be established by law, and whose appointments are not in the constitution otherwise provided for : Preamble.

And whereas it is ordained in the sixth section of the eighth article of the constitution, that attorneys at law, all inferior officers in the treasury department, election officers, officers relating to taxes, to the poor and to high-ways, constables and hundred officers, shall be appointed in such manner as is or may be directed by law :

And whereas the General Assembly, by an act entitled, "An act for appointing an auditor of accounts, and for enjoining certain duties on the said officer," passed the fifteenth day of June, in the year one thousand seven hundred and ninety-three, did appoint the auditor of accounts for and during the term of five years, and from thence to the end of the next sitting of the General Assembly, if so long he should behave himself well ; and it was provided by the said act, that if the said auditor should happen to die, or be incapacitated for discharging the duties of his office, in the recess of the General Assembly, it should and might be lawful for the governor for the time being, to appoint some other fit person as an auditor of accounts, in his place or stead :

And whereas it hath so happened, that owing to vacancies in said office having occurred in the recess of the General Assembly, the appointment of the auditor of accounts, since the appointment made by the before mentioned act of the General Assembly, hath been made by the governor :

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And whereas it manifestly appears to be the meaning of the constitution, that all officers in the treasury department, both superior and inferior, and all officers relating to taxes, should be appointed in such manner as is or may be directed by law ; that it appears to have been considered by the framers of the constitution, that the office of State treasurer, whose appointment is expressly vested in the House of Representatives, with the concurrence of the Senate, was the highest office in the treasury department, that officer being created by the constitution, and not depending on any legislative act ; that the auditor of accounts being created by an act of the General Assembly, his office depends for its existence upon the will of the legislature, and therefore, and from the nature of its duties, at its creation, and ever since, is and ought to be deemed to be an inferior office in the treasury department ; that the said act of the General Assembly of the fifteenth day of June, seventeen hundred and ninety-three, was passed by a legislature composed of many persons, who had been members of the convention who made the constitution, and is an exposition of the constitution, given at a time when there could be no doubt of its meaning, and of the intention of its framers :

And whereas by the several provisions made by law for the laying, collecting and managing the taxes, the auditor of accounts is an officer, whose office essentially relates to taxes, and whose appointment, according to the spirit and words of the constitution, most clearly ought to be directed by law :

And whereas Peter Caverly, esquire, was appointed the auditor of accounts on the seventh day of February, in the year one thousand eight hundred and seven, for the term of five years, and from thence to the end of the next session of the General Assembly, if so long he should behave himself well in the said office ; and it being now necessary to make an appointment, and to make further regula-

tions in case of a vacancy happening in the recess of the General Assembly ;

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SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That* Peter Caverly be, and he is hereby appointed the auditor of accounts for the term of five years, from the date hereof, and from thence to the end of the session of the General Assembly, which may be holden at the time of the expiration of the said term of five years, or should the General Assembly not be then in session, then and in that case, to the end of the session of the General Assembly, holden next after the expiration of the said term of five years.

Peter Caverly appointed auditor of accounts, his term of office.

SECT. 2. *And be it enacted, That* if the said auditor of accounts shall die, or be otherwise incapacitated for discharging the duties of the said office, in the recess of the General Assembly; or if at any time during any such recess, the said office should be vacant, it shall and may be lawful for the governor for the time being, to appoint some other fit person the auditor of accounts, who shall continue in office until the end of the next session of the General Assembly after such appointment, and no longer, unless he be re-appointed by the General Assembly.

Governor to appoint in certain cases,

term of office of person so appointed.

SECT. 3. *And be it enacted, That* the auditor of accounts hereby appointed, and every auditor of accounts hereafter appointed, in pursuance of this act, is hereby empowered and directed to exercise all the powers and authority, and to perform all the duties which are vested in, and required of, the auditor of accounts by the laws of this State.

Power of auditor, appointed by virtue of this act, 2 vol. p. 869, 1098. 3 vol. p. 15, 74. 4 vol. p. 139, 141 & 328.

SECT. 4. *And be it enacted by the authority aforesaid, That* the auditor of accounts hereby appointed, or to be appointed in pursuance of this act, shall receive the same salary and compensation as is now fixed by an act, entitled, "An act to increase

His salary.

2 vol. p. 1349,
chap. 131.

3 vol. p. 19,
chap. 5, sec. 8.

Repeal of 1st
sec. chap. 34,
3 vol. p. 73.

the salary of the auditor of accounts ;" passed the twenty-fourth day of January, one thousand seven hundred and ninety-seven ; and by another act, entitled, " An act for extending the powers of the auditor of accounts to the settlement of the county, road and poor taxes, &c. within this State ;" passed the twenty-third day of January, one thousand seven hundred and ninety-eight ; to be paid quarterly at the treasury of this State, to commence from the date hereof.

SECT. 5. *And be it enacted*, That the first section of an act, entitled, " An act directing the time of service of the auditor of accounts hereafter to be appointed, and for other purposes," passed the thirtieth day of January, seventeen hundred and ninety-nine, shall be and is hereby repealed.

Passed, May 23, 1812.

C H A P. CCXVII.

4 vol. chap. 49,
p. 123.

A supplement to the act, entitled, " An act to establish an uniform militia throughout this State."

Office of commissary abolished, and a part of his powers transferred to the county treasurer.

Duty of distributing the

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the office of commissary of military stores be abolished ; that so much of the power and duty as were, before the passing of this act, given to and enjoined upon the person holding the said office, and which may not, by this act be otherwise provided for, shall be, and the same is hereby assigned to, and devolved and enjoined upon, the county treasurer of the respective counties, so far as the subject of fines is concerned ; that so much of the power and the duty of the persons holding the said office of commissary of

military stores, as relates to the taking care and distributing of the public arms, be, and the same is hereby assigned to, devolved and enjoined upon the inspectors of the respective brigades ; that the said treasurers and inspectors, respectively, shall be subject to the same pains and penalties for misconduct in themselves, (or collectors) as for any neglect of duty whatsoever, as are provided by the act to which this is a supplement, for neglect of duty by the said commissaries, or their collectors respectively ; and that all the provisions of the said act, shall apply to the said treasurers and inspectors respectively, according to the subject matter thereof, in the same manner as they did or could apply to the said commissaries respectively; *Provided always nevertheless*, That nothing herein contained, shall be construed to apply to the case of fines already due or collected ; or to affect the power of the said commissaries over the same, which shall remain the same, and as unimpaired, except as is hereafter excepted, as if this act had not been passed.

public arms, to whom assigned, &c.

Proviso.

SECT. 2. *And be it enacted*, That all the duty and authority enjoined upon and vested in the auditor in relation to the commissaries, except as the same may be hereby altered, shall be equally enjoined upon and vested in him, in relation to the said treasurers respectively ; and that all the provisions of the said act respecting the collectors, or any other officer or officers, in relation to the said commissaries, shall apply to them all, respectively, under the same pains and penalties for neglect of duty, with equal force and effect, according to the subject matter thereof, in their respective necessary relations to the said treasurers and inspectors.

Duty and authority of the auditor, in relation to commissaries transferred to the county treasurer, &c.

SECT. 3. *And be it enacted*, That any person conceiving himself aggrieved by the decision of any court-martial hereafter held under, or by virtue of the thirty-fourth section of the act to which this is a supplement, or under or by virtue of the fifth section of this act, shall be entitled to an ap-

Persons aggrieved by decision of court-martial, may appeal to the colonel, &c.

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peal to the colonel or commanding officer of the regiment to which such person shall belong; and shall be released from the payment of the fines imposed: *Provided*, he shall produce to the commanding officer of his company, within four weeks immediately succeeding the decision of the court-martial, a certificate, in writing, signed by the said colonel or commanding officer of the regiment, discharging him therefrom; which the said colonel or commanding officer is hereby required to give, provided he shall see good and sufficient reason for exonerating such person.

Fines heretofore
incurred, extin-
guished.

Proviso.

SECT. 4. *And be it enacted*, That it shall not be lawful to collect from any person a fine or forfeiture for neglect of military duty, which may have been imposed or incurred before the passing of this act: *Provided however*, that the same shall in no wise impair the responsibility of any commissary or collector, or their securities, which shall remain the same as before the passing of this act, except in those cases where fines or forfeitures have not been collected, from those upon whom or by whom they have been heretofore imposed or incurred.

Commanding
officer of a com-
pany, his duty
respecting
lookers-on, who

may be fined,
&c.

SECT. 5. *And be it enacted*, That it shall be the duty of every commanding officer of a company, whenever his company shall be drawn out to exercise, either at a regimental, battalion or company muster, to cause to be entered, by the clerk of his company, on the list of absentees or delinquents, as a looker-on, the name of every person, belonging to his company, who shall come to the muster-ground, and refuse or neglect to go into the ranks and do his duty: and every such looker-on, shall be fined in any sum not less than five dollars, nor more than fifty dollars, unless he shall be excused and exonerated therefrom, by the court-martial of the company to which he shall so belong.

Adjutants of re-
giments may
be ap-

SECT. 6. *And be it enacted*; That the adjutants of the different regiments may be appointed and com-

missioned without any regard to their previous ranks or residence: *Provided*, they belong to the brigade, of which the regiments to which they shall be appointed, shall constitute a part.

pointed without regard to previous rank, &c. *Proviso.*

SECT. 7. *And be it enacted*, That no money collected or received for fines, shall be paid into the State treasury; but that the same shall remain in the funds of the county treasury, for the use of the brigade of their respective counties.

Fines to be applied to the use of brigades,

SECT. 8. *And be it enacted*, That the adjutant-general shall have power to arrest the brigade-inspectors for neglect of duty and disobedience of orders; that the brigade-inspectors shall in like manner have power to arrest the adjutants of the regiments, for neglect of duty or disobedience of orders; and that the returns of such arrest shall be made, in case a brigade-inspector is arrested, to the commanding officer of the brigade to which such inspector shall belong; and in case an adjutant of a regiment shall be arrested, to the commanding officer of such regiment, who shall respectively appoint the court-martial to try the said officers.

Power of the adjutant-general and of brigade inspectors, &c.

SECT. 9. *And be it enacted*, That the brigadier-general in the county of New-Castle, in the course of the month of June next, shall convene the lieutenant colonels and majors of his brigade, and with them, or a majority of such of them as may meet for that purpose, divide said county into regimental and battalion districts: and that the major and captains of such battalion, shall be convened as soon after as possible by the lieutenant-colonel: and they, or a majority of them, so met for that purpose, shall divide the same into company districts; and copies thereof, describing the limits of such districts, shall be carefully kept by the said lieutenant colonel and majors respectively, who shall transmit duplicates thereof to the secretary of State, to be lodged in his office.

Proceedings to be had in New-Castle county, for dividing it into districts.

Copies of such division, how to be disposed of.

Repeal of 1 and
2 sections of
chap. 157, 4 vol.
p. 443.

SECT. 10. *And be it enacted*, That the first and second sections of the act, entitled, "An act to establish an uniform militia throughout this State," passed the second day of February, in the year eighteen hundred and eleven; and so much of the act to which this is a supplement, as is hereby altered, amended and supplied, be, and the same is hereby repealed.

Companies,
within what
time to be class-
ed.

SECT. 11. *And be it further enacted*, That the captains or commanding officers of the respective companies of the militia of this State, shall, on or before the first Monday of August next, call their respective companies together, and proceed to class them according to the directions and provisions of the seventh section of the act to which this is a supplement; and for neglect of duty, such officer shall forfeit his commission, and pay a fine of fifty dollars.

Forfeiture for
neglect.

In what case
offer of volun-
teers may be
accepted by the
colonels.

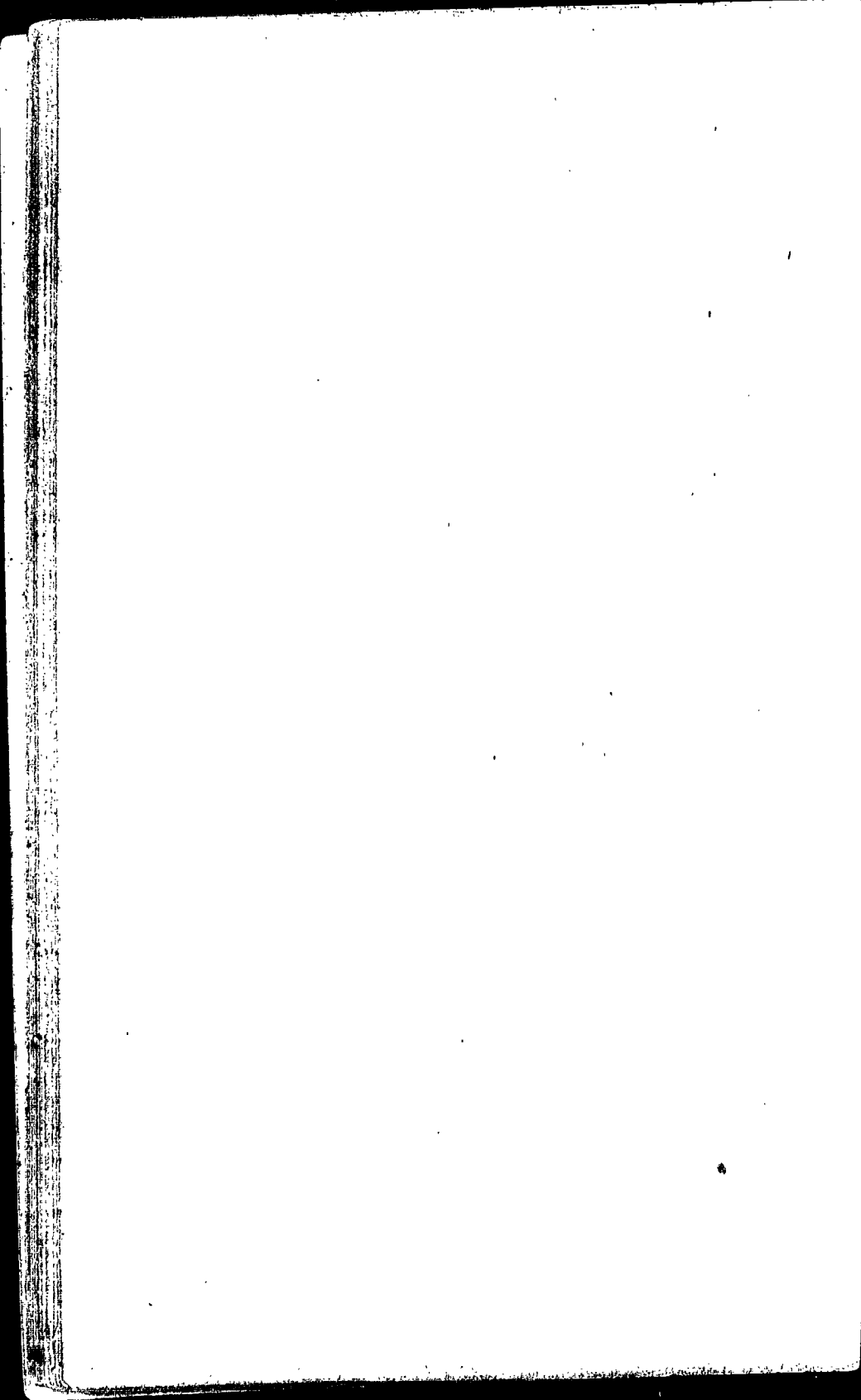
SECT. 12. *And be it enacted*, That when any detachment of militia shall be required by the order of the general government, through the commander in chief, it may be lawful for the colonels of the respective regiments, to accept the voluntary service of such quota of men as may be required out of such regiment, or any part of the same; any thing in this act, or the act to which this is a supplement, to the contrary, notwithstanding.

Passed, May 25, 1812.

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C H A P.
CCXVIII.
1813

C H A P. CCXVIII.

An additional supplement to an act, entitled, "An act for the valuation of real and personal property within this State." 2 Vol. p. 1247.
chap. 97.

WHEREAS it hath been represented to this General Assembly, that the assessors in the several hundreds of Kent county, in this State, have not yet made and completed their valuation of property, agreeably to the directions of the act to which this is an additional supplement ;

Preamble.

BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the time of making and completing such valuation, shall be, and hereby is extended to Tuesday, the nineteenth day of this instant, (January) at which time the commissioners of the tax, in and for Kent county aforesaid, shall meet at the court-house in the said county ; and the said assessors shall then and there attend on the said commissioners, and then and there return to them their several valuations of property ; and the said commissioners shall then and there arrange, and do and perform every act and thing required of them to be done and performed, on the first Tuesday of December, by the act to which this is an additional supplement, under the same penalties, and in as full and ample a manner, as is prescribed and directed by the said act, to which this is an additional supplement, and immediately after the completion and arrangement aforesaid, the clerk of the peace in and for the said county of Kent, shall set up and publish alphabeted lists of such valuations, with notice in the same manner as is directed by the act of the General Assembly of this State, entitled, " A supplement to an

Time for completing valuation extended.

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act, entitled, An act for the valuation of real and personal property within this State," passed on the nineteenth day of January, one thousand seven hundred and ninety-seven, and for neglect or refusal so to do, to be punished in the same manner as is prescribed by said act, and in case the said assessors shall not have made and completed their several valuations by the time limited in this act, the said commissioners may and shall adjourn their setting from day to day, until the said assessors shall have made, completed and returned their said several valuations in manner aforesaid: *Provided*, That such adjourned meeting shall not extend beyond, nor be held after the twenty-sixth day of this instant.

Passed, January 12, 1813.

