

# START OF RETAKE

TITLE OF RECORD Laure of Delaware

ROLL NUMBER # 4

THE IMAGES APPEARING BETWEEN THIS POINT AND "END OF RETAKE" ARE MICROPHOTOGRAPHS OF RECORDS THAT WERE ILLEGIBLE OR OTHERWISE UNSATISFACTORY ON INSPECTION OF THE ORIGINAL MICROFILM.

and execution—

(Sec. 14.)

sue execution upon the judgment, with the costs on the appeal added, as well against the surety or sureties on the appeal, as the original defendant, in the same manner and form and subject to the same direction and provision as herein before prescribed in relation to sureties of record and principals in other cases.

Surety—  
dying before  
execution—

scire facias  
may issue  
against his  
executors—

paying a  
judgment—  
shall have an  
assignment  
thereof.

SEC. 26. *And be it further enacted*, That if a surety, who shall be or may become according to the provisions of this act liable to execution, shall die before an execution can be or shall be issued, so that by reason of such decease an execution cannot regularly issue against such surety, in every such case the creditor in the judgment may proceed by scire facias upon such judgment and suretyship against the executors and administrators of such surety and obtain judgment of execution of such judgment against such executors or administrators and execution thereon in the same manner and as effectually as if the said judgment had been a several judgment against such surety. But in every case a surety, or the executors or administrators of a surety, paying a judgment, shall be entitled to an assignment thereof and to pursue and use all remedies and process thereon, so far as to reimburse to him, her or them such sum as in justice and equity he she or they ought to receive, which the creditor in the judgment could use either against the principal or joint surety or the executors or administrators of such.

Forms of scire  
facias:—  
1. against  
executors;—

SEC. 27. *And be it further enacted*, That the form of a scire facias shall be as follows, viz:—

1st. against executors or administrators—

“ county ss. State of Delaware to any  
“ constable of the said county greeting: We com-  
“ mand you, that you make known to  
“ administrator [or administrators or executor or ex-  
“ cutors as the case may be] of  
“ deceased, to appear before one  
“ of our justices of the peace for the county aforesaid,  
“ at , on the day of

"next, [or instant] to shew; if there be any cause  
 "why execution should not be had, against the said  
 "administrator [or administrators or  
 "executor or executors] as aforesaid, of a judgment  
 "recovered by against the said  
 "deceased, before  
 "one of our justices of the peace for the county  
 "aforesaid, on the day of 18  
 "for the sum of with costs; and have you  
 "then there this warrant.  
 "Witness the hand and seal of the last  
 "{ L.S. } named justice the day of  
 "18 .,"

2d against bail

2. against  
bail;—

"county ss. The State of Delaware to  
 "any constable of said county greeting: We com-  
 "mand you that you make known to  
 "bail of to appear before  
 "one of our justices of the peace for the  
 "county aforesaid at on the  
 "day of next [or instant] to shew if there  
 "be any cause why execution should not be had,  
 "against the said bail as aforesaid,  
 "of a judgment recovered by  
 "against the aforesaid before  
 "one of the justices of the  
 "peace for the county aforesaid, on the  
 "day of 18—, for the sum of  
 "with costs.

"Witness the hand and seal of the last  
 "{ L.S. } named justice the day of  
 "18 .,"

3d against executors or administrators of bail

3. against  
executors  
of bail;—

"county ss. The State of Delaware to  
 "any constable of said county greeting: We com-  
 "mand you that you make known to  
 "administrator [or administrators or executor  
 "or executors as the case may be] of  
 "deceased who was bail for to  
 "appear before one of our justi-  
 "ces of the peace for the county aforesaid, at  
 "on the day of next [or in-  
 "stant] to shew if there be any cause why exe-

# END OF RETAKE

TITLE OF RECORD Laws of Delaware

ROLL NUMBER # 4

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SAND EIGHT HUNDRED AND TWENTY, TO THE  
NINTH DAY OF FEBRUARY, ONE THOU-  
SAND EIGHT HUNDRED AND  
TWENTY-SIX.

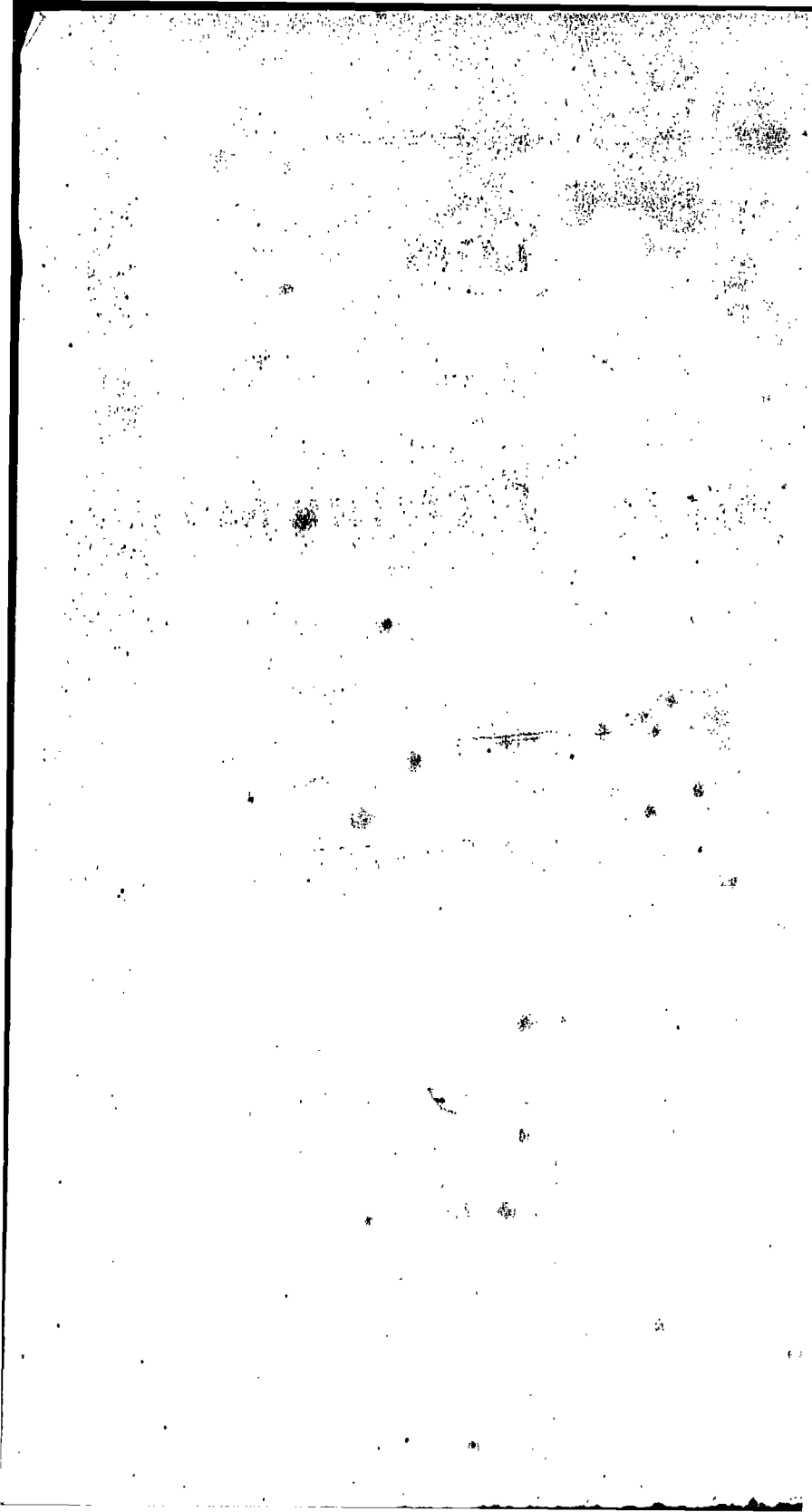


VOLUME VI.