C H A P. CCXIX.

4 Vol. p. 51.

A Supplement to the act, entitled, "An act to increase the daily allowance of grand and petit jurors, and for other purposes.

In addition to present fees to grand and petit jurors and witnesses, 3 cents per mile allowed from the place of their abode, to the court-house, for each day's attendance.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That in addition to the fees already allowed to grand and petit jurors, and to witnesses, they shall each have three cents per mile from the places of their abode respectively, to the court-house of their county respectively, so as in the whole not to exceed six cents per mile for each and every day of their attendance, any law, custom or usage to the contrary notwithstanding.

SECT. 2. *Be it enacted*, That all witnesses summoned before any referees, to give testimony on any reference from court, shall be allowed and paid the like mileage: *Provided*, that the whole allowance made them, shall not exceed six cents per mile, estimating the distance from the place of residence of the witnesses, to the place of meeting, for each and every day of their attendance; and that every auditor, appointed by rule of court, shall receive the same daily allowance for his attendance, and for mileage, as is established by law for jurors.

Witnesses before referees, like mileage;

Proviso.

Passed, January 20, 1813.

C H A P. CCXX.

An ACT to divorce Ann Cloud, wife of Harlin Cloud, from the bed and board of the said Harlin Cloud.

Passed, Jan. 20, 1813.—Private act.

C H A P. CCXXI.

An ACT to divorce Sarah Buchanan and Thomas Buchanan, her husband, from the bonds of matrimony.

Passed, Jan. 20, 1813.—Private act.

C H A P. CCXXII.

Chap. 39. vol.
4. p. 89.

An additional supplement to the act, entitled, "An act to establish a Bank, and to incorporate a company under the name of the Farmers' Bank of the State of Delaware."

The president and directors of Farmers' Bank, empowered to establish a branch at Wilmington or Brandywine, if the stock-holders will assent;

making of the discounts to be committed to 9 directors, &c. 6 to be chosen by stock-holders, 3 to be appointed by the State.

Stock-holders may choose directors, &c.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That it shall be lawful for the president and directors of the Farmers' Bank of the State of Delaware, and they are hereby authorized and empowered (after having convened, in the manner prescribed in the said act, a meeting of the stock-holders of the said bank, and obtained the assent of the said meeting thereto) to institute and establish, on or before the first day of January next, a branch of the said bank at the borough of Wilmington, or at Brandywine, in this State, and to continue the same until the first day of September, in the year eighteen hundred and twenty-two, for the purposes of discount and deposit, under and subject to like conditions and provisions with those made by the said act, in relation to the other branches of the said bank : And that the management of the said branch, and the making of said discounts, shall be committed to nine directors, who shall be citizens of the county of New-Castle, six of whom shall be chosen by the stock-holders, and three appointed by the General Assembly, in the manner prescribed by said act, for the choice and appointment of directors of the other branches ; which directors, so chosen and appointed, shall be vested with powers and privileges co-ordinate with those of the directors of either of the other branches of said bank.

SECT. 2. *And be it enacted,* That the directors of the said branch, on the part of the stock-holders, may be chosen by the said stock-holders, at the meeting mentioned in the first section of this act,

or at any subsequent meeting held by them in the course of the present year; and that the directors on the part of the State, for this year, shall be appointed by the governor.

Governor to appoint directors, on behalf of the State this year.

Passed at Dover, Jan. 22, 1813.

C H A P. CCXXIII.

An ACT declaring the manner of instituting suits for recovering sums therein mentioned.

SECTION I. **B**E it declared and enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That all suits or actions for recovering from any person or persons, any sum or sums, amount or balance, due or payable from him or them, for or on account of the licenses hereinafter mentioned, which such person or persons may, according to the laws of this State, have distributed or been furnished with for that purpose: that is to say, licenses to keep a public house of entertainment, and to sell all liquors; licenses for the same, and to sell all liquors except wine; licenses to an hawker or pedlar travelling on foot; licenses to such persons travelling with one or more horses; or licenses of marriage, or for, or on account of other fees by law ascertained, limited and appointed to the use of the State, or any sum or sums, balance or amount, charged upon the books of the secretary of State, notwithstanding such sum or sums, balance or amount may be applicable to "the fund for establishing schools in the State of Delaware," and without regard to the officer or officers, to whom such sum or sums should, in the first instance, have been accounted for, or paid, ought to be, and shall be instituted and prosecuted in the name of "The State of Delaware," as actions in

Suits for recovering any sum for tavern licenses;

Hawkers and pedlars' licenses;

Marriage licenses distributed, or any fees due to State, and balances on the books of the Secretary;

To be brought
in the name of
the State of De-
laware.

the name of the State are now prosecuted, and the form of such suit or action, may be debt or trespass on the case, as the circumstances of the case may require.

Passed, Jan. 27, 1813.

C H A P. CCXXIV.

Chap. 105, vol.
2. p. 1296.

A supplement to the act, entitled, "An act to revive and continue in force the act, entitled, An act to create a fund sufficient to establish schools in this State for seven years, from the first day of January in the present year."

The act refer-
red to, continu-
ed till Jan. 1,
1820.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the said act, to which this is a supplement, shall be, and hereby is, continued in force until the first day of January, in the year eighteen hundred and twenty.

Passed at Dover, Jan. 27, 1813.

C H A P. CCXXV.

Vol. 4. chap.
164, p. 467.

A supplement to an act, entitled, "An act enjoining certain duties on justices of the peace, trustees of the poor, and constables."

The certificates
required by 1
sec. of the ori-
ginal act, to be
delivered to the
auditor, to be
delivered to

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the certificates which justices of the peace are required, by the first section of the said act, to deliver unto the auditor, shall after the passing of this act, be de-

livered by the said justices respectively, to the treasurer of the county in which the said justices shall reside, at the times mentioned in the said act; that the said treasurer shall as soon as conveniently may be after his receipt thereof, deliver or transmit the same to the auditor; and that such certificate shall contain the name or names of the constable or constables appointed to receive the fines and forfeitures mentioned therein.

the county treasurer, who is to transmit the same to auditor.

What such certificates shall contain.

SECT. 2. *And be it enacted*, That where any fine or forfeiture shall hereafter be imposed, or incurred, by or before any justice of the peace, it shall be the duty of such justice to appoint some constable of the hundred, in which the said justice shall reside, to collect or receive the same, and that it shall be the duty of such constable or constables, to pay the same over conformably to the directions of the said act, and under the penalty for neglect of duty therein mentioned.

Duty of justices as to fines or forfeitures imposed, &c. by them.

Duty of constables.

SECT. 3. *And be it enacted*, That so much of the said act as is hereby altered, amended or supplied, be and the same is hereby repealed.

Repeal.

Passed at Dover, Jan. 28, 1813.

C H A P. CCXXVI.

An additional Supplement to an act, entitled, "An act to incorporate a company for making an artificial road from the town of New-Castle, in New-Castle county, to the line of this State, in the route or direction to French-town, on Elk River, in Cecil county, in the State of Maryland."

Vol. 4. chap. 83.
p. 241. first supplement—chap. 143. p. 395.

WHEREAS, by the twenty-third section of the said act, it is declared that if the com-

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pany incorporated by the said act, should not proceed to carry on the said work within three years after the said act came into operation, that then it should be lawful for the legislature to resume all and singular, the rights, liberties, privileges and franchises by the said act granted to them : And whereas it hath been shewn to this General Assembly, that the said company hath not proceeded to carry on the said work :

Commissioners
added to those
appointed by
original act :

Their authority
to open books :

Notice of time
and place of sub-
scribing :

who may sub-
scribe ;

500 shares may
be subscribed ;

Proviso.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That in addition to the commissioners appointed in the act to which this is a supplement, that Levi Boulden, Samuel H. Black, James Stewart, Peter Williams, John Crow and Oliver R. Howell, be and they are hereby appointed commissioners, who together with the commissioners heretofore appointed, are authorized to procure one or more books, on or before the third Tuesday of March next, and in each of those books enter as follows : " We whose names are hereunto subscribed, do promise to pay to the president and managers of the New-Castle and French-town turnpike company, the sum of twenty-five dollars for every share of stock in the said company set opposite to our respective names, in such manner and proportions, and at such times, as shall be determined by the president and managers of the said company ;" and give at least ten days public notice of the time and place when and where the said books shall be open to receive subscriptions for the stock of said company, at which time and place some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age or bodies politic and corporate, who shall offer to subscribe in the said books in their own names, or the name of any persons who shall duly authorize the same for any number of shares in the said stock ; and the said books shall be kept open by some one of the commissioners until five hundred shares of the capital stock shall be subscribed : *Provided always,* That every

person offering to subscribe in the said books in his own name, or any name, shall previously pay the attending commissioners the sum of five dollars for every share to be subscribed, out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officer chosen as in the act to which this is a supplement, is directed.

§ 5 to be paid
on each share.

SECT. 2. *And be it enacted,* That when ten or more persons shall have subscribed two hundred and fifty shares of the said stock, they shall be created and erected into one body politic and corporate, in deed and in law, by the name and style of the president, managers and company of the New-Castle and French-town turnpike, and by that name they shall have perpetual succession, and all the privileges and franchises incidental to a corporation, and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the said stock from time to time, by new subscriptions; in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of the act to which this a supplement, and of purchasing, taking and holding to them, their successors and assigns, and of selling, transferring and conveying in fee-simple, or of any lessser estate, all such lands, tenements, hereditaments and esiate, real and personal, as shall be necessary for them in the prosecution of their works, and of suing and being sued, and of doing all and every thing and matter which a corporation or body politic may lawfully do.

Subscribers in-
corporated—
name—powers,
&c.

To enlarge
stock, &c.

SECT. 3. *And be it enacted by the authority aforesaid,* That as soon as two hundred and fifty shares of stock shall be subscribed, and within five days thereafter, the said commissioners shall give public notice, at least ten days, of the time and place by them to be appointed, at which time and place the

After 250 shares
subscribed com-
missioners to
give notice of
the time and
place of meeting
of subscribers,
&c.

and powers of
the subscribers
so met.

said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by bollot, to be delivered in person or by proxy duly authorized, one president, four managers, one treasurer, and such other officers as they shall think necessary to conduct the business of the said company for one year, and until others shall be chosen; and shall and may make such by-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than twenty-five votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under the said number: *Provided nevertheless*, That all future annual meetings and elections of the said corporation, shall be held with such notice and such manner and form as aforesaid, at such place as the managers aforesaid shall appoint.

Proviso.

Number of votes
limited to 25—
and one vote for
every share un-
der that number

Proviso.

Future annual
meetings, &c.

President and
managers hav-
ing perfected
two miles of
road from
Clark's corner,
may apply to
the governor
for the appoint-
ment of three
freeholders to
view the road,
&c.

SECT. 4. *And be it enacted by the authority aforesaid*, That as soon as the president and managers of the New-Castle and French-town turnpike company, shall have perfected two miles of the said road, from the place called and known by the name of Clark's Corner, towards French-town, it shall and may be lawful for the president and managers to make application to the governor of this State, who shall upon such application, appoint three skilful and judicious freeholders to view and examine the same, and make a report to him, whether the said road is so far executed in a complete and workman-like manner, according to the true intent and meaning of the act to which this is a supplement, if a majority of them report in the affirmative, then the governor shall by license under his hand, permit the gates to be erected, and two-fifths of the tolls in the act to which this is a supplement, to be collected; and in like manner, when one mile of the said road pro-

gressively towards Frenchtown, shall be finished, three persons shall be appointed to examine and report, and if a majority shall be in the affirmative, a similar license shall be granted.

And like application, on finishing one mile of said road progressively, &c.

SECT. 5. *And be it enacted by the authority aforesaid,* That every person or persons, who shall prefer an annual contract for the use of the said road, shall be entitled for himself and his family, to all the benefits of the same, except as to stages for the conveyance of persons for hire, and waggons for the conveyance of goods, wares and merchandize, for the sum of one dollar per mile annually, to be paid in such manner that a quarterly payment shall always be in advance. And if any person or persons, who wish to make such contract, shall think the annual sum aforesaid unreasonable, and disproportionate to the number of their family, and their use of the said road, the party so aggrieved, and the president of the said company, shall each choose one disinterested person, who shall decide what reduction shall be made from the annual payment aforesaid, and in case the two persons so chosen, cannot agree, they shall choose a third person, and then the three persons, or a majority of them, shall decide as aforesaid, or in case the said president of the New-Castle and Frenchtown turnpike company, shall neglect or refuse to choose a disinterested person, for the space of five days, the person chosen by the party aggrieved as aforesaid, shall decide what reduction ought to be made, and the sum thus fixed, shall be the commutation of such person, for the current year.

Annual contract for the use of said road—at \$1 per mile per year;

How paid;

Proceedings, in case such annual sum be thought unreasonable.

SECT. 6. *And be it enacted,* That if any person or persons owning, riding or driving any carriage of burthen or pleasure, or owning, riding, leading or driving any horse, mule or ox; or driving any hogs, sheep or cattle, and shall with an intent to evade or defraud the said company of the tolls, pass therewith, through any gate, or bar, or along, or over any other private passage, way, or along, or over any

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Penalties on
persons at-
tempting to
evade the tolls;

How recovered.

Commissioners
of roads in New-
Castle and Pen-
cader hundreds
respectively—
authorized to
subscribe for,
not exceeding
100 shares ;

Proviso.

Commissioners
of roads in said
hundreds, au-
thorized to
raise the money
for the shares
subscribed ;

The manner of
raising the same

ground or land near to, or adjoining any turnpike or gate, which shall be erected in pursuance of the act to which this is a supplement ; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse, or other beast, or cattle of draught or burthen, from any carriage of burthen or pleasure ; or shall practise any other fraudulent measure or device, with intent to evade or lessen the payment of any such toll or duty, all and every such person or persons, offending in manner aforesaid, shall for every such offence respectively, forfeit and pay to the said company, the sum of fifteen dollars, to be sued for and recovered, with cost of suit, before any justice of the peace, as debts of the same amount are recovered, by the laws of this State.

SECT. 7. *And be it enacted*, That it shall and may be lawful for the commissioners of roads in New-Castle hundred, for the time being, or a majority of them, or the commissioners of roads, for the time being, in the hundred of Pencader, or a majority of them, to subscribe for any number of shares of the capital stock of the said company, not exceeding one hundred shares for each hundred : *Provided*, the said respective commissioners of roads, or a majority of them shall deem it for the benefit of the respective hundreds, then they are hereby authorized and empowered to take and hold the said shares, which may be so subscribed, for the use of their respective hundreds, and to exercise the right of voting at all elections for a president, managers and other officers, and in all questions relating to the affairs of said company ; and to receive the dividends of such shares, in trust for their respective hundreds ; and it shall and may be lawful for the commissioners of roads, in the respective hundreds aforesaid, or a majority of them, to raise the money for the shares of the capital stock, by them subscribed, in the manner prescribed by law, for assessing and collecting road-taxes, within the respective hundreds of the county of New-Castle.

SECT. 8. *And be it enacted*, That if the said company shall not proceed to carry on and complete two miles of the said work, within two years after the passing of this act, or shall not within ten years thereafter complete the said road, according to the true intent and meaning of this act, then in either of those cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, privileges and franchises, by this act granted to the said company.

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Cases in which the legislature may resume the rights, &c. granted by this act.

SECT. 9. *And be it enacted*, That the twenty-third section of the act to which this is an additional supplement, and such other parts of the said act as are hereby altered or supplied, are hereby repealed, made null and void.

Repeal of 23 sec. of original act, &c.

Passed at Dover, Jan. 28, 1813.

C H A P. CCXXVII.

An ACT making provision for the support of government, for the year one thousand eight hundred and thirteen; and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of twelve thousand five hundred dollars, shall be raised and paid into the treasury of this State, within the time and in the manner directed by an act of the General Assembly, entitled, "An act making provision for the support of government, for the year of our Lord, one thousand eight hundred and ten, and for the more effectual ordering, assessing, levying and collecting all such taxes as may be granted by the General Assembly;" and shall be assessed and levied in the several counties

\$12,500 to be raised for support of government;

Vol. 4. chap. 122, p. 328.

The proportions
of the several
counties.

of this State in the following proportions : that is to say, for the county of New-Castle, the sum of four thousand seven hundred and sixty-one dollars and ninety cents ; for the county of Kent, the sum of four thousand one hundred and sixty-six dollars and sixty-seven cents ; and for the county of Sussex, the sum of three thousand five hundred and seventy-one dollars and forty-three cents.

Appropriation
thereof.

SECT. 2. *And be it enacted*, That the aforesaid sums of money, shall be appropriated and applied to and in the following manner : that is to say, so much thereof as may be necessary, shall be applied to the payment of the salaries due and to become due to the governor, chancellor, judges of the Supreme court and court of Common Pleas, attorney general, secretary, and auditor of accounts, up to the first day of January, which will be in the year of our Lord, one thousand eight hundred and fourteen ; and so much thereof as may be necessary, shall be applied to the payment of the daily allowance of the members of the General Assembly, their clerks, and other expenses, and for printing the laws passed at this session of the General Assembly, and the votes and proceedings of the two branches thereof, and the residue (if any there be) shall be applied to the payment of any sums of money due to the citizens of this State, for which provision shall be made by law.

Deficiency of
tax for 1809, in
New-Castle and
Sussex ;

(Vol 4. chap.
91. p. 268.)

SECT. 3. And whereas there is a deficiency of the tax granted by the act, entitled, " An act making provision for the support of government, for the year one thousand eight hundred and nine, and for other purposes," in the county of New-Castle, of the sum of one thousand six hundred and fifty-five dollars and six cents, and in the county of Sussex, of the sum of forty-seven dollars and one cent : *Be it therefore enacted*, That the said sum of one thousand six hundred and fifty-five dollars and six cents, be raised and levied in the county of New-Castle ; and the said sum of forty-seven dollars and one cent, be

raised and levied in the county of Sussex, in the time and in the manner as is directed by the first section of this act, in addition to the sums mentioned in the said section.

To be raised in said counties in addition to proportions in sec. I

Passed, Jan. 29, 1813.

C H A P. CCXXVIII.

An ACT concerning the lands and premises of which James Maxwell, late of Duck-creek hundred, in Kent county, who died intestate, was the owner at the time of his death.

Passed at Dover, Jan. 29, 1813—Private act.

C H A P. CCXXIX.

A supplement to an act, entitled, "An act to enable certain persons therein named, to raise a sum of money not exceeding four thousand dollars, by lottery, for the purpose of paving or turnpiking the street in the village of Newark, in New-Castle county, and for repairing the English school-house and market-house of said village."

Vol. 4, chap. 173. p. 484.

WHEREAS it hath been made appear to this General Assembly, that the intention of the act to which this is a supplement, has not been executed in consequence of the death of James Tilton, and the resignation of George Russel, Levi Boulden, Andrew Gray and Frederick H. Holtsbecker: In order to supply the said vacancies—

Preamble.

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Managers appointed in place of those named in original act, with name and powers, &c.

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Henry Whitely, John Evans, Benjamin Watson, Joseph Chamberlain, jun. and John Hustler, be and they are hereby appointed managers of the said lottery, to act in the place and stead of James Tilton, deceased, and those herein named who have resigned, and that they shall have and possess the same power and authority, and likewise be subject to the same restraints and conditions as those named in the act to which this is a supplement.*

Passed, Jan. 29, 1813.

C H A P. CCXXX.

An ACT to authorize Parran Taylor, to remove his negro man Thomas, from this State, into the State of Maryland.

Passed, Jan. 29, 1813—Private act.

C H A P. CCXXXI.

4 Vol. chap. 52, p. 165 *A Supplement to the act, entitled, "An act to incorporate a school, near St. James' church, in Mill-creek hundred, and county of New-Castle."*

Preamble.

WHEREAS it appears to this General Assembly, that great inconveniences have arisen in consequence of the number of trustees being required to meet before any business can be transacted, for remedying whereof :

SECT. 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That at the next annual meeting of the contributors and supporters of "St. James' School," it shall be lawful for them to elect five persons as trustees of the said school, for the current year, and annually in future, and a quorum of that number being met, shall have full power and authority of doing and performing all such matters and things as is authorized in the act to which this is a supplement.

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Five trustees of said school to be elected, and a quorum of that number authorized to act, &c.

SECT. 2. *Be it enacted,* That so much of the act to which this is a supplement, as is hereby altered, be and the same is hereby declared null and void, any thing in the said act to the contrary notwithstanding. Repeal.

Passed, Jan. 29, 1813.

C H A P. CCXXXII.

A supplement to the act, entitled, "An act to prevent trespasses being committed on the North-east side of Lewes creek, called the Cape, in the county of Sussex." Vol. 3, chap. 28, p. 67.

SECTION 1. *BE it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That if any person shall, for any offence against the said act, hereafter committed, be indicted and convicted, he shall be liable to be fined therefor, in any sum not exceeding five hundred dollars, in the discretion of the justices of the quarter sessions of the peace for the said county.

Persons convicted, liable to be fined not exceeding \$ 500.

Passed at Dover, Jan. 30, 1813.

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Vol. 4, chap. 49,
p. 123, chap. 217
p. 582.

An additional supplement to the act, entitled, "An act to establish an uniform militia throughout this State."

Additional days
for exercising
companies, and

additional bat-
talion muster.

SECT. 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That in addition to the days assigned for exercising of companies, the said companies shall be exercised once in every month of July and August: that there shall be one additional battalion muster in every month of October; and that all the provisions of the existing militia laws, in relation to the duty of the officers, subalterns and privates, shall hereafter apply to them respectively, with equal force and effect, as if the said battalions had been required by the fifteenth section of the said act, to be exercised once in every month of May and October, and the companies once in every month of April, July, August and November.

The returns re-
quired by 29th
sect. of original
act, hereafter to
be made to the
brigade inspec-
tors, instead of
adjutant general

SECT. 2. *And be it enacted,* That the officers who are required by the twenty-ninth section of the said act, to make the returns mentioned in the said section, shall be, and are hereby required, under the penalty for neglect of duty therein mentioned, to make them to the brigade inspectors of their respective brigades, instead of making them to the said adjutant general.

Duty of adjutant
general, brigade
inspector, com-
manding offi-
cers of regiment
and majors, in
transmitting
and distributing
orders;

SECT. 3. *And be it enacted,* That it shall be the duty of the adjutant-general, to transmit the orders which he may receive under the said twenty-ninth section, to the brigade inspectors of the respective brigades, whose duty it shall be to distribute the necessary orders in pursuance thereof, to the commanding officer of each regiment, who in like manner shall issue orders to the majors, and they to the captains; and for neglect of duty herein, on the

part of any officer, he shall be put under arrest; if a brigade-inspector, by the adjutant-general; if a colonel, by the brigade-inspector, by and under the authority of the brigadier-general; if a major, by his colonel, and if a captain, by his major; and such officers shall abide the determination of a court-martial to be convened for that purpose, in the manner directed by the thirty-third section of the said act, which may impose a fine not exceeding thirty dollars, or cashier the said officer, or excuse him, if they see good cause for so doing; subject to be approved or disapproved of by the officer appointing such court-martial.

Proceedings
and penalty for
neglect of duty.

SECT. 4. *And be it enacted*, That each brigade-inspector shall receive a compensation for his services, not exceeding thirty dollars in the course of any one year, to be fixed by the commander in chief, and to be paid by the treasurer, out of the fines of the brigade; and that the adjutants of regiments shall be respectively paid out of the said fines, for each days' service they perform in exercising regiments, the sum of three dollars, for battalions the sum of two dollars, and for exercising single companies, the sum of one dollar, for each and every day, and no more, upon their producing to the treasurer a certificate of the commanding officer of a battalion or regiment, as the case may require, setting forth the number of days' service.

Compensation
to brigade-in-
spectors;

Payment to ad-
jutants.

SECT. 5. *And be it enacted*, That if at the time assigned for the meeting of any company court-martial, any of the members thereof, should be absent, it shall be the duty of the commanding officer, to supply their places by other appointments; and that any person refusing or neglecting to serve on any company court-martial, and not having therefor in the opinion of the said commanding officer, a good excuse, shall be fined, if a subaltern, ten dollars, and if a private, one dollar.

Proceedings in
case of non-at-
tendance of
members of
company courts
martial;
Penalty for re-
fusing or ne-
glecting to
serve on such
courts-martial.

Captains or commanding officers of companies or troops to give notice of court-martial to delinquents; Manner of serving such notice;

Fees for serving notices, and how paid;

Fees for serving notices of enrolment according to 1st sec. of original act.

County treasurer to deliver to auditor,

A list of justices refusing to give judgment according to 17th sec. of original act;

A copy to be laid before legislature.

Duty of field-officers before giving a cer-

SECT. 6. *And be it enacted*, That it shall be the duty of every captain or commanding officer of a company or troop of horse within this State, previous to holding any court-martial for the trial of delinquents or absentees, to serve every such delinquent or absentee by the hands of a non-commissioned officer of his company or troop, with a written notice of the time and place of meeting of such court-martial, at least three days before such trial shall take place; and for every such notice so given, the non-commissioned officer serving the same, agreeably to the directions of this act, shall receive twenty-five cents out of any monies arising from militia fines in the hands of the county treasurers, of the several counties of this State respectively, who are hereby authorized and required to pay the same upon the account of such non-commissioned officer being presented, duly authenticated with the hand and seal of the captain or commanding officer of the company to which such non-commissioned officer shall belong; and that every non-commissioned officer, who shall duly notify any person of his enrolment, agreeably to the first section of the act, to which this is an additional supplement, shall for every such notice, so duly served, in like manner, receive the sum of twenty-five cents, in manner and form aforesaid.

SECT. 7. *And be it enacted*, That the county treasurer shall annually deliver to the auditor, at the time of passing his accounts with the said auditor, a list of the names of those justices of the peace, who neglect or refuse to give judgments in pursuance of the seventeenth section of the said act; which lists shall set forth each particular case wherein such neglect or refusal shall take place; and that a copy of such lists shall be laid annually, at the January session, before the General assembly.

SECT. 8. *And be it enacted*, That before the field officers shall give a certificate under the proviso of

the seventeenth section of the said act, it shall be their duty to require the applicant to prove to them by one or more credible witnesses, on oath, to be administered by some one of the said field officers, that he hath a good and sufficient excuse for the non-performance of the duty assigned to him by the said section, and that he hath since made the returns required therein, or a return, if the case shall require it, as directed by the twentieth section of said act; that it shall be the duty of the said field-officers to set forth particularly in their certificate the reasons at large for their remission of the fine of such applicant; that it shall be the duty of the county treasurer to make out a fair transcript of every such certificate, and deliver it annually to the auditor at the time of settlement, that the same may be laid by him before the General assembly at their January session, in order that the legislature may see which of the said field officers, if any, by misusing the discretionary power vested in them, encourage in their inferior officers the neglect of so important a duty as that enjoined upon them by the said sections; and that any officer in the militia may be removed from office by the governor, on the address of both houses of the legislature.

certificate under proviso in 17th sec. of original act:

What must be set forth in such certificate;

County treasurer to deliver transcript of such certificate to auditor—to be by him laid before the General assembly; Purpose;

Officers liable to be removed on address of legislature.

SECT. 9. *And be it enacted,* That Liston A. Houston, late commissary of military stores for the county of Sussex, shall be permitted and allowed to settle and pass his accounts with the auditor, at any time before the first day of June next, in the same manner, and upon the same terms as is directed by the act, entitled, "An act to establish a uniform militia throughout this State, passed August 13th, 1807, and to have the same effect, as if the settlement had been made within the year, as is prescribed and directed by the said act.

Liston A. Houston, commissary for military stores for the county of Sussex, permitted to settle his accounts at any time before 1st of June, &c.

SECT. 10. *And be it enacted,* That so much of the said act, and of every other act, as is hereby altered or supplied, be, and the same is hereby repealed, made null and void.

Repeal.

Passed at Dover, Jan. 30, 1813.

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A supplement to the act, entitled, "An act to authorize the owners and possessors of the marsh and low grounds, commonly called and known by the name of Marshyhope, in Mispillion hundred, and county of Kent, to cut a ditch or drain through the same.

Passed at Dover, Jan. 30, 1813—Private act.

C H A P. CCXXXV.

An ACT for erecting and keeping in good repair, a draw-bridge over St. Jones' creek.

Preamble.

WHEREAS the erection of a draw-bridge over St. Jones' creek, near the Forest Landing, will be of great public utility, and it being represented to this General assembly, that the persons more immediately interested in the erection of said draw-bridge, are willing to make ample contributions for that purpose—

Commissioners.

SECT. 1. *BE it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Henry Molleston, Philip Hardcastle, John Conwell, Thomas Knock, and Thomas Canday, be, and they are hereby appointed commissioners, who, or a majority of whom, shall have full power and authority to fix upon and ascertain the proper site or place for a draw-bridge across St. Jones' creek, near the Forest Landing, either above or below the same, in their discretion; and when they have so fixed upon and ascertained a proper site for the said bridge, to*

make a return of their proceedings in the premises, to the court of general Quarter Sessions of the peace for Kent county, there to be filed of record.

Proceedings to be returned.

SECT. 2. *And be it enacted*, That James P. Morris, Ezekiel Hunn, and Charles Kimmey, be, and they, or a majority of them, are hereby appointed managers, with full power and authority to collect and receive all such sums of money as any person or persons of his, her or their own free will and accord, may or shall contribute for the erection of a draw-bridge over and across St. Jones' creek, at such place as may be fixed on by the commissioners aforesaid, and a good and sufficient causeway from the said bridge over the cripple bordering on the said creek; and when the said managers shall have collected and received a sufficient sum of money to enable them to erect and build a good and sufficient draw-bridge over and across the said creek, of at least eighteen feet wide, and a causeway across the said cripple, it shall and may be lawful for them, and the survivors of them, and they are hereby required and enjoined to lay out and expend the same, in the purchase of materials and the employment of workmen and labourers in and about the building, erecting and making of the said draw-bridge and causeway, and to proceed in the same, until the said work is completely finished.

Managers:

Their powers.

Width of the bridge.

SECT. 3. *And be it enacted*, That the said bridge shall be built of timber of the most durable kind that can be procured, with a draw of the length of at least twenty feet over the channel or deepest part of the said creek, for the purpose of letting vessels pass and re-pass through the same; and the persons navigating the said vessels so passing and re-passing, are hereby directed to raise or remove the said draw, in such manner as that the same receive no damage thereby, under the penalty of ten dollars for every such neglect or offence herein, to be recovered with costs before any justice of the peace for Kent county,

Bridge, how built;

Length of draw;

Draw to be raised by persons navigating the creek;

Penalty for injuring the same;

How recovered.

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one half thereof to be applied to the use of the party suing for the same, and the other half thereof to the purpose of maintaining the said bridge in good order and repair.

Bridge and
causeway to be
deemed a public
highway, and re-
paired as other
bridges ;

Penalty for inju-
ring it.

SECT. 4. *And be it enacted,* That the said draw-bridge and causeway, after they shall have been so erected, and made as aforesaid, shall be deemed and taken to be a public highway, free for all persons to pass and re-pass over and across the same, free from toll or pontage ; and the said bridge and causeway are hereby directed to be kept in good order and repair, in the same manner that other bridges are directed to be kept ; and if any person shall wilfully injure or destroy the said bridge, such person so offending, upon conviction in the court of General Quarter Sessions of the peace, for the county aforesaid, shall be fined by the court in such sum as they in their discretion shall think proper.

Managers to
keep accounts
of receipts and
expenditures ;

To be examined
and adjusted by
county treas-
urer ;

Appropriation
of money re-
maining in
hands of the
managers.

SECT. 5. *And be it enacted,* That the said managers shall keep a regular and fair account of all sums of money received by them as aforesaid, and of the expenditures by them had and made in and about the necessary building, erecting, making and completing of the said draw-bridge and causeway ; and after the same shall be finished and completed as aforesaid, the said accounts shall be open to the inspection and examination of the county treasurer for the time being, who is hereby vested with full power and authority to examine into and inspect the said accounts, and to adjust and settle the same, and to report to the commissioners of the Levy-court and court of Appeals for Kent county, what sum if any there be, remaining in the hands of the said managers, or the survivors of them, and the balance, if any, so remaining, shall be paid over to the said treasurer, and shall be appropriated and applied to the purpose of maintaining and keeping the said draw-bridge and causeway in good order and repair ; and in case of neglect or refusal to pay over the said balance by the

said managers, or any of them, to the said treasurer, then he is hereby empowered and directed to sue for and recover the same.

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SECT. 6. *And be it enacted*, That the managers aforesaid, shall have power and authority to contract with the owner or owners of the cripple and land adjacent to the said bridge, for so much thereof, as may be necessary for the making and laying off the said causeway, and getting and procuring sand and gravel for the said causeway.

Power of the managers to contract for land and cripple adjacent to the bridge, &c.

Passed, January 30, 1813.

C H A P. CCXXXVI.

An additional Supplement to an act, entitled, "An act to enable the owners and possessors of the meadow grounds, marsh and cripple, on Red-lion-creek, in New-Castle county, to put the bank, dams, sluices and flood-gates in repair, and to raise a fund to defray the expenses thereof."

Passed, January 30, 1813—Private act.

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An ACT to enable M^r Kimmey Hudson, to erect a dam on or across Cesar's-branch, in Baltimore hundred, and county of Sussex, and for the condemnation of two acres of land on the west side of the same, at the place contemplated by the petitioner.

Passed, February 1, 1813—Private act.

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An ACT to incorporate a company for making an artificial road from or near the New-Castle turnpike road, in New-Castle hundred, in the county of New-Castle, to the line of the State of Maryland, on the route through the villages of Christiana bridge and Newark.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That John Hindman, Henry Wheatly, David Nivin, George R. Massey, John Crow, and Charles Thomas, be, and are hereby appointed commissioners, to do and perform the several things hereinafter mentioned: that is to say, they shall, on or before the fourth Tuesday of March next, procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president and managers of the New-Castle and White-Clay-creek hundreds turnpike road, the sum of twenty-five dollars for each and every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of said company;" and shall thereupon give at least ten days public notice, when and where the said books shall be opened, to receive subscriptions for the stock of the said company; at which time and place, some two of the said commissioners shall attend, and shall permit all persons of lawful age, or corporations, who shall offer to subscribe in their own name, or names of any other persons who shall duly authorize the same, for any number of shares in the capital stock; and the said books shall be kept open, by some one of the said commissioners until four hundred shares shall be subscribed therein: *Provided,*

Commissioners
to open books
for subscrip-
tions.

And give notice
of time and
place of opening
the same.

Kept open till
400 shares sub-
scribed.

That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay the attending commissioner or commissioners, the sum of five dollars, for every share to be subscribed; out of which shall be paid the expenses attending the taking the subscriptions, and other incidental charges, and the remainder shall be paid over to the treasurer of the corporation, as soon as the same shall be organized, and the officers chosen as hereafter mentioned.