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# LAWS

OF THE

## STATE OF DELAWARE.

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### CHAPTER I.

CHAP.  
I.

AN ACT *for the relief of Josiah Bunker, of Newcastle county, in this State.*

1820.

PASSED AT DOVER, }  
January 19, 1820. }

PRIVATE ACT.

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### CHAPTER II.

A SUPPLEMENT to the act entitled "*An act to authorize and empower the owners and possessors of the marsh, cripple and low-grounds, lying on Muddy-branch in Little-creek hundred in Kent county, to ditch, drain and bank the same.*"

vol. ch. 189,  
p. 351.

PASSED AT DOVER, }  
January 19, 1820. }

PRIVATE ACT.

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### CHAPTER III.

AN ACT *to incorporate the owners and possessors of Crane hook marsh in the hundred and county of Newcastle.*

WHEREAS there is a tract of marsh meadow ground, lying and being in the hundred and county of Newcastle, known by the name of Crane hook marsh,

Preamble,

CHAP.  
III.

1820.

bounded by the River Delaware and Christiana creek, beginning at a point of fast land, owned by Isaac Stedham, on the River Delaware, and running along said River and Christiana creek to a point of fast land owned by John Platt, on Christiana creek: and whereas there never has been any marsh law, nor act of incorporation to regulate and govern the owners of said marsh—

*SEC. 1. Be it therefore enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the present owners of said marsh, and their successors, 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 owners of Crane hook marsh."*

*SEC. 2. And be it further enacted, That the said and as a 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 in any other place whatsoever, and to do and execute all and singular other matters and things which bodies politic or corporate lawfully may do.*

*SEC. 3. And be it enacted, That the members of the aforesaid corporation shall have power, on the second Tuesday of February next, and on the second Tuesday of every February annually thereafter, to appoint two managers and one treasurer for the said company, to act as such for one year. And the said managers shall have authority to levy, on the property of the Crane hook marsh company, from time to time, and the same to collect and apply, all such tax or taxes as may be, by them, deemed necessary for carrying fully into effect the provisions of this act.*

*SEC. 4. And be it further enacted, That the said Corporation may make by-laws &c and alter the same &c. corporation shall and may hereafter make ordain and establish such by-laws regulations and ordinances, as to them shall seem necessary and convenient for the*

government of said corporation, and the same to alter and amend from time to time as they may find convenient and necessary: *Provided nevertheless*, provided the by-laws first made be not altered unless &c.; that after the first by-laws and ordinances are established, the same shall not be altered or amended, unless three months' previous notice be given to every individual owner or possessor, and not then unless two-thirds of all the owners agree thereto: and it is further provided, 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; and that no powers be exercised contrary to the laws of the State;

SEC. 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 break and alter the same and establish another or others, with such device 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. to have a common seal &c.

SEC. 6. *And be it further enacted*, That if any person or persons shall think him her or themselves aggrieved by any act or acts of said corporation, he she or they may apply to the judges of the supreme court for Newcastle county, who, upon such application, are hereby authorized and empowered to appoint five good disinterested men, owners of and being accustomed to marshes and banking, in the hundred of Newcastle, who shall, upon ten days' notice given to the parties, go on the premises and view the same upon their oath or affirmations, or a majority of them, shall say what damage, if any, has been done by said corporation, and to fix and determine the amount thereof, and to whom done, and make return thereof to the next sitting of the supreme court, upon which judgment shall be entered; and if it shall be found that any person has sustained Persons aggrieved by acts of the company may appeal to the supreme court; proceedings of the court on such appeal. Damages found shall be

paid by the company &c. damage, then, and in such case, said corporation shall immediately pay the same.

PASSED AT DOVER, }  
20 January, 1820. }

#### CHAPTER IV.

AN ACT *confirming the title to certain property in Andrew Noel.*

PASSED AT DOVER, }  
24 January, 1820. }

PRIVATE ACT.

#### CHAPTER V.

AN ACT *to incorporate the members of the Delaware fire company of Wilmington.*

Delaware fire company of Wilmington incorporated; SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Henry J. Pepper, Isaac Jackson, George W. Worrell, Vincent Gilpin, Samuel Harker, John F. Gilpin, John D. Vaughan, John D. Wood, John M. Lear, Lewis Rumford, Wesley M'Clung, Israel D. Jones, James Webb, Samuel Brown, Jesse Mendenhall, E. W. Buckman, Josiah H. Gilpin, George Bush, Thomas S. Newlin, Charles Reynolds, William P. Alrichs, John Guyer, Henry Vining, Israel Saunders, James P. Merrihew, Jacob Simmons, William Simmons, Archibald Bingham, John R. Brinokle, William D. Brinckle, William Johnston, Reuben Webb, James S. White, Thomas Cole, jr. Samuel Ash, Mahlon Betts, Benjamin W. Brackin, George Griffin, Edmund S. Ray, A. V. Mattson, Peter A. Humphreys, Thomas G. Cable, Thomas A. Sterrett, James Brown, John Virtue, Samuel Hogg, Ezekiel Harker, James Watson, John Wright, and such other persons as shall hereafter be admitted or become mem-

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bers of the Delaware fire company of Wilmington, according to the laws and constitution of the said company hereafter to be made, be and forever hereafter shall be, by virtue of these presents, one body politic and corporate, in deed, fact, name and in law, to have continuance forever by the name of "*the Delaware fire company of Wilmington.*"

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V.

1820.

SEC. 2. *And be it enacted,* That the said corporation and their successors shall forever hereafter be persons able and capable in law, to have, hold and enjoy all manner of lands, tenements, rents, annuities, liberties, franchises and hereditaments, goods, chattels and other things of what nature, kind or quality soever, and also to give, grant, let, sell or assign the same lands, tenements, hereditaments, goods and chattels, and to do and execute all other things about the same, by the name aforesaid; and also that they and their successors, by the name of the Delaware fire company of Wilmington, be and shall forever hereafter be persons able and capable in law to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in all or any of the courts or other places and before any judges justices or other persons whatsoever, in all manner of actions suits complaints pleas causes or matters whatsoever and of what nature or kind soever.

may hold  
lands &c.;

and sell the  
same &c.

may sue and  
be sued &c.;

SEC. 3. *And be it enacted,* That it shall and may be lawful to and for the said Delaware fire company of Wilmington and their successors forever hereafter to have and use a common seal with such device or devices as they shall think proper for sealing all and singular deeds grants conveyances contracts bonds articles of agreement assignments powers and all and singular other affairs touching or concerning the said corporation.

may have and  
use a common  
seal &c.