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SECT. 2. *Be it enacted by the authority aforesaid,* That when ten or more persons shall have subscribed four hundred shares, aforesaid, of the said stock, they shall be created and erected into one body politic and corporate, by the name, style and title of, "The New-Castle and White-Clay-creek hundred Turnpike Company;" and by the same name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intention of this act; and of purchasing, taking and holding to them, their successors and assigns, and of selling, transferring, and conveying, in fee-simple, or any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary for them, in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing, which a corporation or body politic may lawfully do.

Subscribers in-
corporated—
name.

Power of en-
larging stock.

SECT. 3. *And be it enacted,* That the commissioners aforesaid, or a majority of them, as soon as conveniently after four hundred shares of the capital stock shall be subscribed, shall give at least ten days public notice of the time and place by them to be appointed, for the first meeting of the subscribers; at which time and place, the said subscribers shall

Notice of first
meeting of sub-
scribers.

and their proceedings at such meeting—elections.

Proviso—

Number of votes limited.

Future meetings and elections.

Certificates for shares, how assigned.

proceed to organize the said corporation, and shall choose, by a majority of votes of the subscribers, by ballot, to be delivered in person or by proxy, duly authorized, one president, and six managers, one treasurer, and such other officers, as they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company: *Provided always*, That no person shall have more than five votes at any election, or in determining any questions arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share by him held under that number: *Provided*, That all future meetings and elections of the said corporation, shall be held, with such notice, and in manner and form aforesaid, at such time and places, as the president and managers aforesaid, or a majority of them, shall direct and appoint.

SECT. 4. *And be it enacted*, That certificates for shares shall be issued in such form as the said president and managers shall direct, and shall be signed by the treasurer, and sealed with the seal of the corporation, which certificate shall be transferrable, in person, or by attorney, in the presence of the treasurer, subject, however, to all payments due, and to grow due thereon: and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for that purpose, shall be a member of said corporation, and for such certificate, shall be entitled to the number of shares therein mentioned, and to such proportion of all estates and emoluments of the company, as such shares may entitle him to, and to vote as aforesaid, at the meetings thereof.

SECT. 5. *And be it enacted*, That the president and managers, shall meet, at such times and

places, and may be convened in such manner, as shall be agreed on, for transacting their business; at which, four shall form a quorum, and in case of the absence of the president, may choose a chairman, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendants, artists, and officers, as they shall judge necessary, to carry on the intended works, and to fix their salaries and wages; to ascertain the times, manner and proportions, when and in which the stock-holders shall pay the money due on their respective shares, in order to carry on the work; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for labour done, and materials provided in the prosecution of the work; which orders, shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary; and generally, to do all such other acts, matters and things, as by the bye-laws, rules, orders and regulations, of the company, shall be committed to them.

Meetings of president and managers; their proceedings and powers—to employ artists, &c.

To determine the time and proportions of payment of subscriptions.

SECT. 6. *And be it enacted,* That if any stockholder, whether original subscriber or assignee, after ten days notice in one of the public papers printed in this State, or other notice in writing, of the time and place appointed for the payment of any proportion or instalment of the capital stock, in order to carry on the said work, shall neglect to pay such proportion, at the place appointed, for the space of thirty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums

Notice of payment of instalments directed;

Original instalment directed, and penalty recovered by sale of share—or

Suits.

Proviso.

Stockholder not entitled to vote, until whole sum payable from him be paid.

Power of president, managers, &c as lands within the limits of certain roads ;

Width of the road, and how made.

before paid, in part and on account of such shares, the same shall be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase the same, for such price as can be obtained therefor ; or in default of payment, by any stock-holder, of any such instalment, as aforesaid, the president and managers, may, at their election, cause suits to be brought, before a justice of the peace, or in court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid : *Provided always*, That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with the accumulated penalty, at the rate aforesaid, as shall equal the sums before paid on the same shares, and the costs of suit ; *And provided also*, That no stock-holder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable, as aforesaid, on the share or shares by him held at the time of such election, or general or special meeting shall have been fully paid and discharged, as aforesaid.

SECT. 7. *And be it enacted*, That the said president, managers and company, shall have power, and it is hereby declared to be lawful for them, their superintendants, surveyors, engineers, artists and workmen, to enter upon and occupy all the lands within the limits of the road called and known by the name of the State road, formerly the King's-road, leading from the intersection of the Wilmington bridge company road, at Clarke's corner, to Christiana bridge, and through the said village of Christiana bridge, and thence with the State road through the village of Newark, to the line of the State of Maryland, near to the house of Thomas Philips, and to cause twenty feet thereof, at least, to be made an artificial road ; which shall be bedded with wood, stone, gravel, clay or other proper and convenient materials, well compacted together, a sufficient depth to secure a solid foundation

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for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or other small hard substance; in such manner, as to secure a firm; and as nearly as the nature of the country, and the materials will admit, an even surface, rising towards the middle, by a gradual arch; and shall maintain and keep the same in good order and repair.

SECT. 8. *And be it enacted,* That as soon as the president and managers of the New-Castle and White-Clay-creek hundred turnpike company, shall have made and finished two miles of the said road, it shall and may be lawful for the said president and managers to make an application to the Governor of this State, who is hereby authorized and required upon such application, to nominate and appoint three skilful and judicious persons, to view and examine the same, and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the Governor shall, by license, under his hand, permit the gates to be erected, and the following tolls to be collected; and the said president and managers shall appoint from time to time, such and so many toll-gatherers as they shall think proper, to collect and receive of, and from all and every person and persons using the said road: to wit, for any person riding, leading or driving any cattle, hogs, sheep, sulkey, chair or chaise, phaeton, coach or coachee, cart, waggon, wain, sleigh, sled, or other carriage of burden or pleasure, for passing through the said gates or turnpikes, for each and every mile of said road, to wit, for every score of sheep, or hogs, one and an half cents; and so in proportion for any greater or less number of sheep or hogs; for every score of cattle, three cents; for any horse or mule, laden or unladen, one cent; for any sulkey, cart, chair or chaise, with one horse, one and an half cents; with two horses, two and an half cents; for any coach, coachee, phaeton, or waggon, with two horses, three cents;

Application to the Governor, for appointment of freeholders to view the road, &c.

License to erect gates, &c.

Tolls.

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for either of the carriages last mentioned, with four horses, five cents; for any sleigh or sled, one cent for every horse drawing the same; for any cart or waggon drawn by oxen, for each ox in the same, one cent.

President and managers to keep accounts of all monies received, and declare half yearly dividends.

SECT. 9. *And be it enacted*, That the president, and managers of the aforesaid company, shall keep a just and true account of all monies received, and shall half yearly make and declare a dividend of the clear profits (all contingent costs and charges, and a reasonable fund for repairs, and for the improvement of the said road, being first deducted and reserved) among all the subscribers to the said stock of the said company; and shall publish the half yearly dividends to be made of the clear profits among the stock-holders, and give notice of the time and place where the same will be paid, and shall cause the same to be paid accordingly.

Annual contracts for the use of the road authorized;

Proceedings in case sum fixed be unreasonable.

SECT. 10. *And be it enacted*, That every person or persons who shall prefer an annual contract for the use of the said road, shall be entitled, for himself and family, to all the benefits of the same, except as to carriages for the conveyance of persons, for horses and waggons conveying articles for hire, for the sum of one dollar per mile, to be paid for each and every mile of the said road, so by the person or persons to be used, in such manner that a quarterly payment shall always be in advance; and if any person or persons shall think the said annual contract unreasonable, and disproportionate to the number of their family, and their use of the said road, the party aggrieved, and the president of the said company, intended to be created by this act, shall each choose one disinterested freeholder, who shall decide what reduction, if any, shall be made from the annual payment, herein before specified; and in case the two persons so chosen, cannot agree, they shall choose a third person, and then the three persons, or a majority of them, shall decide as aforesaid, or in case the said president shall refuse or neglect to choose a freeholder for the pur-

pose aforesaid, for the space of ten days, then the freeholders chosen by the party aggrieved, as aforesaid, shall decide what reduction ought to be made; which shall be the commutation for the current year.

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SECT. 11. *And be it enacted by the authority aforesaid,* That if any person or persons owning, riding on, or driving any carriage of burden or pleasure, or owning, riding, leading, or driving any horse or mule, or driving any hogs, sheep or cattle, shall, with an intent to deceive or evade the payment of any toll or duties in this act mentioned, and with an intent to defraud the said company, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this act; or if any person or persons shall, with an intent aforesaid, take off, or cause to be taken off, any horse or other beast or cattle of draught or burden, from any carriage of burden or pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending, in manner aforesaid, shall for each and every offence, respectively forfeit and pay to the said New-Castle and White-Clay-creek hundred turnpike company, the sum of fifteen dollars, to be sued for and recovered, before any justice of the peace, as other debts are by the laws of this State recoverable.

Penalty for attempting to evade or lessen the tolls.

How recovered.

SECT. 12. *And be it enacted,* That it shall be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of draught or burden, to enter upon the lands, in, over, contiguous to, and near to which the route and track of the said road, first giving notice of their intention, to the owner or occupiers thereof, and

President and managers may enter upon adjacent lands.

Damages how
ascertained.

doing as little damage thereto, as possible, and repairing any breaches they may make in the enclosure thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of New-Castle county, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, or stone, gravel, and earth, or other materials there, conveniently situated for making or repairing said road.

May take timber, stone, &c. on tender of the appraised value.

Proceedings in case road is not kept in repair;

SECT. 13. *And be it enacted*, That if the said company shall neglect to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of the county, such justice shall issue a precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in the said precept mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in good and perfect order and repair as aforesaid; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the freeholders; and if the said road shall be found by the said inquisitors, not to be in such order or repair, as is herein required, he shall so certify, and send one copy of the said inquisition to the keeper or keepers of the turnpike or gates, and from thenceforth, the tolls hereby granted, shall cease to be demanded, paid or collected, until the said defective part or parts of the said

Tolls to cease, &c. if not repaired, &c.

road shall be put in good and perfect order, as aforesaid.

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SECT. 14. *And be it enacted,* That it shall not be lawful for the said company, to put, or cause to be put, any let, hindrance or obstruction whatever, with intent to obstruct or prevent any other turnpike company which now is, or may hereafter be, incorporated, from forming a junction with the New-Castle and White-clay-creek hundred turnpike company road, or in any manner to prevent the passing or re-passing to and from the same, and in case of neglect to repair that part of the said turnpike road, which may be opposite to the place where any such turnpike road may join the same; that it shall be lawful for the said company forming a junction as aforesaid, to repair such parts of the said road.

Not lawful for the company to obstruct other turnpike roads from entering this.

SECT. 15. *And be it enacted,* That if any toll-gatherer on the said road, shall demand from any person or persons using the said road, any greater rate or toll, than by this act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence, one half to the use of the county of New-Castle, and the other half to the use of the person suing for the same, to be recovered as other debts of the same amount are by the laws of this State.

Penalty for demanding unlawful toll.

SECT. 16. *And be it enacted,* That if in the case of any suit or prosecution, which shall be commenced under this act, for any penalty incurred under the same, whether by or against the company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor; then and in such case, the person or persons prosecuted as aforesaid, shall recover by judgment of the justice or the court, before whom such suit or prosecution shall be depending, such sum not exceeding the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution, for the vexation of such suit or prosecution.

If a suit be brought by, or against the company, for penalty under this act, shall not be sustained, defendant shall recover.

Penalty for injuring gates, works, &c. belonging to the turnpike.

SECT. 17. *And be it enacted*, That if any person or persons shall cut, damage or destroy any of the turnpike gates, or other works of the said company, or shall remove the same, or injure, or destroy any tree or trees planted by the said company, on the said road; he, she or they so offending, and being thereof convicted, before any justice of the peace of New-Castle county, upon the oath or affirmation of one or more credible witness or witnesses, shall forfeit and pay for every such offence, over and above the damages done, the sum of thirty dollars, to be recovered under the hand and seal of the justice of the peace, before whom such conviction was had, and to be applied to, and for the use of New-Castle county.

Limitation of suits under this act.

SECT. 18. *And be it enacted*, That no suit or action shall be brought or prosecuted by any person or persons, for any penalty which may be incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed: and the defendant or defendants in such suit or action, may plead the general issue, and give this act, and the special matter in evidence.

Waggoners, carters and drivers of carriages, to keep on the right hand side of the road.

SECT. 19. *And be it enacted by the authority aforesaid*, That all waggoners, carters and drivers of carriages of all kinds, whether of burthen or pleasure, using the said road, shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right-hand side of the said road, in the passing direction, leaving the other side of the said road free and clear for other carriages to pass and repass; and if any waggoner, carter or driver, shall offend against this provision, he shall forfeit and pay any sum not exceeding five dollars, to any person or persons, who shall by reason thereof be obstructed in his or their passage, and will sue for the same, before any justice of the peace, to be recovered with costs, as debts under forty shillings are recoverable by law.

SECT. 20. *And be it enacted,* That this corporation intended to be created by this act, shall cease, when and as soon as the commissioners of roads in and for the hundreds of New-Castle and White-clay creek, shall pay to the said company the amount of the money which may be expended for the improvement of the said road.

The corporation to cease, on payment of amount expended in making roads.

SECT. 21. *And be it enacted,* That if the said company shall not proceed to carry on, and complete two miles of the said work, within two years after the passing of this act, or shall not within ten years thereafter, complete the said road, according to the true intent and meaning of this act, then, in either of those cases, it shall and may be lawful for the legislature of this State, to resume all and singular, the rights, privileges and franchises, by this act granted to the said company.

Unless two miles of the road shall be completed in two years, or the whole in ten years, the legislature may resume the rights, &c. hereby granted.

Passed, February 1, 1813.

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An ACT to incorporate a company for making an artificial road from the borough of Wilmington, on the east side of Brandywine bridge, to the Pennsylvania line, in the route leading to the city of Philadelphia.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That General Thomas Robinson, John Bellach, James Grubb, John Elliott, Edward Tatnall, Adam Williamson, William Hemphill and Thomas Smith, be, and they are hereby appointed commissioners; to do and perform the several things herein after mentioned: that is to say, they shall, on or before the

Commissioners;

To procure
books and when;

To give one
months' notice
of the opening
thereof;

To receive sub-
scriptions;

What time the
books shall be
continued open;

Adjournment in
what case, and
notice thereof;

Proviso—

Five dollars pay-
able on each
share subscrib-
ed.

tenth day of March next, procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, of the Wilmington and Philadelphia turnpike road, the sum of twenty-five dollars for every share of stock in the said company, set opposite to our respective names, in such manner and proportions, and at such times as shall be determined by the president and managers of the said company;" and shall thereupon give notice in one of the papers printed in this State, and one or more of the papers printed in the city of Philadelphia, for one calendar month, at least, of the time and place, when and where the said books shall be opened, to receive subscriptions for the stock of the said company; at which time and place, some two of the said commissioners, shall attend, and shall permit and suffer all persons of lawful age, who shall offer to subscribe in the said books, in their own name, or names of any other persons who shall duly authorize the same, for any number of shares in the said stock; and the said books shall be kept open for the purpose aforesaid, at least six hours in every juridical day, for the space of six days, or until the said books shall have six hundred shares therein subscribed; and if, at the expiration of the said six days, the books aforesaid, shall not have the number of shares therein, as aforesaid, subscribed therein, the said commissioners may adjourn from time to time, until the whole number of shares shall be subscribed; of which adjournment, the commissioners aforesaid, shall give such public notice, as the occasion may require; and when the whole number of shares shall amount to twelve hundred, the books shall be closed: *Provided always*, That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioners, the sum of five dollars, for every share to be subscribed; out of which shall be defrayed the expenses attending the taking such subscriptions, and other incidental charges, and the remainder shall be paid over to the trea-

suror of the corporation, as soon as the same shall be organized, and the officers chosen as hereafter mentioned.

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SECT. 2. *And be it further enacted*, That when, and as soon as fifty persons, or more, shall have subscribed five hundred shares of said stock, the subscribers, and their heirs and assigns, shall be, and they are hereby declared to be incorporated, by the name, style and title of, "The Wilmington and Philadelphia Turnpike Company;" and by the said name, the said subscribers shall have perpetual succession, and all privileges and franchises incident to a corporation; and shall be capable of taking and holding their said capital stock, and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act; and of purchasing, taking and holding to them, and their successors and assigns, and of selling, transferring, and conveying, in fee-simple, or for any lesser term, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary to them, in the prosecution of their works; and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may or can lawfully do.

Subscribers in-
corporated.

Name and pow-
ers of the corpo-
ration.

SECT. 3. *And be it further enacted by the authority aforesaid*, That the commissioners aforesaid, as soon as conveniently may be, after the whole number of shares shall be subscribed, as aforesaid, shall give notice in one of the Wilmington newspapers, or other reasonable and sufficient notice, of a time and place by them to be appointed, not less than twenty days from the publication of the first notice; at which time and place, the said subscribers shall proceed to organize the said corporation; and shall choose, by a majority of votes of the said subscribers present, or by proxy, duly authorized,

First meeting of
subscribers, and
notice thereof;

Proceedings at
such meeting.

Election of officers; ten managers, who at their first meeting, shall choose one of their number as president, and shall choose one of their own number, or any other of the subscribers as treasurer, and such other officers, as they shall think necessary, to conduct the business of the said company, for one year, and until other such officers shall be chosen; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well-ordering the affairs of the said company : *Provided always*, That no persons shall have more than ten votes at any election, or in determining any question arising at such meeting, whatever number of shares he may be entitled to; and that each person shall be entitled to one vote for every share held by him under that number : *Provided nevertheless*, That all future annual elections of the said corporation, shall be held, with such notice, and in manner and form aforesaid, at such places, as the managers aforesaid shall direct and appoint.

Making of bye-laws.

Proviso, limiting number of votes ;

Proviso, providing for future elections.

Annual and

SECT. 4. *And be it further enacted by the authority aforesaid*, That the said company shall meet on the first Monday in January, in every year, at such place as shall be fixed by their bye-laws, for choosing officers, as aforesaid, for the ensuing year, in manner aforesaid, and at such other times as they shall be summoned by the managers, in such manner and form, as shall be prescribed by their bye-laws ; at which annual or special meetings, they shall have full power and authority to make, alter or repeal, by a majority of votes, in manner aforesaid, all such bye-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

Special meetings ;

Powers of such meetings.

Certificates for shares of stock ;

SECT. 5. *And be it further enacted by the authority aforesaid*, That the president and managers, first to be chosen, as aforesaid, shall procure certificates, to be written or printed, for all the shares of the said company, and shall deliver one such certificate, signed by the president, and countersigned by

the treasurer, and sealed with the common seal of the said corporation, to each person, for every share by him subscribed, and held, he paying to the treasurer, in part of the sum due thereupon, the sum of five dollars, for each share: which certificate, shall be transferable, at his pleasure, in person, or by attorney, in the presence of the president or treasurer, subject, however, to all payments due, and to grow due thereon: and the assignee, holding any certificate, having first caused the assignment to be entered in a book of the company, to be kept for that purpose, shall be a member of said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid, at the meeting thereof.

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Transferable,
and the manner
of transfers.

SECT. 6. *And be it further enacted by the authority aforesaid,* That the said president and managers, shall meet, at such times and places, and convened in such manner, as shall be agreed on, for transacting their business; at which meetings, five members shall form a quorum, who, in the absence of the president, may choose a chairman, pro-tempore, and shall keep minutes of all their transactions, fairly entered in a book; and a quorum being met, they shall have full power and authority to agree with, and appoint all such surveyors, superintendants, artists, and officers, as they shall judge necessary, for carrying on the intended works, and to fix their salaries or wages; to ascertain the times, manner and proportions, when and in which the stockholders shall pay the money due on their respective shares, in order to carry on the works; to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for the labour done, and materials provided in the prosecution of the work; which orders, shall be entered or registered on their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary; and

Meetings of the
president and
managers.

Quorum.

To keep minutes of their
transactions;

Their powers.

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generally, to do all such other acts, matters and things, as by the bye-laws, rules and regulations, of the company, shall be committed to them.

Notice and man-
ner of paying
the capital
stock ;

Penalty for non-
payment ;

Shares may be
forfeited and
sold ;

Or suits
brought.

Proviso.—limit-
ing the amount
to be recovered;

Proviso—re-
straining stock-
holders who
have not paid
the instalments

SECT. 7. *And be it further enacted by the authority aforesaid,* That if any stockholder, whether original subscriber or assignee, after thirty days public notice in one of the Wilmington newspapers, or if there be no such paper published, after thirty days public notice, in any other manner which may be deemed reasonable and sufficient, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the work, shall neglect to pay such proportion, at the place appointed, for the space of sixty days after the time appointed for the payment thereof, every such stockholder shall, in addition to the instalment so called for, pay at the rate of five per centum for every such delay of payment; and if the same, and the said additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sums before paid, in part and on account of said share, the same may be forfeited by, and to the said company, and may be sold by them to any other person or persons willing to purchase, for such price as can be obtained therefor; or in default of payment, by any stockholder, of any such instalment, as aforesaid, the said president and managers, may, at their election, cause suit to be brought, in any court, having competent jurisdiction, for the recovery of the same, together with the penalty aforesaid: *Provided always,* That the recovery in any suits shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with such accumulated penalty, at the rate aforesaid, as shall equal the sum before paid on the same share: *And provided also,* That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and paya-

ble, as aforesaid, on the share or shares by him held at the time of such election, or general or special meetings of the said company, shall have been fully paid and discharged, as aforesaid.

required, from voting ;

SECT. 8. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, their superintendants, surveyors, engineers, artists and chain-bearers, to enter into and upon all and every the lands, tenements and enclosures, in, through and over which, the said turnpike road may be thought proper to pass, and to examine the ground most proper for the purpose, and the quarries and beds of stone and gravel, and other materials in the vicinity, that may be necessary in making and constructing the said road ; and to survey, lay down, ascertain, mark and fix, such route or track for the same road, as in the best of their judgment and skill, will be most practicable, from the east end of Brandywine bridge, to the line between this State and Pennsylvania, near the house now occupied by John Shelby.

Powers of the president and managers, their superintendants &c. to enter lands &c. to lay out the road, &c.

The route

SECT. 9. *And be it enacted by the authority aforesaid,* That it shall and may be lawful to and for the said president and managers, by and with their superintendants, engineers, artists, workmen and labourers, with their tools and instruments, carts, waggons, wains, and other carriages, and beasts of draught and burthen, to enter upon the lands, in, over, contiguous to, and near to which the route and track of the said intended road, shall pass, first giving notice of their intention, to the owner or occupiers thereof, and doing as little damage thereto, as possible, and repairing any breaches they make in the enclosures thereof, and making amends for any damages that may be done to any improvements thereon, upon a reasonable agreement, if they can agree, or if they cannot agree, then upon an appraisement to be made, upon oath or affirmation, by three disinterested freeholders, any two of them agreeing,

Powers of the president and managers to enter lands, &c. upon notice to owners, and paying damages ;

Damages how determined.

And to take timber, stone, &c.

Powers of the company to make permanent bridges.

Width of road, and breadth of the artificial road.

How made.

Proviso,—restraining the taking of toll.

mutually to be chosen, or if the owners, upon due notice, shall neglect or refuse to join in the choice, then to be appointed by any justice of the peace of the county of New-Castle, not interested therein; and upon tender of the appraised value, to cut down, dig, take and carry away, any timber, stone, gravel, and earth, or other materials there, being conveniently situated for making or repairing the said road.

SECT. 10. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall have power to erect permanent bridges over all the waters crossed by the said route, whereon the same shall be found necessary; and shall cause a road to be laid out, not exceeding one hundred feet, nor less than sixty, from the east end of Brandywine bridge aforesaid, to the said line between this State and Pennsylvania, near the place aforesaid, by the route aforesaid, and cause twenty feet thereof, in breadth, at least, to be made an artificial road; which shall be bedded with wood, stone, gravel, clay, or other proper and convenient materials, well compacted together, a sufficient depth, to secure a solid foundation for the same; and the said artificial road, shall be faced with clay, gravel or stone, pounded, or other small hard substances, in such manner, as to secure a firm, and as nearly as the nature of the country, and materials will admit, an even surface, rising towards the middle, by a gradual arch; and shall forever hereafter maintain and keep the same in perfect order and repair: *Provided,* That no toll be demanded or taken from any person passing or re-passing from one part of his or their farm to another, or to or from any place of public worship, or funeral, on days appointed for that purpose.

SECT. 11. *And be it further enacted by the authority aforesaid,* That as soon as the said president, managers and company, shall have perfected the said road, contemplated by this act, any distance, not less

than two miles, and so, from time to time, any distance not less than one mile, progressively, they shall give notice thereof to the governor of this State, who shall forthwith, thereupon, nominate and appoint three skilful and judicious persons, to view and examine the same; and report to him, whether the road is so far executed, in a complete and workman-like manner, according to the true intent and meaning of this act; and if their report shall be in the affirmative, then the governor shall, by license, under his hand, and the great seal of the State, permit and suffer the said president, managers and company, to erect and fix such, and so many gates or turnpikes upon and across said road, as will be necessary and sufficient to collect the said tolls and duties hereinafter granted to the said company, from all persons travelling on the same, with horses, cattle and carriages.

Cases in which

The governor shall license gates to be erected to take tolls.

SECT. 12. *And be it further enacted by the authority aforesaid.* That the said company having perfected the same road, or such part thereof, from time to time, as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers as they shall think proper, to collect and receive of, and from all and every person and persons using the said road, the tolls and rates hereinafter mentioned; and to stop any person riding, leading or driving any horse or mule, or driving cattle, hogs, sheep, sulkey, chair, chaise, phaeton, cart, wagon, wain, sleigh, sled, or other carriage of burthen or pleasure, from passing through the said gates or turnpike, until they shall have respectively paid the same: that is to say, for every space of five miles in length of the said road, the following sums of money, and so in proportion for any greater or less distance, or for any greater or less number of hogs, sheep or cattle: to wit, for every score of hogs or sheep, six cents; for every score of cattle, twelve and an half cents; for every horse or mule, laden or unladen, with his rider

When

Toll gatherers may be appointed, and their powers.

Tolls.

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or leader, three cents; for every sulkey, chair or chaise, with one horse and two wheels, six cents, and with two horses, nine cents; for every chair, coach, phaeton, chaise, stage-waggon, coachee or light-waggon, with two horses and four wheels, twelve and an half cents; for either of the carriages last mentioned, with four horses, twenty cents; for every other carriage of pleasure, under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same; for every sleigh or sled, two cents for each horse drawing the same; for every cart or waggon, or other carriage of burthen, the wheels of which do not in breadth exceed four inches, four cents for every horse drawing the same; for every cart or waggon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, three cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than seven inches, and not more than ten inches, or being of the breadth of seven inches, and shall roll more than ten inches, two cents for each horse drawing the same; for every cart or waggon, the breadth of the wheels of which shall be more than ten inches, and not exceeding twelve inches, or being ten inches, shall roll more than fifteen inches, one cent and an half for each horse drawing the same; and for any such carriage, the breadth of the wheels of which shall be more than twelve inches, one cent for each horse drawing the same; and when any such carriage, as aforesaid, shall be drawn by oxen or mules, in the whole or in part, two oxen shall be estimated equal to one horse, and every ass or mule, as equal to one horse, in charging the aforesaid tolls.

SECT. 13. *And be it further enacted by the authority aforesaid,* That if any person or persons owning, riding on, or driving any carriage of burthen or pleasure, as aforesaid, or owning, riding, leading, or driving any horse or mule, or driving any hogs, sheep, or cattle, as aforesaid, shall, with an intent to defraud the said company, or to evade the payment of any of

the tolls or duties as aforesaid, pass therewith through any private gate or bar, or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected, in pursuance of this act; or if any person or persons shall, with the intent aforesaid, take off, or cause to be taken off, any horse or other beast, or cattle of draught or burthen, from any carriage of burthen or pleasure, or shall practise any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons so offending, shall for every such offence, respectively forfeit and pay to the Wilmington and Philadelphia turnpike company, the sum of fifteen dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in like manner, and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

Attempting to evade or lessen tolls;

Penalty;

How recovered

SECT. 14. *And be it further enacted by the authority aforesaid,* That if the said company shall neglect or refuse to keep the said road in good and perfect order and repair, for the space of fifteen days, and information thereof, shall be given to any justice of the peace of New-Castle county, aforesaid, such justice of the peace shall issue his precept, directed to any constable, commanding him to summon three judicious freeholders, to meet at a certain time in said precept to be mentioned, at the place in the said road, which is complained of, of which meeting, notice shall be given to the keeper of the gate or turnpike nearest thereto; and the said justice shall, at such time and place, by the oath or affirmation of the said freeholders, enquire whether the said road, or any part thereof, is in such good and perfect order and repair as aforesaid; and shall cause an inquisition to be made, under the hands and seals of himself and a majority of the said freeholders; and if the said road shall be found by the said inquisition

Neglecting to keep road in repair;

Proceedings in such case, and if the road shall be found not in repair;

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Tolls shall cease
till the roads be
repaired ;

Penalty for tak-
ing tolls till re-
pairs done ;

How recovered ;

Justice to send
a copy of the in-
quisition to the
court of quarter
sessions, in what
case ;

Indictment in
what case ;

Proviso—limit-
ing fines.

not to be in such good order and repair, as herein is required, he shall so certify, and send one copy of the said inquisition to each of the keepers of the turnpikes or gates, between which such defective place shall be, and from thenceforth, the tolls hereby granted to be collected at such turnpikes or gates, for the intermediate distance between them, shall cease to be demanded, paid or collected, until the said defective part or parts of the said road shall be put into good and perfect order and repair, as aforesaid ; and if any of the keepers of the gates aforesaid, shall take, or attempt to exact tolls for the intermediate distance between the gates aforesaid, from any traveller, during the time the road shall continue out of repair, such keeper shall forfeit and pay, to the person who will prosecute for the same, the sum of five dollars, to be recovered before any justice of the peace, as debts of equal amount are, or may be by law recoverable ; but if the said road shall not be put in good and perfect order and repair, before the next ensuing court of General Sessions of the peace for New-Castle county aforesaid, the said justice shall certify, and send a copy of the said inquisition to the justices of the said court, and the said court shall thereupon cause process to issue, and bring in the body or bodies of the person or persons entrusted by the company with the care and superintendence of such part of the said road as shall be found defective, as aforesaid, and shall direct a bill of indictment to be sent to the grand inquest, against the person or persons entrusted as aforesaid, and upon conviction, shall give such judgment, according to the nature and aggravation of the neglect, as the said court, in their discretion, shall judge proper : *Provided*, The fine, in no instance, shall be less than fifteen, nor exceeding one hundred dollars, and the fines so imposed, shall be recovered in the same manner, as fines for misdemeanors are usually recovered in the said county, and shall be applied to and for the benefit of the public roads and common highways in the county of New-Castle aforesaid.

SECT. 15. *And be it enacted by the authority aforesaid,* That the president and managers of said company, shall keep fair and just accounts of all monies, which shall be received by them from said commissioners, and from the subscribers for the stock of the said company, on account of their several subscriptions, and of all penalties for the delay in payment thereof, and of the amount of the profits on the shares that may be forfeited as aforesaid, and also of all monies by them to be expended in the prosecution of the said work; and shall once at least in every year, submit such accounts to a general meeting of the stockholders, until the said road shall be completed, and until all the costs, charges and expenses of effecting the same, shall be fully paid and discharged, and the aggregate amount of such expenses shall be liquidated and ascertained, and if upon liquidation, or whenever the whole capital stock of the said company shall be nearly expended, it shall be found that the said capital stock will not be sufficient to complete the said road, according to the true intent and meaning of this act, it shall and may be lawful for the said president, managers, and company, at a stated or special meeting to be convened according to the provisions of this act, or their own bye-laws, to increase the number of shares to such extent as shall be deemed sufficient to accomplish the work, and to demand and receive the monies subscribed for such shares, in like manner and under like penalties, as are herein before provided for the original subscriptions, or shall be provided by their bye-laws.

The president and managers to keep accounts of all monies received and

Expended—submitted to stockholders;

Power of company to increase the number of shares.

SECT. 16. *And be it further enacted by the authority aforesaid,* That the said president, managers and company, shall also keep a just, and true account of all and every the monies to be received by their several and respective receivers of tolls, at the several gates or turnpikes on the said road, which shall not exceed one for every two miles, after the said road is completed from the beginning to the end thereof, or such part thereof, as shall from time to

Accounts of monies received for tolls;

Number of gates;

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Dividend declared.

Published and

Paid.

time be completed as aforesaid, and after the said road shall be completed, or as much thereof as may from time to time be deemed expedient to make and finish, shall make and declare a dividend of the clear profits and income thereof, (all contingent costs and charges, and a reasonable fund for repairs, and for the progressive improvement and accomplishment of the said work, being first deducted and reserved) among all the subscribers to the stock of the said company, and shall on the first Monday in February and August in every year, publish the half yearly dividend to be made of the clear profits among the stockholders, and of the time and place when and where the same shall be paid, and shall cause the same to be paid accordingly.

President and managers every third year, until two years after completing the road, to lay an abstract of their accounts before the General assembly—and

At the end of every ten years after completing the road, to render a like abstract of their accounts to the General assembly;

Tolls may be reduced—when

SECT. 17. *And be it further enacted by the authority aforesaid,* That the said president and managers shall, at the end of every third year from the date of the incorporation, until two years next after the whole road shall be completed, lay before the General assembly of this State, an abstract of their accounts, shewing the whole amount of their capital expended in the prosecution of the said work, and of the income and profits arising from the said tolls, for and during the said respective periods, together with an abstract account of the costs and charges of keeping the said road in repair, and all other contingent costs and charges, to the end that the clear annual income and profits thereof, may be ascertained and known; and at the end of every ten years after the said road shall be completed, they shall render the General assembly, a like abstract of their accounts for three preceding years; and if at the end of every such decennial period, it shall appear from such abstract, that the clear profits and income of the said company, will bear a dividend of more than twelve per centum per annum, then the said toll shall be so reduced, as to reduce the dividend down to twelve per centum per annum.

SECT. 18. *And be it further enacted by the authority aforesaid,* That the said company shall cause

posts to be erected at the intersection of every road falling into, and leading out of, the said turnpike road, with boards and index-hands, pointing to the direction of such road, on both sides whereof shall be inscribed, in legible characters, the name of the town or place to which such roads lead, and the distance thereof in measured or computed miles; and shall also cause mile-stones to be placed on the side of the said road, to designate the distances to and from the principal places thereon, and also shall cause to be affixed at the gates to be erected for the information of travellers and others using the said road, a printed list of the rates of toll, which from time to time may be lawfully demanded.