SEC. 4. *And be it enacted,* That it shall and may be lawful for the said company and their successors to assemble and meet together, as often as occasion may require, at such convenient place or places as they may from time to time appoint, due notice being

May meet  
together &c.;

given of the same; and shall have full power and authority, from time to time, to make constitute and establish such laws, statutes, orders and constitutions, as shall appear to them, or the major part of them, to be good and useful, honest and necessary, according to the best of their judgment and discretion, for the government, regulation and direction of the company, and every member thereof, and for the appointing and regulating the election or nomination of such and so many officers as they shall think fit, and for limiting and appointing their trust and authority, and for the admitting of new members, and to do all things concerning the government, estate, goods, lands and revenues, as also all the business and affairs of the said company; all which laws, statutes, orders and constitutions, so to be made as aforesaid, shall be binding on every member, and be, from time to time, inviolably observed according to the tenor and effect of them: *Provided* they be not repugnant or contrary to the constitution and laws of this State or of the United States: *Provided always nevertheless*, that the yearly rents and profits of the whole real estate, to be held and enjoyed by the said corporate body, or by their successors, or by any person or persons for their use, shall not exceed or amount to more than five hundred dollars lawful money of this State.

and make by-laws &c.

Election of officers,

new members.

Provisoos.

PASSED AT DOVER, }  
26 January, 1820. }

## CHAPTER VI.

AN ACT to divorce *Ruth Harper and Nathaniel Harper*, from the bonds of matrimony.

PASSED AT DOVER, }  
27 January, 1820. }

PRIVATE ACT.

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### CHAPTER VII.

CHAP.  
VII.

1820.

AN ACT authorizing *Robert Boyce of the county of Sussex, to use and employ his slaves, now in the said county, upon the lands of said Robert Boyce in the State of Maryland.*

PASSED AT DOVER, }  
27 January, 1820. }

PRIVATE ACT.

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### CHAPTER VIII.

AN ACT for the relief of the heirs of *Thomas Sorden deceased.*

PASSED AT DOVER, }  
1 February, 1820. }

PRIVATE ACT.

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### CHAPTER IX.

AN ACT for the relief of *Samuel L. Eccles and Joseph Eccles, of Newcastle county in this State.*

PASSED AT DOVER, }  
February 2, 1820. }

PRIVATE ACT.

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### CHAPTER X.

AN ADDITIONAL SUPPLEMENT to the act <sup>4 vol. ch. 165,</sup>  
entitled "*An act to prevent injury by dogs in*" <sup>p. 469</sup>  
*Newcastle county.*" <sup>5 vol. ch. 143,</sup>  
<sup>p. 242.</sup>

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the act entitled "A supplement to an act entitled An act to prevent injury by dogs in Newcastle county," passed the fourth

Repeal—

of ch. 143,  
vol. 5, p. 242;

day of February, one thousand eight hundred and seventeen, and the second, third and fourth sections of the act entitled "An act to prevent injury by dogs in Newcastle county," passed the fourth day of February, one thousand eight hundred and eleven, be and the same are hereby declared to be repealed: *Provided &c.* *Provided however*, that they shall be in force as relates to the collection and paying over the tax on dogs heretofore levied and assessed.

**SEC. 2.** *Be it enacted*, That it shall be lawful, after the first day of May next, for any person or persons to kill any dog or slut, running at large, in Newcastle county, beyond the owners premises, without a collar, affixed around its neck, having the initial of the christian and the whole of the sur-name of the owner thereof legibly inscribed thereon.

PASSED AT DOVER, }  
2 February, 1820. }

## CHAPTER XI.

1 vol. ch. 131, A **SUPPLEMENT** to an act entitled "*An act for erecting public bridges causeways and laying out and maintaining highways.*"  
a p. 316  
see 5 vol. p. 218.

**SEC. 4.** *BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That whenever freeholders shall, under any order of the court of quarter sessions of the peace, proceed to lay out any road in Kent county, they shall, in addition to the damages by them assessed, make return to such court a true account of the probable expenses of laying out such road: and the return of said road, with the estimate of the expenses and damages, shall be laid before the levy-court of the said county; and such road shall not be opened, until after the return thereof shall be approved by the levy-court as well as by the court of quarter sessions of the peace.

No new road shall be opened in Kent county, until the return thereof be approved by the levy-court, as well as the court of quarter sessions &c.  
1 vol 320.  
393.  
2 vol. 1268.

SEC. 2. *And be it enacted,* That the act passed on the twenty-eighth day of January in the year eighteen hundred and seventeen entitled "A supplement to an act entitled An act for erecting public bridges causeways and laying out and maintaining highways," be and the same is hereby repealed. Repeal of  
ch. 127, vol.  
5, p. 218.

PASSED AT DOVER, }  
2 February, 1820. }

## CHAPTER XII.

AN ACT to authorize and empower William Keith and Thomas Collins, administrators of William Collins, deceased, to make and execute a deed of conveyance to Joshua C. Parke, for a certain lot of ground therein mentioned.

PASSED AT DOVER, }  
2 February, 1820. }

PRIVATE ACT.

## CHAPTER XIII.

AN ACT for the appointment of an Auditor of accounts.

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That John M. Clayton be and he is hereby appointed Auditor of accounts, for the term of one year from the passing of this act, and from thence to the end of the next session of the General Assembly. J M. Clay-  
ton appointed  
auditor of ac-  
counts:

SEC. 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, it shall and may be lawful for the Governour, for the time being, to appoint some other fit person the Auditor of accounts; vacancy oc-  
curring, to be  
supplied by  
the govern-  
our.

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XIII.

1820.

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.

PASSED AT DOVER, }  
8 February, 1820. }

## CHAPTER XIV.

AN ACT *fixing the salary of the Auditor of accounts.*

SEC. 1. 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, the Auditor of accounts shall receive, for his services, the sum of four hundred dollars, annually, to be paid quarterly by the treasurer of this State.

Repeal of repugnant acts, see 2 vol 877, 1100, 1197, 1214, 1350. 3 vol. 19, 4 act, be and the same are hereby repealed made null vol 581, 582. and void. 5 vol. 157.

SEC. 2. *And be it further enacted,* That all and every act and acts of the General Assembly of this State, that are repugnant to the provisions of this act, be and the same are hereby repealed made null and void.

PASSED AT DOVER, }  
8 February, 1820. }

## CHAPTER XV.

AN ACT *for the preservation of the records of the court of common pleas in and for Kent county.* \*

Certain records of the court of common pleas for Kent county.

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 Governour 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 records of the court of common pleas in and for Kent county, and to make out a certificate, under their hands, which and how much of the said records it is necessary to transcribe or copy, and shall deliver the said certificate to the prothonotary of the said court, who is hereby authorized and required, immediately thereupon, to transcribe or copy, or cause to be transcribed or copied, such records: and after the said prothonotary shall have transcribed or copied the said records, it shall be the duty of the said commissioners to compare and correct the same by and with the originals, and, after so doing, to certify thereon that they are true copies thereof: and all copies, made examined and certified as aforesaid, shall have and receive, in all respects, the same faith and credit, as the originals now may or can have and receive.

to be copied under direction of commissioners &c. ;  
such copies to be compared corrected and certified by the commissioners ;  
and to have the same credit as the originals ;—

SEC. 2. *And be it enacted*, That the said commissioners shall, before entering upon the performance of the duties assigned to them by this act, be sworn, or affirmed, before some judge of this State or the chancellor, faithfully to perform the said duties, and shall file a certificate thereof in the said court.

oath of the commissioners,  
certificate thereof to be filed &c.

SEC. 3. *And be it enacted*, That each of the said commissioners shall have and receive, for each and every days attendance in performing the trust hereby reposed in them, a sum, not exceeding three dollars, to be allowed by the levy-court of Kent county aforesaid: and the said levy court shall make such reasonable allowance, as they may deem just and right, to the aforesaid prothonotary, for his services in copying the aforesaid records.

Compensation of the commissioners ;  
and of the prothonotary for copying &c. ;

SEC. 4. *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

vacancies among commissioners to be supplied &c.

CHAP. XV. for the governour to appoint some other person or persons in his or their place or stead.

1820.

PASSED AT DOVER, }  
8 February, 1820: }

## CHAPTER XVI.

AN ACT *providing for the settlement of claims against the Roman Catholic chapel in the town of Newcastle.*

SEC. 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 any person or persons, having any debts or claims against the Roman Catholic chapel situate at the corner of Union and Harmony streets in the town of Newcastle, to apply, by petition, to the chancellor of this State, in open court at Newcastle, any time after the passing of this act, setting forth the nature and amount of the claims; whereupon the chancellor is hereby authorized to appoint three disinterested freeholders, of the county of Newcastle, to examine the respective debts or claims against the said chapel, and to make such allowance therefor as they, or a majority of them, shall deem just, and make report of the same to the chancellor at the term of the court of chancery next succeeding that at which the said appointment shall be made: which report shall be confirmed by the chancellor, if no good cause shall be shewn to the contrary; in which case the chancellor may appoint three other suitable freeholders to examine allow and report as aforesaid; which report shall be made, at the next succeeding term of the said court for the said county, and then confirmed, if no good cause shall be shewn why the same should not be done: and the chancellor is hereby authorized and empowered to appoint freeholders anew for the purposes aforesaid, as often as good cause shall be shewn to him that the re-

turn of any set of freeholders ought not to be confirmed: and if the allowance, awarded to be made in manner aforesaid, is not paid to the person or persons within three months thereafter, then, in that case and how the chapel may be sold for payment of said claims, it shall be lawful for the chancellor to appoint a trustee or trustees to advertise and sell, at public sale, the building, known by the name of the name of the Roman Catholic chapel, in the town of Newcastle, together with such part of the lot, belonging thereto, as the chancellor may order and direct; and the proceeds of such sales so made shall be brought into court at the ensuing term thereof; and the said chancellor is hereby authorized to order and direct the payment of such debts as he shall have allowed, and the balance, if any, shall be subject to the further order of the chancellor.

PASSED AT DOVER, }  
8 February, 1820. }

## CHAPTER XVII.

AN ACT to authorize the administrator of *Alexander Femister, deceased, to convey to Marcia G. Ross a certain tract of land and marsh therein mentioned.*

PASSED AT DOVER, }  
9 February, 1820. }

PRIVATE ACT.

## CHAPTER XVIII.

AN ACT to alter and vacate part of a road leading from *Milford in Kent county to the line between this State and the State of Maryland.*

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Levin Charles shall have

Levin Charles authorized to alter part of a

road leading from Milford to the Maryland land line; power, and he is hereby authorized, to alter part of a road, leading from Milford, in Kent county, to the line dividing this State from the State Maryland; and passing through the lands of the said Levin Charles, that is to say, the said alteration shall begin next to Milford at a point in the said road near where the said Levin Charles has commenced the clearing of a new road, and leaving the old road shall run from thence on the land of the said Levin Charles south sixty-five degrees west seventeen perches, thence south eighty and a half degrees west one hundred and thirty-eight perches, and thence north seventy and a half degrees west three perches to a point in the said old road; which new part of the said road shall be of the same width as that part of the said road hereinafter vacated, and shall be laid out made and put in good order and condition, for the convenient and safe passage of the citizens of this State with their horses oxen carts wagons and other carriages, by the said Levin Charles at his own proper cost and charges.

and to do it at his own expense &c. ;

**SEC. 2.** *And be it enacted,* That as soon as the said new road shall be laid out made and put in good order and condition as aforesaid, and no sooner, so much of the said present road, as is hereinafter described, that is to say, according to the following courses and distances, beginning at the point before mentioned, near where the said Levin Charles has commenced the clearing of a new road, and running thence north eighty-one and a half degrees west fifty-eight perches, and thence south sixty-nine and a half west one hundred and four perches to the before mentioned point in the said road, where the new road hereby authorized stops, he, and the same is hereby vacated; and it shall be lawful for the said Levin Charles to appropriate the same to his own exclusive use in such manner and for such purposes as he may see proper.

Part of the present road vacated, as soon as the new one shall be completed:

**SEC. 3.** *And be it enacted,* That the part of the said road, so to be made as aforesaid, shall, after the terms of this act shall have been complied with

new road when completed, to be

by the said Levin Charles, be deemed and taken as <sup>deemed a part of the present road.</sup> part of the aforesaid road leading from Milford in Kent county to the line between this State and the State of Maryland.

PASSED AT DOVER, }  
9 February, 1820. }

## CHAPTER XIX.

AN ACT to vacate certain roads therein mentioned.

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the old road, lying in Brandywine hundred, on the south side of William Young's manufactory, between the points of intersection of the road leading to the Wilmington and Great Valley turnpike, unto the point where it intersects the road leading to the Kennet turnpike; also that part of a new road, laid out, though not opened, leading to the bridge at said mills south fifty degrees and a half west, about fourteen perches from its intersection with the old road aforesaid; be and the same are hereby vacated: *Provided however,* that <sup>Certain roads in Brandywine hundred vacated:</sup> the commissioners of roads in and for Brandywine hundred, for the time being, or a majority of them, shall approve of and allow the said roads to be vacated, otherwise this act to be void and of no effect. <sup>Provided &c.</sup>

PASSED AT DOVER, }  
10 February, 1820. }

## CHAPTER XX.

AN ACT authorizing the State-treasurer to pay certain claims therein mentioned, and for other purposes therein mentioned.

SEC. 1. BE IT ENACTED by the Senate and House

*State-treasurer to pay the claims of--* *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 Thomas Deakeayne the sum of one hundred and forty-two dollars and ninety-three cents for his trouble and expenses in going to Pennsylvania and New-Jersey to take into custody Moses Scott and William Miller, alias William Ritchie, two fugitives from justice, by virtue of a warrant from the governour of this State; to Caleb Kirk; Caleb Kirk sixty-eight dollars, for services as one of the board of appeals under the general assessment law; Nathan Vickars; to Nathan Vickars, for the like services, fifty-six dollars; to John Raymond, for the like services, and copying the assessment books and other services, one hundred and thirty dollars and fifty-three cents; to Philip Rasin; Philip Rasin, for attending on said board, fifteen dollars and ninety-six cents; to Presley Allee, as clerk of said board, and stationary, thirty-six dollars and fifty cents; to William Elligood nine dollars and fifty cents, for books furnished the general assessors; to Isaac Adkins; Isaac Adkins ten dollars, for a musket deposited in the arsenal at Lewestown during the war; to Nathaniel Smithers; prothonotary of Kent county, for sundry fees, twenty-six dollars and eighty-seven cents; to Isaac Tunnell; eight dollars and eighteen cents; to John W. Many, or his order, thirty dollars, for one years service as commissary of military stores in Kent county; to James Gaskins thirty dollars, for the like service in Sussex county; to John Robertson two dollars and fifty cents, for printing notices of the sitting of the board of commissioners on the general assessment in Sussex and Kent counties; to Alexander Reynolds ten dollars, for copying of records for the assessors in Newcastle county; to Joseph Buckmaster the sum of ninety-two dollars and twelve cents, for cash expended in going to Pennsylvania to take into custody Isaac Becket and Anthony Denny, two fugitives from justice, by virtue of a warrant from the governour of this State; to H. M. Ridgely; Henry M. Ridgely, esquire, Secretary of State, five hundred and fifty-five dollars, for making index to the acts of 1817, 1818, 1819 and the general index to the fifth vol. of the laws, and for sundry extra ser-

vices in settling accounts with sundry persons, and other extra services; and to Enoch Joyce, esquire, Enoch Joyce eighteen dollars, for his attendance on the high court of errors and appeals.