Index-posts to be erected.

Mile-stones;

Printed lists of tolls.

SECT. 19. *And be it further enacted by the authority aforesaid,* That if any person or persons, shall wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this act, on the side of the said road, or shall obliterate the letters or figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post, which shall be erected in pursuance of this act, at the intersection of any road, as aforesaid, or the board, or index-hand affixed thereto, in conformity with the directions of this act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters, marked at any turnpike or gate, which shall be erected in pursuance of this act, for all or any of the purposes therein mentioned, or the whole, or any part of any printed list of the rates of toll, which shall be affixed in pursuance of the directions of this act, at every such gate or turnpike, he or they so offending in the premises, shall, and each of them shall, for every such offence, severally and respectively, forfeit and pay to the said president, managers and company, the sum of twenty dollars, to be sued for and recovered, with costs of suit, before any justice of the peace, in the manner aforesaid.

Penalty for breaking, &c. mile stones, injuring index-posts, &c. defacing letters or figures at the turnpike gates.

Waggoners, car-
ters and drivers
of carriages, to
keep on the
right-hand side
of the road;

Penalty, & how
recovered.

Penalty for de-
manding unlaw-
ful toll;

How recovered.

In cases of suits
brought for pen-
alties, and not
sustained under
this act, what
defendant shall
recover.

SECT. 20. *And be it further enacted by the au-
thority aforesaid,* That all waggoners, carters and
drivers of carriages of all kinds, whether of burthen
or pleasure, using the said road, shall, except when
overtaking and passing by a carriage of slower
draught, keep their horses and carriages on the right
hand side of the said road, in the passing direction,
leaving the other side of the said road free and clear,
for other carriages to pass and repass; and if any
waggoner, carter or driver, shall offend against this
provision, he shall forfeit and pay any sum not ex-
ceeding five dollars, to any person, who by reason
thereof, shall be obstructed in his passage, and will
sue for the same, before any justice of the peace, to
be recovered with costs in like manner aforesaid.

SECT. 21. *And be it further enacted by the au-
thority aforesaid,* That if any toll-gatherer on the
said road, shall demand from any person using the
said road, any greater rate of toll than by this act is
authorized and allowed, such toll-gatherer shall
forfeit and pay the sum of twenty dollars, for every
such offence, to be for the use of the person aggrieved,
to be recovered before any justice of the peace
of New-Castle county, aforesaid, in such manner
as other debts are before them recoverable.

SECT. 22. *And be it further enacted by the au-
thority aforesaid,* That if in the case of any suit or
prosecution which shall be commenced under the
direction of this act, for any penalty incurred under
the same, whether by or against the said company,
their servants or assignees, the said suit or prose-
cution shall not be sustained by the plaintiff or pro-
secutor, then and in such case, the person or per-
sons prosecuted as aforesaid, shall recover by the
judgment of the justice before whom such suit or
prosecution shall be depending, or by action before
the court of Common Pleas of New-Castle county,
aforesaid, (if such prosecution had been instituted
before the court of General Sessions of the peace)

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such sum not exceeding the amount of the penalty for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution.

SECT. 23. *And be it further enacted by the authority aforesaid,* That no suit or action shall be brought or prosecuted by any person or persons, for any penalty incurred under this act, unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants, in such suit or action, may plead the general issue, and give this act and the special matter in evidence, and that the same was done in pursuance and by the authority of this act.

Limitation of suits for penalties under this act :

Special matter given in evidence under the general issue.

SECT. 24. *And be it further enacted by the authority aforesaid,* That if the said company shall not proceed to carry on the work, within two years after passing this act, or shall not within seven years thereafter, complete the said road, according to the true intent and meaning of this act, then in either of these cases, it shall and may be lawful for the legislature of this State, to resume all and singular the rights, liberties, and franchises, by this act granted to the said company.

If the company do not proceed in two years to carry on the work, or complete it in seven years, the legislature may resume the right hereby granted.

SECT. 25. *And be it further enacted by the authority aforesaid,* That if the said road be laid out and founded over and upon any land whereby the owner thereof may suffer damage, the person or persons sustaining such damage, may make application to the court of Chancery, of New-Castle county aforesaid, and thereupon the Chancellor shall appoint six fit and disinterested persons, to view and adjudge the amount of damages so done, which, if approved of by the court, shall be paid by the company : *Provided always,* That it shall be the duty of the viewers, in assessing damages, to take into consideration the advantages derived from said road passing through the land of the complainant, and that when the said road shall happen to be laid out

Damages how ascertained :

Proviso.

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The whole
breadth of the
road to be kept
open.

and founded on any former laid out and confirmed road, the owner or owners of such lands, shall not be entitled to receive compensation from the company for any damages sustained thereby; any ground taken for the use of the road, either on any former laid out road, or on any ground on which there is no road laid out. The said president, managers and company, shall not have authority to make any building or inclosure whatsoever, the whole breadth taken for the use of the said road shall be kept free and open, except where it may be necessary to erect gates or turnpikes for collecting the tolls.

Treasurer and
other officers, to
give bonds.

SECT. 26. *And be it further enacted by the authority aforesaid,* That the treasurer, and such other officers as may be appointed, shall give bond in such penalty and with such security, as the directors or a majority of them shall direct, for the faithful performance of their duties respectively, and that no officer in the said company shall have any vote in the settlement or passing of his own account.

No officer to
have a vote in
settling his own
account.

Annual contract
for the use of
the road.

SECT. 27. *And be it enacted,* That every person who shall prefer an annual contract for the use of the said road, shall be entitled, for himself and family, to all the benefits of the same, for one dollar per mile, annually, to be paid in such manner as that a quarterly payment shall always be in advance; and if any person or persons who wish to make such contract, shall think such annual contract unreasonable, and disproportionate to the number of their family, and their use of the said road, the party so aggrieved, and the president of the said company, intended to be incorporated by this act, shall each choose one disinterested freeholder, who shall decide what reduction, if any, shall be made from the annual payment herein before specified; and in case the two persons so chosen, cannot agree, they shall choose a third person, and then the three persons, or a majority of them, shall decide as aforesaid, or in case the

said president shall neglect or refuse to appoint a freeholder for the purpose aforesaid, for the space of ten days, then the freeholder chosen by the party aggrieved, as aforesaid shall decide what reduction ought to be made, which shall be the commutation for the current year.

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Passed, February 1, 1813.

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An ACT to lay out and establish a State-road from St. John's-town, to Redden's Cross-roads, in Sussex county.

SECTION I. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Samuel Laws, Joseph Vickers, Charles Polk, junior, Doctor John Cary and Colonel John Wilson, be, and they are hereby appointed commissioners, who, or a majority of whom, are hereby authorized, empowered and required to lay out a State-road from St. John's-town, or near the said town, and from thence until it intersects the State-road leading from Milford to Georgetown, at or near Redden's cross roads, in said county, in such manner as they shall deem right and proper, and to employ a surveyor, and such labourers and workmen as they shall think necessary, in plotting and laying out the same, to be of the same width as other State-roads; and if any of the said commissioners shall refuse to serve, die, or be rendered incapable of acting, then and in every such case, the commissioners of the Levy court shall nominate and appoint, in writing, some other person, which said person so appointed, is hereby empowered and required to act in the premises, as fully as any person or persons herein mentioned, may or can do.

Commissioners :

Their powers :

(Width of the road ;)

Vacancies supplied.

Commissioners
to assess dama-
ges, and return
the same;

Remedy for per-
sons not satisfi-
ed with such da-
mages;
The proceed-
ings in such
case.

SECT. 2. *And be it enacted,* That the commissi-
oners herein named, or a majority of them, shall as-
certain and assess the damage sustained by the owner
or owners, through whose lands any of the said road
may run, and return the same, with their map or plot
as aforesaid; and if any person or persons shall not be
satisfied with the damages assessed by said commis-
sioners, it shall and may be lawful for them to apply
to the prothonotary of said county of Sussex, for a
writ of *venire facias*, to be directed to the sheriff of
said county, for the purpose of summoning seven
freeholders of the county, to ascertain and assess the
said damages; who shall either increase or lower the
damage returned by the said commissioners, as to
them shall seem right, whose decision shall be final;
and the said sheriff shall return the said writ to the
next term, after issuing the same, with the return of
the said freeholders summoned as aforesaid, or a ma-
jority of them, under the hands and seals of the said
sheriff and freeholders respectively; and the sheriff
and freeholders, summoned as aforesaid, shall be al-
lowed the like fees as are in other cases to be paid by
the person or persons suing out the writ.

Return of the
road to the of-
fice of the clerk
of the peace for
Sussex county,
with a plot;

To be recorded
in said office;

How said road
shall be opened
and supported.

SECT. 3. *And be it enacted,* That after the said
road shall be laid out as aforesaid, the persons herein
appointed, or a majority of them, shall make a re-
turn thereof, into the office of the clerk of the peace
for the said county of Sussex, with a fair map or
plot of the same, and the several courses and dis-
tances of the said road, which shall be entered on re-
cord in the said office, and from thenceforth the said
road shall be deemed and taken, to be a State-road,
and the same shall afterwards be opened, made
and supported in the same manner as other State-
roads within the said county are, by the laws of
this State, directed to be opened, cleared, made and
supported.

SECT. 4. *And be it enacted,* That each of the
commissioners hereby appointed, or to be appointed,

as aforesaid, for the services herein and hereby requested of him, shall receive for his trouble and services in attending to the said business, one dollar and fifty cents per day, the surveyor, two dollars per day, and two dollars for his plot; and the chain-carriers and workmen, each sixty-seven cents per day, to be allowed and settled, together with the damages allowed by virtue of this act, in the same manner as expenses of repairing the State-roads are allowed and settled.

Allowances to commissioners, surveyors, &c.

How settled.

SECT. 5. *And be it enacted*, That the commissioners herein appointed as aforesaid, shall, before they enter upon the duties by this act enjoined them, be respectively sworn or affirmed, before some judge or justice of the peace of this State, for the true and faithful performance of the same, and shall cause ten days notice to be given, of the time when, and the place where, they shall meet, in order to proceed to the discharge of the said duties, by setting up three or more advertisements, in the most public places in the vicinity of the said road.

Commissioners to be sworn or affirmed.

And give ten days notice of their meeting under this act.

Passed, Feb. 1, 1813.

C H A P. CCXLI.

An ACT respecting the arms belonging to the State of Delaware.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the governor be, and he is hereby authorized, empowered and required, to cause one third part of all those arms and equipments, which have been purchased or contracted for under the act, entitled, "An act to enable the governor to make a detachment of the militia, and for other purposes," as well as of

Governor to cause the arms by him purchased;

(Vol. 4. chap. 213. p. 577.)

And those issued or to be issued under act of congress;

To be deposited;

One-third at Wilmington;

One-third at Dover;

One-third at Georgetown.

To be under the care of the brigadiers.

Who may issue the same;

On what occasion.

The governor may draw on the treasury for monies to carry this act into effect;

Proviso—sum not to exceed \$300;

Account furnished to the legislature.

those arms which have been, or hereafter shall be, issued to this State, under the act of Congress, passed on the twenty-third day of April, in the year eighteen hundred and eight, making an annual appropriation of two hundred thousand dollars, for the purpose of arming and equipping the militia of the United States and their territories, to be deposited in some safe and suitable place in the town of Wilmington, in the county of New-Castle; and one other third part of the said arms and equipments to be deposited in some safe and suitable place in the town of Dover, in the county of Kent; and one other third of the said arms and equipments, to be deposited in some safe and suitable place, in the town of George-town, in the county of Susséx.

SECT. 2. *And be it enacted*, That the said arms and equipments, when deposited as aforesaid, shall be under the care of the brigadiers of the respective brigades, who shall employ suitable persons to keep the same in proper and complete order; and that the said brigadiers respectively, may issue the said arms and equipments, or any part thereof, when the same may in their opinion become necessary, by reason of invasion of this State by the enemy, or by reason of eminent danger thereof; taking care that the same shall be returned as soon thereafter as may be.

SECT. 3. *And be it enacted*, That the governor be, and he is hereby authorized and empowered to draw upon the State treasury, from time to time, for such monies as may be necessary for carrying this act into effect; which shall be paid out of any money in the treasury, not otherwise appropriated: *Provided*, the whole amount thereof shall not exceed the sum of three hundred dollars; and that an account of the expenditure by the governor, of such sums, shall be annually passed by the governor, in time to be laid before the General assembly, at their session in January.

SECT. 4. *And be it enacted*, That the Governor cause each musket belonging to this State, to be branded with the word "*Delaware*." Muskets to be marked.

Passed at Dover, Feb. 1, 1813.

C H A P. CCXLII.

An ACT repealing certain acts therein mentioned.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That as soon as the county of New-Castle, shall be fully repaid the expense of erecting and maintaining the bridge over Naaman's creek, then that the act entitled, "An act for making the bridge across Naaman's creek, in the county of New-Castle, a public toll bridge," and the act entitled, "A supplement to the act, for making the bridge across Naaman's creek, in the county of New-Castle, a public toll bridge," shall be, and the same are hereby repealed.

Repeal of acts,
vol. 3. chap. 83,
pa. 195.

Vol. 3. chap.
111. p. 243.

SECT. 2. *And be it enacted*, That the Levy court of New-Castle county, shall lay a fair statement of expenditures on the said bridge, and of all the tolls collected on the same, before the General Assembly, at their session in January next.

Levy court of
New-Castle
county, to lay
account of tolls
and expendi-
tures before
General Assem-
bly.

Passed at Dover, February 2, 1813.

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C H A P. CCXLIII.

An ACT to incorporate a company to erect a draw-bridge over the Christiana creek, at the village of Newport, and for other purposes therein mentioned.

Commissioners ; SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That John Caldwell, James Stroud, George Read, Kensey Johns and John Crow, be, and they are hereby appointed commissioners to do and perform the several things hereinafter mentioned: that is to say, they shall on, or before the first Monday of April next, procure one or more books, and in each of them enter as follows: "We whose names are hereunto subscribed, do promise to pay to the president, managers and company, of Newport bridge company, the sum of twenty-five dollars for every share of stock set opposite to our respective names, in such manner and proportions, and at such times as shall be determined on by the president and managers of the said company, and shall thereupon give notice of the time and place, when and where the said books shall be opened to receive subscriptions for the stock of the said company, at which time and place, some two of the said commissioners shall attend, and shall permit and suffer all persons of lawful age or bodies politic or corporate, in person or by attorney, to subscribe for any number of shares in the capital stock, and the said books shall be kept open by some one of the commissioners, until there shall be subscribed three hundred and twenty shares of the capital stock: *Provided*, That every person offering to subscribe in the said books, in his own name, or any other name, shall previously pay to the attending commissioner or commissioners, the sum of five dollars for every share to be subscribed, out of which shall be paid the expenses attending the taking the subscriptions and

When to procure books ;

Notice of the time and place of opening them ;

Capital Stock ;

Five dollars to be paid on each share at the time of subscribing.

other incidental charges, and the remainder shall be paid over to the treasurer of the company, as soon as the same shall be organized, and the officers chosen as is hereafter mentioned.

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SECT. 2. *And be it enacted by the authority aforesaid,* That when ten or more persons shall have subscribed four hundred shares, they shall be created and united into a body politic and corporate, by the name, style and title of "The Newport Bridge Company," and by that name, the said subscribers shall have perpetual succession, and all the privileges and franchises incident to a corporation, and shall be capable of taking and holding their said capital stock and the increase and profits thereof, and of enlarging the same, from time to time, by new subscriptions, in such manner and form as they shall think proper, if such enlargement shall be found necessary to fulfil the intent of this act, and of purchasing, taking and holding to them, and their successors and assigns, and of selling, transferring and conveying in fee simple, or any lesser estate, all such lands, tenements, hereditaments and estate, real and personal, as shall be necessary for them in the prosecution of their works, and of suing and being sued, and of doing all and every other matter and thing which a corporation or body politic may lawfully do.

Subscribers when incorporated;

Name and power of the corporation.

SECT. 3. *Be it enacted,* That the commissioners aforesaid, or a majority of them, shall within five days after four hundred shares of the capital stock shall be subscribed, give public notice at least ten days of the time and place by them to be appointed for the first meeting of the subscribers, at which time and place the said subscribers shall proceed to organize the said corporation, and shall choose by a majority of votes of the said subscribers, by ballot, to be delivered in person or by proxy duly authorized, one president and seven managers, one treasurer and such other officers as they shall think necessary to conduct the business of the company for one year, and until

Duty of commissioners when four hundred shares subscribed;

First meeting of subscribers, and their power at such meeting.

To choose officers.

Make bye-laws,
&c.

Number of votes
limited ;

Future meet-
ings.

Annual and spe-
cial meetings of
the company, &
their powers at
such meetings.

Certificates of
shares ;

Transferrable,
& how assigned.

other such officers shall be chosen ; and shall and may make such bye-laws, rules, orders and regulations, not inconsistent with the laws and constitution of the State, as shall be necessary for the well-ordering the affairs of the said company : *Provided always*, That each person shall have at such election, and in determining any question arising at such meetings, for every share of stock not exceeding ten, one vote : *Provided nevertheless*, That all future annual meetings and elections of said corporation, shall be held with such notice and in such manner and form aforesaid, at such places as the managers shall direct and appoint.