SEC. 2. *And be it enacted,* 'That the Secretary of State is hereby authorized and empowered to settle and adjust the accounts of Caleb Barratt and Samuel Johuson and William Elligood, for services rendered by them respectively as general assessors of this State, and the accounts of the clerks of the said assessors; and for the amount, found due to the said persons respectively, the governour is hereby authorized and empowered to draw his warrant upon the State-treasurer in favour of the said persons respectively, which shall be paid out of any money in the treasury not otherwise appropriated.

Secretary of State to adjust and settle the accounts of the General Assessors & their clerks; 5 vol. 172, 259, 428;— and the governour to draw in their favour on State-treasurer for the amount found due &c.

PASSED AT DOVER, }  
11 February, 1820. }

## CHAPTER XXI.

AN ACT to appropriate the monies in the treasury of this State.

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the sum of fourteen thousand dollars, part of monies now in the treasury of this State, shall be 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 governour, chancellor, judges of the supreme court, judges of the court of common pleas, attorney-general, Secretary of State, and auditor of accounts, up to the first Tuesday of January one thousand eight hundred and twenty-one; and so much thereof, as may be necessary, shall be applied to the payment of the daily allowances to the members of the General Assembly, their clerks, and

Appropriation to pay— salaries &c.;

for printing other expenses, and for printing the laws, passed at the laws &c.; 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 has been made by law.

PASSED AT DOVER, }  
11 February, 1820. }

## CHAPTER XXII.

*AN ACT authorizing the commissioners of roads, in and for the hundred of Newcastle, to apply the dividends arising from certain stock belonging to the hundred, to the purposes therein mentioned.*

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 of roads, in and for the hundred of Newcastle, or a majority of them, from time to time, to draw dividends now due, or which may grow due, on the stock of the Newcastle turnpike company, or the stock of the Newcastle and French-town turnpike company, held by the commissioners of roads of said hundred in trust for said hundred, and to apply such dividends, from time to time, in the repairs of the roads and bridges within the same, or apply the same to the redemption of the stock of the Newcastle turnpike company.

PASSED AT DOVER, }  
11 February, 1820. }

CHAPTER XXIII.

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1820.

AN ACT to authorize Arthur H. Willis to remove certain slaves therein mentioned from this State into the State of Maryland.

PASSED AT DOVER, }  
11 February, 1820. }

PRIVATE ACT.

CHAPTER XXIV.

AN ACT for the continuance of certain banks therein mentioned, and for securing payments in specie, by the said banks, to persons holding their notes.

SEC. 1. BE 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 establish a bank and incorporate a company under the name of the Farmers' Bank of the State of Delaware", passed the fourth day of February, in the year of our Lord one thousand eight hundred and seven,—and the act, entitled "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", passed on the thirty-first day of January, in the year of our Lord one thousand eight hundred and nine,—and the act, entitled "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", passed on the thirtieth day of January in the year of our Lord one thousand eight hundred and ten,—and the act, entitled "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", passed the twenty-second day of January in the year of Lord one thousand eight hundred and thirteen,—and the act, entitled "An act to incorporate a bank in the

Extension, for five years from the first Sept. 1822, of the charters of the following banks; viz.:—  
of the Farmers' Bank, 4 vol. 87—  
4 vol. 273—  
4 vol. 325—  
4 vol. 394—  
of the Bank of

Delaware;—  
2 vol. 1236,

4 vol. 524,

of the Com-  
mercial Bank;  
4 vol. 548—

of the Bank  
of Wilming-  
ton and Bran-  
dywine;—  
4 vol. 528—

of the Far-  
mers' and  
Mechanics'  
Bank;—  
4 vol. 536—

4 vol 561—

on condition  
that they cer-  
tify, respec-  
tively, their  
acceptance of  
this act &c.

Sec. 10.

Penalty on  
said Banks for  
refusing to

Borough of Wilmington in this State", passed the ninth day of February in the year of our Lord one thousand seven hundred and ninety six,—and the act, entitled "A supplement to an act entitled An act to incorporate a bank in the Borough of Wilmington in this State", passed the fourth day of February in the year of our Lord one thousand eight hundred and twelve,—and the act entitled "An act to establish a bank and to incorporate a company under the name of the Commercial Bank of Delaware", passed the ninth day of February, in the year of our Lord one thousand eight hundred and twelve,—and the act, entitled "An act to incorporate the Bank of Wilmington and Brandywine in the Borough of Wilmington", passed on the fourth day of February, in the year of our Lord one thousand eight hundred and twelve,—and the act, entitled "An act to establish and incorporate a company under the name of the Accommodation Bank of Delaware", passed on the seventh day of February, eighteen hundred and twelve,—and an act supplementary thereto, changing the corporate title of the said bank to that of the Farmers' and Mechanics' Bank of Delaware, passed on the *twelfth* day of February, in the same year,—or so much of the said recited acts as is now in force,—shall be, and they are hereby, re-enacted and declared to be in full force, from and after the first day of September, which will be in the year of our Lord one thousand eight hundred and twenty-two, for and during and until the period of five years thereafter shall be fully completed and ended, excepting so much of the said acts respectively as is repugnant to the provisions of this act: upon the express condition nevertheless, that the stockholders of the said banks, respectively, shall certify, in the manner, and within the time, hereinafter directed, their acceptance of this act, or so much thereof as shall relate to them respectively, as composing a part of their charters respectively.

SEC. 2. *And be it enacted*, That if the said banks shall refuse, at their banking houses respectively, when there duly called upon for any notes of the said

banks respectively there payable, to pay in specie <sup>pay their</sup> the full amount thereof, to the person presenting the <sup>notes in spe-</sup> same, the bank, so refusing, shall forfeit and pay, to such person, twenty per centum, in addition to the amount of such notes, to be sued for and recovered, by the holder thereof, with costs of suit, as other debts due from the said banks respectively, may be sued for and recovered.

SEC. 3. *And be it enacted*, That from and after <sup>Persons pro-</sup> the first day of May next, it shall not be lawful for <sup>hibited from</sup> any person or persons, within this State, to pay or <sup>paying or of-</sup> receive, or offer to pay or receive, or in any other <sup>fering to pay</sup> way barter or exchange, any bank note, or bill, or <sup>receiving or</sup> paper purporting to be a bank note or bill, for any <sup>offering to re-</sup> amount less than is made payable on the face of such <sup>ceive &c. any</sup> bank note or bill; and for every offence, committed <sup>bank note</sup> against this provision, the person or persons, so offend- <sup>&c. for less</sup> ing, shall forfeit and pay a sum, equal to the nomi- <sup>than its nom-</sup> nal value of such bank note or notes, to be recovered, <sup>inal amount,</sup> as debts of a like amount are now recoverable by the <sup>&c.:</sup> laws of this State, by, and for the use of, any per- <sup>Penalty</sup> son who will sue for the same. <sup>therefor.</sup>

SEC. 4. *And be it enacted, and it is hereby fur-* <sup>One half</sup> *ther expressly provided*, That as a condition of the <sup>of one per</sup> passing of this act, the president directors and com- <sup>cent per ann.</sup> pany of the Farmers' Bank of the State of Delaware <sup>on the capital</sup> shall, semi-annually, pay to the State-treasurer of <sup>stocks of all</sup> this State, for the use of the State, at the rate of one <sup>the said banks</sup> half of one per centum, per annum, on the whole ca- <sup>&c., to be paid</sup> pital stock of the said bank actually paid in, the first <sup>half yearly to</sup> payment to be made at the end of six months from <sup>the State.</sup> the date of their acceptance of this act, and thereaf-  
ter half-yearly, for and during the full time and pe-  
riod of its continuance; and that the president direc-  
tors and company of all the other banks in this act  
named, and the charters of which are hereby re-en-  
acted and extended, or so many thereof as shall ac-  
cept of the provisions of this act, or any of them,  
shall, in like manner, pay one half of one per cen-

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1820.

tum, per annum, on their whole capital stock actually paid in, respectively, during the continuance of this act.

Limitation  
of the amount  
of the annual  
compensa-  
tions of the  
cashiers and  
clerks of the  
Farmers'  
Bank.

SEC. 5. *And be it enacted*, That the annual compensation, to the cashier of the principal bank of the Farmers' Bank, and cashiers of the branch banks at Newcastle and Wilmington, respectively, shall not exceed seven hundred and fifty dollars each, and to the cashier of the branch bank at Georgetown, shall not exceed six hundred and seventy-five dollars, and to the clerks of the said principal bank and branches at Newcastle and Wilmington, respectively, shall not exceed five hundred dollars each, and to the clerk of the branch at Georgetown four hundred dollars; and moreover, if there be more clerks than one appointed at the principal bank and each of the branch banks, then the compensation to each clerk shall not exceed two hundred and fifty dollars.

This act not  
to extend the  
charter of the  
Farmers'  
Bank, unless  
its stockholders,  
or such  
of them as  
may deem it  
proper, as-  
semble on the  
first Tuesday  
of January,  
1821, and re-  
duce the annu-  
al compensa-  
tions of the  
cashiers and  
clerks within  
the limits pre-  
scribed in sec-  
tion five:—

SEC. 6. *And be it enacted*, That this act, so far as it provides for the further extension and continuance of the said acts incorporating the Farmers' Bank aforesaid, is upon condition, that the stockholders of the same Bank, or such of them as may deem it proper, shall assemble together, at their banking-house in the town of Dover, on the first Tuesday in January next, and they are hereby authorized and required, any thing in the original charter or act of incorporation aforesaid notwithstanding, when so assembled, by an act ordinance or resolution of such of the said stockholders as may so assemble, or a majority of them, to reduce the said annual compensations of the said several cashiers and clerks of the Farmers' Bank and its branches aforesaid, to the maximum limit or sums respectively prescribed and provided for in the next preceeding section, in relation to future compensations, annually to be made, and the limit of which compensations shall not hereafter be exceeded by any act ordinance or resolution of either of the said stockholders or the said general board of directors of the said bank, otherwise this act shall have no force or effect in relation to extend.

which limits  
shall never  
hereafter be  
exceeded, &c.

ing and continuing the original act incorporating the Farmers' Bank and supplements aforesaid thereto.

SEC. 7. *And be it enacted*, That this act is, and This act shall be considered as having been, passed upon this condition that the further express condition, that the said banks, res- said banks pectively, shall, from time to time, make out and sub- submit such mit, or cause to be made out and submitted, to the their accounts statements of General Assembly, such statements of their accounts, to the Gene- respectively, as shall, by any vote of the said Gene- ral Assembly as shall be re- quired by a vote thereof—

SEC. 8. *Be it enacted*, That nothing in this act One or more of said contained, shall be construed to operate a forfeiture banks not of the charter of any bank, by reason of any other complying with the conditions prescribed in this act, those complying &c. not to be affected there-

SEC. 9. *And be it enacted*, That it shall be law- by. Stockhol- ful for the stockholders of the said banks respective- ly, at all meetings of stockholders convened pursu- ders of said ant to law, to vote, either in person, or by proxy, on banks may all subjects and questions that may arise and come vote by proxy &c. on all sub- before the said meetings; and moreover that a cer- jects &c : tificate of the acknowledgment, by the party, of the evidence of the due execution of the instrument of proxy, made by a ment of prox- notary public, under the seal of his office, shall be y, &c. sufficient evidence thereof.

SEC. 10. *And be it enacted*, That it shall be law- Acceptance of this act by the said banks— ful for the stockholders of the said banks, respective- ly, to assemble, at the respective places now fixed by banks— law for holding the general meetings of stockholders of the said banks, respectively, on the first Tuesday when to be of January, in the year of our Lord one thousand considered and determi- eight hundred and twenty-one, for the purpose of ned on by the taking into consideration, and determining upon, stockholders their acceptance of this act for the further continu- &c.— ance and establishment of their charters respective- ly; and the acceptance of this act may be made by how to be a majority of the said stockholders, respectively, made,— who shall, at the said time, assemble together, and to whom,— signify to the governour of the State, within ten days time,—

and in what manner to be signified. thereafter, by a certificate in writing, to be signed by the chairman of the said meetings respectively, and attested by the Secretaries thereof respectively, under the corporate seals of the said banks respectively.

No judge of any court of this State shall be a director of either of said banks. SEC. 11. *And be it further enacted,* That no judge of any of the courts of this State shall be capable of being elected, by the stockholders of the respective corporations, or appointed by the General Assembly, a director during their continuance in office respectively.

PASSED AT DOVER, }  
11 February, 1820. }

## CHAPTER XXV.

*AN ACT respecting the opening and repair of public highways, and the erection and maintenance of public bridges, in Newcastle county.*

No expenses or damages consequent on the laying out a public road in Newcastle county shall be paid by the county, until the road is opened and completed &c. SEC. 1. *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, no damages awarded, or expenses incurred, in consequence of the opening or laying out of any public road or highway, shall be paid by the county, until, by the certificate of the road commissioners or a majority of them in the hundred or hundreds where such road or highway may be laid out or opened, it shall be made appear to the court, issuing the order, that such road or highway is actually open and completed, any law usage or custom to the contrary notwithstanding.

No public road in Newcastle county shall be opened, until, being confirmed by the quarter proved of by the levy-court of the said county; to SEC. 2. *And be it enacted,* That no public road or highway shall be opened hereafter, in Newcastle county, until the same, after having been confirmed by the court of quarter sessions, shall have been approved of by the levy-court of the said county; to

whom, a return, of the damages awarded and expenses incurred of said road or highway, shall be made, by the commissioners returning the same, or a majority of them, on oath or affirmation.

Repeal of sessions, it shall be approved by the legislature &c.

SEC. 3. *And be it enacted*, That any act, or part of any act, of Assembly of this State, which by this act may be amended or supplied, be and the same is hereby repealed.

Repeal of acts amended or supplied by this.

PASSED AT DOVER, }  
11 February, 1820. }

## CHAPTER XXVI.

RESOLVED *by the House of Representatives, with the concurrence of the Senate*, That Cornelius P. Comegys be and he is hereby appointed State-treasurer.

C. P. Comegys appointed State-treasurer.

*Adopted by the House of Representatives,*  
12 January, 1820.  
*Concurred in by the Senate,*  
13 January, 1820.

## CHAPTER XXVII.

RESOLVED *by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That Jame M'Callmont and Samuel H. Black, physicians, be, and they are hereby appointed, members of the medical board of examiners for the State of Delaware, to supply the vacancies occasioned therein by the resignation of James Tilton and the death of George Monro.