SECT. 4. *And be it enacted by the authority aforesaid*, That the said company shall meet on the first Monday of April, in every year, at such place as shall be fixed by their bye-laws, for the purpose of choosing officers, as aforesaid, for the ensuing year in manner aforesaid, and at such other times as they shall be noticed by the managers in such manner and form as shall be presented by their bye-laws, at which annual or special meeting, they shall have full power and authority to make, alter or repeal by a majority of votes, in manner aforesaid, all such by-laws, rules, orders and regulations as aforesaid, and to do and perform any other corporate act.

SECT. 5. *And be it further enacted by the authority aforesaid*, That the president and managers first to be chosen as aforesaid, shall procure certificates to be written or printed for all the shares of the stock of the said company, and shall deliver one such certificate, signed by the president, and countersigned by the treasurer, and sealed with the common seal of said corporation, to each person for every share by him subscribed and held, he paying in part, the sum due thereupon for each and every share, which certificate shall be transferrable at his pleasure, in person or by attorney, in the presence of the treasurer, sub-

ject however, to all payments due, and to grow due thereon; and the assignee holding any certificate, having first caused the assignment to be entered in a book of the company to be kept for that purpose, shall be a member of said corporation, and for every certificate by him held, shall be entitled to one share of the capital stock, and of all the estates and emoluments of the company, and to vote as aforesaid, at the meetings thereof.

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SECT. 6. *And be it enacted*, That the president and managers of the Newport bridge company, shall at their own proper costs and charges, erect a draw bridge across the Christiana creek, at the village of Newport, where the public ferry is kept across the said creek, of the following description: to wit, the bridge shall be built upon piles, of at least twenty feet from each other, and the said bridge shall be of the breadth of not less than twenty feet, and be of good durable timber, with a draw of the length of thirty feet over the channel, and at right angles with the said channel, that the said company shall provide, and at all times maintain such platforms, buoys and other accommodations for rendering the passage of shallops and other crafts, navigating the said creek, through the said draw, as safe and easy as practicable, and so as to occasion to the said vessels as little detention, interruption or inconvenience as possible, which draw shall at all times on the approach of any masted vessel or vessels, be drawn at the expense of the said Newport bridge company, and that without any let or hindrance to the said vessel in passing and re-passing at all times, and without any charges or costs to such masted vessel for drawing said bridge, under and subject to the penalties and forfeitures hereinafter provided: *Provided nevertheless*, That, in the construction or erection of the said bridge, abutments or wharves, it shall not be lawful to erect or put up any wharf or abutment on either side of

The president and managers to erect a draw bridge, place and description;

Length of the draw :

To draw on the approach of a vessel, at the expense of the company ;

Proviso—no wharf or abutment lower than high-water mark.

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Meetings of the
president and
managers,

Quorum ;

Their powers ;

May determine
when and how
shares shall be
paid ;

General powers.

Notice of instal-
ments ordered
to be paid, and
penalty for non-
payment ;

the said stream or creek, lower than high-water mark of the said stream or creek.

SECT. 7. *And be it enacted,* That the president and managers shall meet at such times and places, and may be convened in such manner and form, as shall be agreed on, for transacting their business ; at which, three shall form a quorum, and in case of the absence of the president, may choose a chairman, and shall keep minutes of their transactions, fairly entered in a book ; and a quorum being met, they shall have full power and authority to agree with and appoint all such superintendants, artists and officers, as they shall judge necessary to carry on the intended works, and to fix their salaries and wages, to ascertain the terms, manner and proportions, when and in which the stock-holders shall pay the money due on their respective shares, in order to carry on the works, to draw orders on the treasurer, for all monies necessary to pay the salaries or wages of persons by them employed, and for labour done, and materials provided, in the prosecution of the work ; which orders shall be entered or registered in their book of minutes, and shall be signed by the president, or in his absence, by a majority of a quorum, and countersigned by their secretary, and generally to do all such other acts, matters and things, as by the bye-laws, rules, ordinances and regulations of the company, shall be committed to them, not inconsistent with the constitution and laws of this State.

SECT. 8. *And be it enacted,* That if any stockholder, whether original subscriber or assignee, after ten days notice in one of the public news-papers printed in this State, or other public notice, in writing, of the time and place appointed for the payment of any proportion or instalment of the said capital stock, in order to carry on the said work, shall neglect to pay such proportion at the place appointed, for the space of thirty days after the time appointed for the payment thereof, every stock-holder

shall, in addition to the instalment so called for, pay at the rate of five per centum per month, for every delay of such payment; and if the same, and the additional penalty, shall remain unpaid for such space of time, as that the accumulated penalty shall become equal to the sum before paid in part and on account of such share, the same may be forfeited by and to the said company, and may be sold by them to any other person, or persons willing to purchase, for such price as can be obtained therefor; or in default of payment by any stockholder, of any such instalment, as aforesaid, and the president and managers may, at their election, cause suits to be brought before a justice of the peace, or in any court having competent jurisdiction for the recovery of the same, together with the penalties aforesaid: *Provided always*, That the recovery in any suit shall, in no case, exceed the amount of such instalment or instalments, as may be due on such share, together with the accumulated penalty, at the rate aforesaid, as shall be equal to the sums before paid on the same shares, and the cost of suit: *And provided also*, That no stockholder, whether original subscriber or assignee, shall be entitled to vote at any election, or at any general or special meeting of the said company, unless the whole sum due and payable as aforesaid, on the share or shares by him held at the time of such election, or general or special meeting, shall have been fully paid and discharged, as aforesaid.

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Shares may be
forfeited and
sold,

Or suit brought;

Proviso, limit-
ing amount to
be recovered;

Stockholders
neglecting to
pay, &c. not en-
titled to vote.

SECT. 9. *And be it enacted*, That for and in consideration of the expenses that the stockholders will be at in the erecting of the said bridge, and in the maintaining and keeping of the same in repair, the said bridge and works, with all their profits, shall be, and the same are hereby vested in the said corporation forever; and it shall be lawful for the said president and managers, after the said bridge shall be erected, to appoint a toll-gatherer, and to demand and receive the following tolls or

The bridge, &c.
vested in the
corporation;

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1813

Tolls.

pontage for crossing the said bridge: to wit, for every single horse and rider, four cents; for every led horse, ox, cow or heifer, two cents; for every foot-passenger, one cent; for every sheep and hog, one cent; for a coach or other four-wheel carriage and pair of horses and passengers, eighteen cents; for a chair or sulkey, horse and rider, ten cents; for a cart, one horse and driver, laden or unladen, ten cents; for a waggon, laden or unladen, two horses and driver, eighteen cents; for any other horse, mule or ox in a cart or waggon, two cents; for any sleigh or sled, with one horse, ten cents, every other horse, two cents.

Annual contracts for the use of the bridge.

SECT. 10. *Be it enacted*, That every person or persons who shall prefer an annual contract for the use of the said bridge, shall be entitled to the benefit of the same, for himself and family, for the sum of four dollars per annum, to be paid in such manner, that a quarterly payment shall always be in advance; and if any person or persons who wish to make such contract, shall think the said annual payment unreasonable, and disproportionate to the number of their family, and their use of the said bridge, the party so aggrieved, shall choose one freeholder, and the president of the said Newport bridge company shall appoint another freeholder, who shall decide what reduction shall be made from the annual payment herein before specified; and in case the two persons so chosen cannot agree, they shall choose a third person, and then the three persons, or a majority of them, shall decide as aforesaid, or in case the said president shall neglect or refuse to choose a freeholder for the space of ten days, then the freeholder chosen by the party aggrieved, as aforesaid, shall decide what reduction ought to be made, which shall be the commutation for the current year.

Penalty for exacting unlawful tolls;

SECT. 11. *And be it enacted*, That if the president and managers, or any person or persons by them appointed, and having the care and keeping of the said

bridge, shall exact or demand any greater prices or rates than what are herein before prescribed and specified, he or they so offending, shall for any such offence, forfeit and pay any sum not exceeding twenty dollars, one moiety thereof to the party aggrieved, and the other moiety to the trustees of the poor, for the use of the poor of said county, to be recovered as debts to the same amount are recoverable by the laws of this State.

CHAP.
CCXLIII.

1813

How applied &
recovered.

SECT. 12. *Be it enacted*, That the president and managers of the Newport bridge company, shall choose and appoint a freeholder, and the Levy court of New-Castle county shall choose and appoint another freeholder, who shall make a valuation of the wharves heretofore erected at the Newport ferry; but in case the two freeholders thus to be chosen, and appointed as aforesaid, cannot agree, they shall choose a third person, and the three persons so chosen shall go on the premises, and view, and ascertain a reasonable compensation to be made to New Castle county, for the wharves and landing places heretofore made at the Newport ferry; but in case the Levy court shall neglect or refuse to appoint or choose a freeholder, upon application to them made, at any annual or special meeting, by the president and managers of the Newport bridge company, the freeholders appointed by the said president and managers of the Newport bridge company, shall proceed to view and value the said wharves and landing places, and make a return thereof in writing, to the office of the clerk of the peace in and for the county of New-Castle, who shall record the same in the book where the records and proceedings of the Levy court are kept, and the said county of New-Castle, shall be entitled to a number of shares of the capital stock of the Newport bridge company, equal to the valuation of the wharves, so as aforesaid to be valued; and it shall and may be lawful for the Levy court, at their annual meeting, to appoint any one member of their body, or in case they shall refuse or neglect to make

Compensation
to New-Castle
county, for
wharves, &c. at
Newport ferry,
how determin-
ed, &c.

Proceedings, in
case Levy court
of New-Castle
county neglect
to choose a
freeholder;

Return entered
of record in the
Levy court;

New-Castle
county entitled
to shares equal
in amount to
value;

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1813.

Company may
hold the
wharves.

said appointment, then the president or chairman is hereby authorized to vote at all elections of president and managers of the said company, for the shares of stock which New-Castle may have at any time in the said capital stock of the Newport bridge company, and the treasurer of New-Castle county, for the time being, shall receive the dividends of such shares, standing in the name of New-Castle county, in the books of the said Newport bridge company, to and for the use of New-Castle county; and it shall be lawful for the said Newport bridge company, to hold the said wharves and landing places, so to be valued as aforesaid, to them and their successors and assigns, forever.

Passage refused
to persons refusing
to pay toll.

SECT. 13. *Be it enacted*, That if any person or persons, shall refuse or neglect to pay the rate of pontage or tolls as aforesaid, it shall and may be lawful for the person or persons having the care and collection of the pontage or toll of said bridge, to refuse passage to any such person or persons, until he, she or they shall comply, and pay the pontage or toll as aforesaid.

Lamps to be
placed on the
draw, and light-
ed, &c.

SECT. 14. *And be it enacted*, That the president and managers of the said Newport bridge company, shall, for the safety of travellers, as well as the navigation, place, or cause to be placed on each side of the draw, a lamp, on suitable posts, which lamps shall be lighted within one hour from the setting of the sun, and continue lighted until day-light; and the said president and managers of the aforesaid company, or their toll-keeper, shall forfeit and pay for every night the said lamps shall not be lighted, the sum of ten dollars, to be recovered as other fines in this act, and applied in the same manner.

Penalty for ne-
glect;

Penalty for in-
juring the
bridge, beside
damages;

SECT. 15. *And be it further enacted*, That if any person or persons shall cut, injure or destroy, any piece or pieces of timber, or plank or planks, or other things belonging to the said Newport bridge,

or shall remove the same from the said bridge, or in any otherwise wilfully damage the same, or shall extinguish the lamps aforesaid, or shall cut down or otherwise destroy the draw or other improvements made by the said company, and being thereof convicted, upon the oath or affirmation of one or more credible witness or witnesses, before any justice of the peace of New-Castle county, shall pay, over and above the damages done to the said bridge and works, the sum of thirty dollars, to be recovered under the hand and seal of the justice of the peace before whom the conviction was had, to be applied, one half thereof, to the use of the said company, and the other half to the use of the poor of New-Castle county.

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CCXLIII.
1813

How recovered
and applied.

SECT. 16. *Be it enacted*, That the president and managers of the said Newport bridge company, shall at all times, keep and maintain the draw of the said bridge, required to be constructed by this act, as well as the platforms, buoys and other accommodations, for the expediting of the passage of vessels through the said bridge, herein before directed to be provided, in good order and sufficient repair, and at all times after the erection of the said bridge, and during its continuance, give, or cause to be given, good attendance at the said bridge, to draw or raise the same, on the approach of any masted vessel intending to pass the draw, so as to have the same removed by the time such vessel or vessels, to pass and repass through the said draw, free from all manner of toll; and if the president and managers, or any person or persons, having the care of the bridge and draw, shall neglect or refuse to give good and faithful attendance at the said draw, or to raise the same, so as to permit the passage of all vessels free from toll, such person or persons, or the president and managers of the said bridge, so neglecting or refusing, shall, for each and every offence, forfeit and pay to the person or persons aggrieved, for every fifteen minutes, his, her or their vessel or vessels shall be detained, by the default or

President and
managers to
keep the draw,
&c. in repair;

To cause atten-
dance to be giv-
en, to raise the
same on the ap-
proach of ves-
sels;

Penalty for ne-
glect.

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neglect of the parties aforesaid, the sum of ten dollars, to be recovered as other penalties in this act.

Survey of the wharves to be made, and map returned by the freeholders, valuing the same;

30 feet from the centre of the wharves on each side, to be for the use of the company; The bridge a public highway;

Notice of the approach of a vessel to the bridge—what shall be;

Penalty for neglecting to remove the draw by the time such vessel arrives.

SECT. 17. *And be it enacted by the authority aforesaid,* That the freeholders directed to be chosen and appointed to view the wharves at the village of Newport, shall cause a survey of the said wharves on each side of the Christiana creek, to be made and returned with their valuation, a correct map or plan of the same, into the office of the clerk of the peace of New-Castle county, who shall record the same, with the return of the said valuation, and it shall at all times be lawful for the said Newport bridge company, to have and use from the centre of the said wharves, and parallel with the same, thirty feet on each side, for the use of said company, and the said bridge shall be, and the same is hereby declared to be a public highway, free for all and every citizen of the United States, to pass and repass, at all times, they paying the toll or pontage in this act mentioned.

SECT. 18. *And be it enacted,* That if the commander of any vessel approaching the said bridge, shall cause a horn or shell to be loudly and distinctly blown, by some person standing on the deck of such vessel, at the distance of half a mile from said bridge, and shall cause the same to be steadily repeated, as often as the nature of the case will admit of, as the said vessel approaches the said bridge, the same shall be considered as full and sufficient notice of the approach of said vessel to said bridge; and in case the keeper of the said bridge, shall neglect or refuse to have the draw of the said bridge removed by the time such vessel arrives thereat, the said company shall be answerable to the owner or owners of such vessel, for all damages they may sustain by reason thereof, to be recovered before any justice of the peace of the said county, if not exceeding twelve pounds, and if exceeding that sum, before any court of law of the said county, with costs and damages as in other like cases.

SECT. 19. *And be it enacted*, That the president and managers shall keep a just and true account of all monies received for toll, and shall half yearly make and declare a dividend of the clear profits, all contingent costs and charges, and a reasonable fund for the repairs of the said bridge and other improvements, being first deducted and reserved among all the stock-holders of the said company, and shall publish the half-yearly dividend to be made of the clear profits among the stock-holders, and shall give notice of the time and place of payments, and shall cause the same to be paid.

President and managers to keep accounts of tolls received and make half yearly dividends ;

And give notice thereof.

SECT. 20. *And be it enacted by the authority aforesaid*, That as soon as the president and managers of the Newport bridge company, shall have erected the said bridge, it shall and may be lawful for them to apply to the Governor, who shall nominate and appoint three skilful and judicious freeholders to view and examine the same, and report to him whether the bridge is executed in a workman-like manner, according to the direction of this act, and if their report, or a majority of them, be in the affirmative, then the chief justices shall by license under his hand, permit the gates to be erected, and the toll to be collected, as is specified in this act.

Application to the governor, when the bridge shall be erected, and proceedings on such application.

SECT. 21. *And be it enacted by the authority aforesaid*, That if the Levy court of New-Castle county, shall after the year one thousand eight hundred and thirty-three, pay to the said Newport bridge company, the sum which the said company shall have expended, the bridge hereby authorized to be erected, with all the improvements thereto belonging, shall be vested in the county of New-Castle, and then this corporation, created by this act, shall cease to have any operation.

After the year 1833, the bridge may become vested in New-Castle county—upon what terms.

SECT. 22. *And be it enacted by the authority aforesaid*, That it shall not be lawful for the Newport bridge company, or any of their officers, to receive

No toll to be received, till the road from New-

Castle to New-
port, be turn-
piked.

any toll or pontage for passing or re-passing the said bridge, until the road from New-Castle to Newport, shall be made a good and sufficient artificial turnpike road, any thing herein contained to the contrary notwithstanding.

Passed, February 3, 1813.

C H A P. CCXLIV.

See vol. 5. p. 234

An ACT to alter the times of holding the courts of law and equity in this State.