Vacancies in the medical board of examiners supplied &c.

ADOPTED AT DOVER, }  
13 January, 1820. }



SECRETARY'S OFFICE,

Dover, 18 February, 1820.

*In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes", I have collated with, and corrected by, the original rolls, and caused to be published, this edition of the laws of the said State, passed during the last session of the General Assembly, which commenced on Tuesday the fourth day of January, and closed on Friday the eleventh day of February, in the year of our Lord one thousand eight hundred and twenty.*

**H. M. RIDGELY,**

*Secretary of the State of Delaware.*



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# LAWS

OF THE

## STATE OF DELAWARE.

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### CHAPTER XXVIII.

A SUPPLEMENT to the act, entitled, "*An act to regulate the practice of medicine and surgery in this State.*" Chap. cxxi, vol. 5, p. 380.

SECTION. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That five members of the board of medical examiners, appointed by virtue of the act to which this is a supplement, shall constitute a board for the transaction of business, any thing in the third section of the said act to the contrary notwithstanding. Number to constitute a board. 5

PASSED AT DOVER, }  
10 January, 1821. }

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### CHAPTER XXIX.

AN ACT for ascertaining the salaries of the Governor and Attorney General, for fixing the compensation of the members of the General Assembly and their officers.

SECTION 1. 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, there shall be allowed to the

**Governor** Governor of this State, the annual salary of one per year dol- thousand dollars, and no more; and to the Attor- lars 1,000.

**Attorney General** the annual salary of one hundred and general per fifty dollars, and no more; and from and after the year \$150.

**Members of first Tuesday in October next,** to each of the mem- General As- bers of the General Assembly, two dollars and fif- sembly per di- ty cents, and to the speakers of each house, three om \$2 50; dollars, to their clerks respectively, two dollars their speakers \$3 00; and fifty cents, and to their door keepers, each one \$2 50; dollar and twenty-five cents for each and every day their door- they may respectively be in attendance, with an keepers \$1 25 additional al- allowance of one day to each member lowance in whose residence may be more than fifteen miles lieu of mi- from the seat of government of the State. for going lidge. to, and one day for returning from the place where the General Assembly may convene.

**SEC. 2.** *And be it enacted,* That the above sala- ries and allowances be paid according to the exist- ing laws of the State, in that behalf made.

**SEC. 3.** *And be it enacted,* That any law, or Chap. vi, c. sections of any law, or parts thereof which may be Vol. 2, page 1068, ch ix, contrary to, and inconsistent with this act be, and vol. 3, pa 26, the same are hereby repealed. Chap. xxiii, sec. 2, 4 vol. p. 51.

PASSED AT DOVER, }  
15 January, 1821. }

## CHAPTER XXX.

**A SUPPLEMENT to the act entitled, "An act to requiring Sheriffs to give security."**  
Chap. xxvii, A  
c. 2 vol. 1129  
page.

**SECTION 1.** BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in all cases in which the Governor shall fill a vacancy in the office of sheriff by a new appointment to continue unto the next general election and until a successor shall

be chosen and duly qualified, the person so appointed shall together with three or more good and substantial freeholders of the county within fifteen days after said appointment, acknowledge a joint and several recognizance to the State of Delaware, before the chancellor or some judge of the supreme court or court of common pleas, residing in the county, in the sum of twelve thousand dollars, upon the condition expressed and set forth in the first section of the act to which this is a supplement; which said recognizance shall be certified by the chancellor or judge before whom the same shall be acknowledged to the next court of common pleas to be held in and for the county.

Person appointed to fill vacancy in office of sheriff, to enter into recognizance: how taken,

§ vol 1130 p:

and certified:

SEC. 2. *And be it further enacted,* That if any person so appointed as aforesaid shall neglect or refuse to give such security within the time and in the manner aforesaid, or shall refuse or neglect for the space of fifteen days to deposit in the office of the Secretary of State a certificate by the chancellor or judge, as the case may be, before whom the recognizance was acknowledged, that the said sheriff hath given security at the time and in the manner required by this act, he shall *ipso facto* forfeit the office of sheriff.

forfeiture of office; in what case,

SEC. 3. *And be it enacted,* That it shall be the duty of the chancellor or any judge of the supreme court or court of common pleas, residing in the county, to whom any person appointed sheriff as aforesaid shall apply, to take the recognizance aforesaid, and thereupon immediately to make out and deliver a certificate thereof to the said sheriff.

Duty of Chancellor or judge.

PASSED AT DOVER, ?  
January 18, 1821. }

CHAP.  
XXXI.

## CHAPTER XXXI.

1821. *AN ACT to incorporate the trustees of the Trap school, in St. George's hundred, Newcastle county, and to enable them to raise a sum not exceeding six hundred dollars, by a lottery.*

*SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Leonard Vandegrift, John Janvier, junior, Samuel L. Eccles, John Boyd and Alexander McCaulley, shall be, and they are hereby constituted a body politic and corporate, by the name and style of the trustees of the Trap school, and by that name shall have perpetual succession, and may sue and be sued, plead and be impleaded, in any court of law or equity.*

Trustees,

*SEC. 2. And be it enacted by the authority aforesaid, 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, money or effects which shall be given, conveyed and 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; and may have and use a common seal, with the power of altering or changing the same, as may be thought proper.*

their powers,  
&c.

*SEC. 3. And be it enacted, That the said trustees, or a majority of them, shall have power, from time to time, to make and establish, such by-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, or a ma-*

President,  
Secretary, tu-  
tor, treasurer;

majority of them: 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 or 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 and 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.

SEC. 4. *And be it enacted*, That the said trustees shall have power to take and receive subscriptions for the use and benefit of the said school; and in case any person shall fail to comply with his or her subscription to enforce 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 an election to be held by the contributors to said school: *Provided*, that no person shall be appointed a trustee who is not a contributor to said school.

Subscriptions.

Vacancy in office of trustees.

SEC. 5. *And be it further enacted*, That the trustees aforesaid and their successors or a majority of them, be, and they are hereby appointed commissioners to raise by lottery, a sum of money not exceeding six hundred dollars, clear of all expenses, and the said sum, when so raised, shall be applied to erect a good and sufficient building for the accommodation of said school.

Lottery.

SEC. 6. *And be it further enacted*, That each of the said trustees shall previous to his entering on the duties of his office, as commissioner of the said lottery, give bond to the treasurer of the State of Delaware, in the sum of two hundred and fifty dollars, conditioned for the faithful discharge of the trust reposed in them, and that if the tickets shall not be sold within eighteen months after the publication of the scheme of said lottery, the commissioners aforesaid, shall return and pay over to every

Trustees before entering on duties as commissioners of lottery to give bond,

CHAP. XXXI. person or persons, on demand, the respective sums that may have been received for tickets sold in said lottery.  
1821.

PASSED AT DOVER, }  
January 18, 1821. }

### CHAPTER XXXII.

AN ACT to authorize and empower Noah Ross to remove certain slaves therein mentioned from this State into the State of Maryland.

PASSED AT DOVER, }  
January 19, 1821. }

PRIVATE ACT.

### CHAPTER XXXIII.

Chap. clii, 4 vol. 422 pa. AN ADDITIONAL SUPPLEMENT to "An act for regulating the general elections of this State."