Terms of the
Supreme court,
of the court of
Common Pleas,
of the court of
Chancery.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, the Supreme court, court of Common Pleas, and court of General Quarter Sessions of the peace and gaol delivery, and court of Chancery, shall be held in each of the counties of this State, twice in every year, and the terms of the said courts shall commence and be held as follows: that is to say, the Supreme court in Sussex county, on the third Monday of March, and second Monday of October; in Kent county, on the fourth Monday of March, and third Monday of October; and in New-Castle county, on the Monday next following the fourth Monday of March, and on the second Monday after the terms of the said court shall commence in October, in Kent county; and the court of Common Pleas, and court of General Quarter Sessions of the peace and gaol delivery, shall commence and be held in Sussex county in April, on the third Monday after the Monday on which the term of the Supreme court shall commence in New-Castle county, and in November on the second Monday after the term of the Supreme court shall com-

mence in New-Castle county in October or November, as the case may be ; in Kent county, on the second Monday after the terms of the court of Common Pleas shall commence in Sussex county ; and in New-Castle county, on the second Monday after the terms of said court shall commence in Kent county ; and the court of Chancery shall commence and be held in Kent county, on the third Monday of February, and second Monday of August ; in Sussex county, on the first Monday of March, and third Monday of July ; and in New-Castle county, on the second Friday after the Supreme court shall commence in New-Castle county in March or April, as the case may be ; and on the second Thursday after the second Monday in August.

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SECT. 2. *And be it enacted*, That the high court of Errors and Appeals, shall be held and kept once in every year at the town of Dover, in Kent county, on the first Monday of August, to receive, hear and judge of appeals of writs and error, in all matters of law and equity, which may come before the said court, from the court of Chancery, the Supreme court, and the court of Common pleas, in every county of this State.

Term of the
high court of
Errors and Ap-
peals.

SECT. 3. *And be it enacted*, That all appeals, writs of error, bills, actions, suits, indictments, answers, pleas, commissions, writs, processes, bail-bonds, and all other proceedings, matters and things whatsoever, relating to any cause at law or in equity, civil or criminal, which now is, or hereafter shall be depending, before or returnable to the high court of Errors and Appeals, the court of Chancery, the Supreme court, court of Common Pleas, or court of General Quarter Sessions of the peace and gaol delivery ; shall be and remain in full force and effect ; and shall be returnable to the court to which they severally belong, on the days and times respectively herein appointed ; and shall have relation to, and be heard, tried and determined, on the days and times so herein appointed, in as full and ample manner as

Continuance of
process, &c.

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any appeal, writ of error, bill, action, suit, indictment, answer, plea, writ, process, bail-bond, and other proceeding, matter or thing, now can, or ever could have been tried, heard and determined before any such court.

Repeal—vol. 2.
chap. 190. p.
1091.

vol. 2. chap. 610.
p. 1191.

vol. 3. chap. 89.
p. 214.

SECT. 4. *And be it enacted*, That the tenth section of an act, entitled, "An act to regulate the courts in this State," passed the fourteenth day of June, in the year seventeen hundred and ninety-three, and the first section of an act, entitled, "An act to alter and amend an act to regulate the courts in this State," passed the seventh day of February, in the year seventeen hundred and ninety-four, and the first section of an act, entitled, "An act for altering the times for holding the court of Chancery in this State," passed the twenty-first day of January, in the year eighteen hundred and two, shall be and are hereby repealed, made null and void.

Passed, February 3, 1813.

C H A P. CCXLV.

An ACT for the payment of certain claims, and for other purposes.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the treasurer of this State, be and he is hereby authorized and directed to pay to George Read, esquire, the sum of one hundred dollars, for a balance of fees due him as counsel in suits brought by the pretended proprietaries against certain citizens of this State; to pay James Harper, esquire, six dollars and sixteen cents for his fees as register, and copies of certain papers furnished the State treasurer in a suit

Allowances to

George Read,
esq.

James Harper,
esq.

against the State, by Edward Polk ; to pay, said James Harper, esq. as administrator of John B. Wootten, the sum of seventy-seven dollars and fifty cents, for printing the laws of the extra session, held in May, 1812, printing commissions, licenses, &c.; to pay Charles M. Cullen, esquire, ten dollars and twenty cents, for attendance and charges as a commissioner, to ascertain and report the probable expense of erecting a penitentiary or State prison ; to pay Cornelius P. Comegys, Samuel White and John Clarke, esquires, each the sum of nine dollars, for attendance to qualify witnesses, and draw orders for the payment of witnesses, as provided for by a law passed May 23d, 1812 ; to pay William Riley, ten dollars, for publishing proclamations issued by the governor ; to pay Jesse Green, esquire, one hundred and fifty-two dollars and sixteen cents, for expenses of printing, and postage incurred as adjutant general of the militia of this State ; to pay the honourable John Fisher, esquire, late secretary of State, thirteen dollars and sixty cents, for the expense of sending the laws passed in 1811 and 1812, to the counties of New-Castle and Sussex ; and to pay to his excellency Joseph Haslet, thirty-two dollars, for expenses incurred in procuring arms for the militia of this State.

James Harper,
administrator of
J. B. Wootten,

Charles M. Cul-
len, esq.

C. P. Comegys,
S. White, and
J. Clarke, esqrs.

Wm. Riley,

Jesse Green,
esq.

The hon. John
Fisher,

The governor.

SECT. 2. *And be it enacted*, That the treasurer of this State, whenever money comes into his hands, arising from military fines of sufficient amount, shall pay to John Reed, the sum of seventy-one dollars and fifty cents, for military fines paid over by him in 1810, and which he has been unable to collect, in consequence of the operation of a law passed in May last.

John Reed.

SECT. 3. *And be it enacted*, That the State treasurer be, and he is hereby authorized, empowered and required to pay unto William Hill Wells, George Read, jun. and Cornelius P. Comegys, out of any money in the treasury not otherwise appropriated, a sum not exceeding five hundred dollars, for car-

Appropriation
to carry into
effect a reso-

luation respect-
ing captain
Jacob Jones;
Account of ex-
penditure to be
submitted to
the next Gene-
ral assembly.

rying into effect the resolution passed by this General assembly, respecting captain Jacob Jones; and that the said William Hill Wells, George Read, jun. and Cornelius P. Comegys submit to the next General assembly, an account of their expenditure of the said money.

Passed, February 3, 1813.

C H A P. CCXLVI.

Vol. 3. chap. 30,
p. 69.

A supplement to the act, entitled, "An act for rendering the acknowledgment of deeds more easy."

Two justices of
the peace sit-
ting together,
authorized to
take the ac-
knowledgment
of deeds, and

Private examin-
ation of married
women.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That from and after the passing of this act, it shall and may be lawful for any two justices of the peace, when sitting together, within the several counties of this State, respectively, and they are hereby respectively authorized and empowered to take the acknowledgment of all bargains and sales, deeds and conveyances of lands, tenements and hereditaments within this State, together with the private examination of *femes covert*, separate and apart from their husbands, when a party to such deed, bargain, sale or conveyance of lands, tenements and hereditaments, in the same manner, and to the same effect, as the same, heretofore, might or could be done by any justice of the Supreme court, or court of Common Pleas, or the chancellor; whereupon, the same shall be recorded, and the recorder shall certify thereon, under his hand and seal of his office, the day and year he recorded the same, and the name and number of the book and page wherein the same was recorded.

SECT. 2. *And be it enacted,* That the fees for taking the acknowledgment of every such deed, and all services thereon, shall be sixty cents, and no more, whether one or more persons be named as grantors therein; and that the fees for taking the acknowledgment of a manumission, whether one or more slaves are emancipated thereby, and certifying the same, shall be twenty cents, and no more.

Fees for taking such acknowledgment,

Fees for taking acknowledgment of manumission.

SECT. 3. *And be it enacted,* That the certificate endorsed by the said justices, on any deed acknowledged by husband and wife, shall be according to the following form :

State of Delaware, sst.

Be it remembered, that on this
day of in the year of our Lord, one thousand
eight hundred and personally appeared before
us, the subscribers, two of the justices of the peace
in and for the county of and his wife,
the grantors named in the above and foregoing indenture; and they the said and severally
acknowledged the same to be their act and deed respectively, and desired it might be recorded as such; and we further certify, that the said being, the
day and year aforesaid, privately examined by us, separate from her said husband, and out of his hearing, she the said did declare and say, that she signed, sealed and delivered the said indenture, willingly and freely, without the fear, compulsion or ill-usage of her said husband, or fear of his displeasure; in witness whereof, we have hereunto set our hands the day and year aforesaid.

Form of certificate of acknowledgment by husband and wife.

Passed, February 3, 1813.

C H A P.
CCXLVII.
1813

C H A P. CCXLVII.

An ACT providing for the payment of an instalment to become due on the fourth of May next, on the stock held by this State, in the Farmers' Bank of the State of Delaware.

Instalment on shares of the State in the Farmers' bank payable May 4th, to be paid by State treasurer.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the State treasurer shall on the fourth day of May next, pay out of any money in the treasury, not otherwise appropriated, such sum of money as may be necessary to discharge the instalment then becoming due on the shares held by the State in the stock of the Farmers' Bank of the State of Delaware.

Instalments on shares of trustee of the school fund in said bank, to be paid by the trustee.

SECT. 2. *And be it enacted*, That the trustee of the fund for establishing schools, shall in like manner, at the day aforesaid, pay out of any money belonging to the said fund, such sum as may be necessary to discharge the instalment then becoming due on the shares held by the said trustee, in the stock of the said banks.

Transfer of shares by the trustee of the school fund to the State treasurer.

SECT. 3. *And be it enacted*, That the said trustee, at the day aforesaid, shall transfer to the State treasurer, for the use of the State, at the then market price, so many shares of the stock of the said bank, as with the money belonging to the said fund at that time, will be sufficient to discharge the instalments then due on the stock then held by him in the said bank ; and the said state treasurer is hereby authorized and required to receive the said transfer, and to pay the money therefor, to the said trustee.

Passed, February 1, 1813.

C H A P. CCXLVIII.

C H A P.
CCXLVIII.
1813

An ACT to prevent swine from running at large in the town of New-Castle, and its neighbourhood.

SECTION 1. **B**E it enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That no person or persons shall suffer or permit any of his, her or their hogs or swine, to run at large within the bounds of the town of New-Castle, or within one mile thereof; and that any such hog, hogs or swine, so permitted or suffered to run at large within the said bounds or limits, shall be forfeited to and for the use of the poor of the county of New-Castle.

No person shall suffer hogs to run at large in the bounds of the town of New-Castle, or within one mile thereof;

Hogs so at large forfeited, &c.

SECT. 2. *And be it enacted,* That the clerk of the market, within the said town, for the time being, shall act as a receiver, for the purpose of keeping and detaining all such hogs or swine, so permitted or suffered to run at large within the limits aforesaid; and if the clerk shall neglect or refuse to do the duties hereinafter enjoined upon him as receiver, he shall forfeit and pay the sum of ten dollars, to be recovered by the commissioners of the said town, as debts under twelve pounds are recoverable by law, and to be applied to the use of the town; and upon every such neglect or refusal, or in case of death or removal, any justice of the peace within the said town, shall appoint some other fit person to act as receiver, who shall be liable to the same penalty for neglect of duty, to be recovered and applied as aforesaid.

Clerk of the market to act as receiver for keeping hogs permitted to run at large;

Penalty for neglect or refusal;

How recovered;

Vacancies how supplied.

SECT. 3. *And be it enacted,* That it shall be lawful for any person or persons to seize, drive or convey alive all such hogs or swine as shall be permitted or suffered to run at large within the limits aforesaid, to the receiver, who is hereby empowered and required to receive and detain the same; and it shall

Lawful to seize hogs at large in the limits aforesaid;

And to drive the same to the receiver;

Duty of receiver;

Compensation to persons so seizing hogs.

Hogs seized as aforesaid, to be appraised and sold at public vendue.

Application of the balance of money arising from such sale;

Deductions to be made from the amount;

Allowance to receiver for his trouble, expenses, &c how determined;

Receiver to account for such monies, and pay over the balance

Proviso--hogs seized to be restored to the owners upon certain specified terms.

also be the duty of such receiver, to seize and detain all such hogs or swine, as he may find, or know to be running at large as aforesaid; and every such person, for every hog or swine of the weight of fifty pounds, or upwards, so seized and conveyed to the receiver, shall be entitled to the sum of one dollar, and if under fifty pounds, shall be entitled to fifty cents; and the said receiver, if such hog or swine shall be seized by him, shall be entitled to the same compensation.

SECT. 4. *And be it enacted,* That the receiver shall cause all such hogs, so seized by him, or conveyed to him, as aforesaid, to be appraised by two freeholders of the hundred of New-Castle, and sold at public vendue, after giving four days notice by advertisements, set up within the limits aforesaid, of the time and place of sale, and the monies arising from such sales, shall be applied to the use of the poor of the said county, after deducting the compensation allowed to the receiver as aforesaid, or person or persons who seized and conveyed such hogs or swine to the receiver, and also retaining what may be reasonable for his trouble and expenses, in receiving, detaining, supporting and selling the same hogs or swine, to be adjudged and determined by the freeholders who may appraise such swine as aforesaid; and the said receiver shall account with the nearest trustee of the poor, and shall pay over the monies arising from the sales aforesaid, after the deduction aforesaid, to the treasurer of the poor: *Provided nevertheless,* That if any owner of any hog, hogs or swine, shall within four days after the same shall be driven or conveyed to the receiver aforesaid, pay the sum of one dollar for every hog of the weight of fifty pounds and upwards, and fifty cents for every hog under fifty pounds weight, that shall be so as aforesaid, conveyed to the receiver, together with the expenses to the receiver, for receiving and keeping the same, to be adjudged and determined by the freeholders appraising the same as aforesaid, then and in every such case, such

hog, hogs or swine, shall be restored to the owner thereof, on his, her or their application for the same.

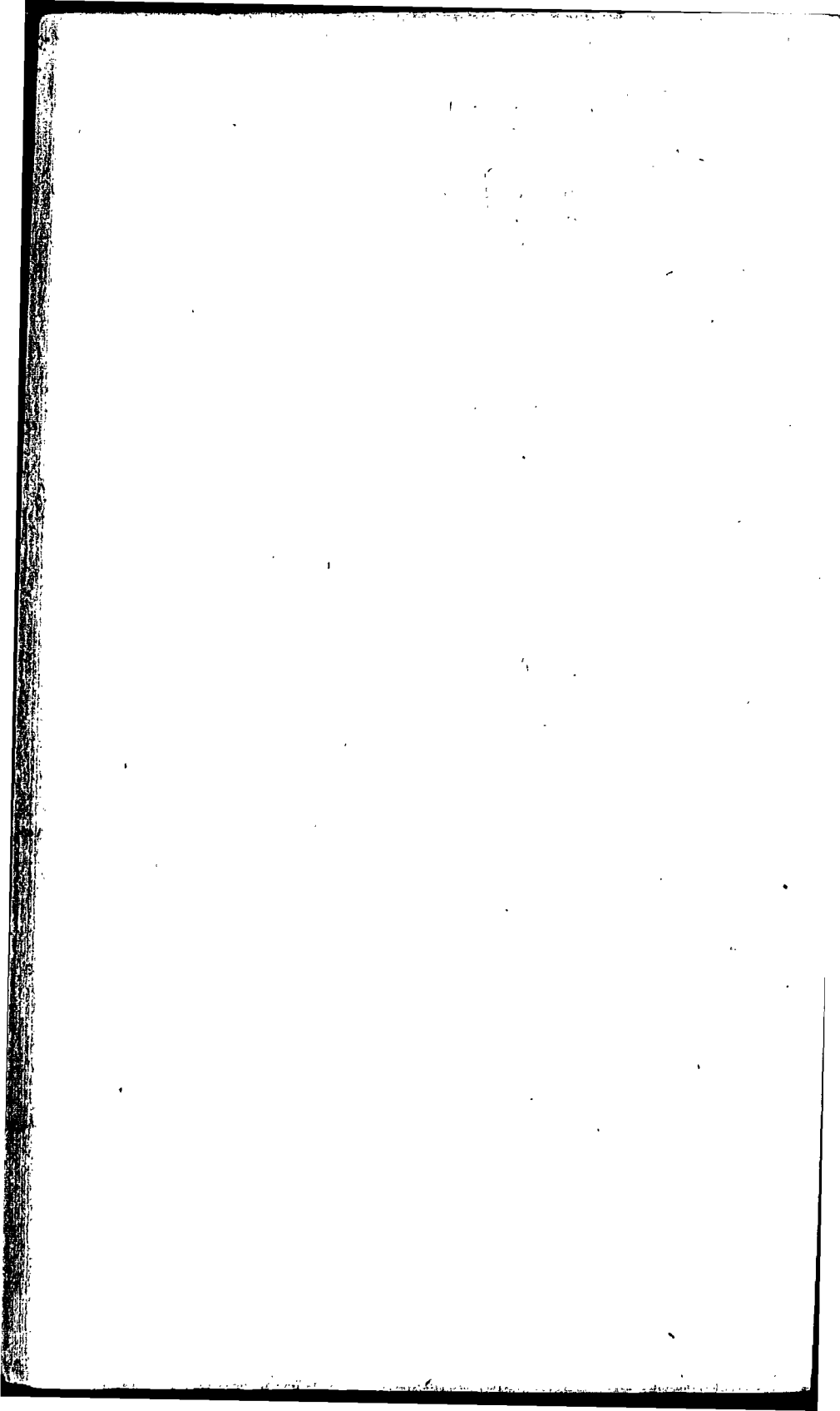
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SECT. 5. *And be it enacted*, That if any suit or action shall be brought or prosecuted against any person or persons, whomsoever, for any act or thing done in pursuance of this act, it shall be lawful for the defendant, in such suit or action, to plead the general issue, and give this act in evidence, whereof all judges and justices of the peace are required to take notice, and govern themselves accordingly.

This act given in
evidence on the
general issue.

Passed at Dover, February 2, 1813.



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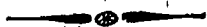
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