SECTION 1. 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, the elections of Christiana hundred being the second election district of Newcas-  
Christianahundred place of election, Wilmington. the county, shall hold their general elections and special elections at the Town Hall in the borough of Wilmington: and that the said elections shall be carried on and conducted by the same officers, in the same manner and form, and under the same regulations as are already directed and prescribed by law.

SEC. 2. And be it enacted, That so much of the act to which this is an additional supplement, and so much of the supplement to the said act as respec-

## OF DELAWARE.

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tively fix and establish the places of holding elections in Christiana hundred, are hereby repealed, made null and void. Repeal.

PASSED AT DOVER, }  
January 19, 1821. }

## CHAPTER XXXIV.

A SUPPLEMENT to "The act for regulating the general elections of this State." Chapter ciii, 4 vol 422 pa.

BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the electors of the hundred of Saint Jones' being the third district of the county of Kent, shall hold their general and special elections at the Court-house, in the town of Dover, in said county. St. Jones' hundred, place of election, Dover.

PASSED AT DOVER, }  
January 19, 1821. }

## CHAPTER XXXV.

AN ACT concerning the recognizances of officers. Chap. xxxii, c. 2 vol. 1129.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That every recognizance which shall, after the passing of this act, be acknowledged for a certain sum of money, conditioned for the due performance by any officer of the duties of his office, shall be a lien upon the lands and tenements of every such officer, to the amount of the sum mentioned in the body of such recognizance, from the time of the caption thereof. Chap. xxi, sec. 16, 4 vol. 40 pa sec. 22, 4 vol. 45, 46. Chapter lxxxvii, 4 vol. 260 page. Chap. cxliv, 4 vol. 395 pa. Recognizances of officers liens on their lands;

PASSED AT DOVER, }  
January 25, 1821. }

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## CHAPTER XXXVI.

1821. AN ACT *for the relief of Joseph England of Newcastle county in this State.*

PASSED AT DOVER, }  
25 January, 1821. }

PRIVATE ACT.

## CHAPTER XXXVII.

AN ACT *to vest the title to a tract of land in Ann Smith, widow of Lancelot L. Smith.*

PASSED AT DOVER, }  
January 27, 1821. }

PRIVATE ACT.

## CHAPTER XXXVIII.

AN ACT *to enable the owners and possessors of the meadow-ground, marsh and cripple on Tom's creek in Newcastle county, to keep the banks, drains, sluices and flood gates in repair, and to defray the expense thereof.*

PASSED AT DOVER, }  
January 27, 1821. }

PRIVATE ACT.

## CHAPTER XXXIX.

AN ACT *to prevent swine running at large within the bounds of Georgetown, in Sussex county.*

SECTION 1. BE IT ENACTED by the Senate and  
Prohibition. House of Representatives of the State of Delaware  
in General Assembly met, That from and after the

first day of March next, no person or persons whomsoever, shall suffer or permit any of their hogs or swine to go or be at large within the limits or bounds of Georgetown, in Sussex county, and without the enclosures of the owner or owners thereof.

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SEC. 2. *And be it further enacted,* That it shall be the duty of any constable of Broadkill hundred, when within the said town, and informed of any such hog, hogs or swine going or being at large as aforesaid, and it shall and may be lawful for any other person or persons, to seize, pen up and safely keep for sale, all such hogs or swine so found or being at large as aforesaid; and the said constable or other person having charge of said hog, hogs or swine, shall and they are hereby authorized and required, within eight days after such seizure, and after seven days public notice in writing, of the time and place of sale, set up in two of the most public places in said town, and sell and deliver the same to the highest bidder, and the proceeds thereof, if any, after deducting fifty cents for seizing and selling each hog, and six cents for each day feeding and keeping the same, shall be paid to the treasurer of the poor of Sussex county, for the use of the poor of said county.

Duty of constable, and authority of other persons.

SEC. 3. *Provided always nevertheless,* That if the owner or owners of such hogs or swine, shall at any time before the sale thereof, pay or tender to the constable or other person having charge thereof, the sum of twenty-five cents for seizing each hog, and six cents per day for feeding and keeping the same, then and in such case, the said constable or person having charge thereof shall permit and suffer such owner or owners to take and carry away the same.

Owners privilege.

SEC. 4. *And be it enacted,* That if any constable shall refuse or neglect to perform the duties enjoined on him by this act, he shall forfeit and pay for every such offence the sum of five dollars to any

Penalty on constable for neglect of duty.

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person or persons who will sue for the same, to be recovered as debts under forty shillings are made recoverable by law.

SEC. 5. *And be it enacted*, That if any suit or action shall be brought and prosecuted against any person or persons for any act or thing done or performed, in pursuance of this act, it shall and may be lawful for the defendant or defendants in such suit or action, to plead the general issue, and on the trial thereof to give this act in evidence.

this act evi-  
dence under  
general issue.

SEC. 6. *And be it further enacted*, That the act entitled, "An act to prevent swine running at large in Georgetown," which passed the seventh day of February, one thousand seven hundred and ninety-five, be and the same is hereby repealed.

Repeal, ch.  
lxxxv, c 2  
vol. 1218 pa.

PASSED AT DOVER. }  
29 January, 1821. }

## CHAPTER XL.

Chap. ccxli, A FURTHER ADDITIONAL SUPPLE-  
4 vol. 647 pa. MENT to the act entitled, "An act respect-  
chap. xxx, 5 ing the arms belonging to the State of De-  
vol. 55, chap. laware."  
lxvii, 5 vol.  
117, chapter  
cxcix, 5 vol.  
863.

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 or persons who may be in possession of any musket or muskets, or of any arms whatsoever belonging to this State, shall upon application made to him, in the presence of one credible witness, by the commissary of military stores of the county in which he resides, refuse or neglect to deliver such arms within ten days after such application to the said commissary, he shall forfeit and pay the sum of thirty dollars for each and every musket or other

Penalty for  
not delivering  
arms to com-  
missary.

arms in his or their possession, to be recovered as other debts of like amount are recoverable by the laws of this State, one moiety thereof for the use of the State and one moiety thereof for the use of the person prosecuting and recovering the same.

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PASSED AT DOVER, }  
January 29, 1821. }

## CHAPTER XLI.

A SUPPLEMENT to an act entitled "*An act enjoining certain duties on the Secretary of State, and other officers therein mentioned.*" Chapter cvi, 3 vol. 239 pa.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Secretary of State be, and he is hereby required and directed within three months after the passing of this act, to make out and transmit to the State-treasurer, a list of fines and forfeitures remitted by the respective governors of this State, up to the first Monday of December last, or so far as there is any evidence in the department of State of those remissions up to that time; and the Secretary of State is hereby required and directed on or before the first Monday of December next, to transmit a list of fines and forfeitures to the State-treasurer remitted by the governor of this State from the first Monday of December last, up to the first Monday of December next; and the Secretary of State is hereby required and directed, annually by the first Monday of December in each and every year thereafter, to report to the State-treasurer the fines and forfeitures which the governor may have remitted during such year.

SEC. 2. Be it enacted by the authority aforesaid, That it shall be the duty of the State-treasurer to credit the account of the respective persons, here- credit ac- counts in case of remissions.

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tofore or now holding the office of sheriff in the respective counties in this State, with the amount of fines and forfeitures, which it shall appear to him by the report of the Secretary of State, to have been remitted by the respective governors of this State.

SEC. 3. *Be it enacted by the authority aforesaid,*

Sheriffs to re-  
turn amount  
of sales—of  
persons sold  
as servants.

That it shall be the duty of the respective sheriffs in the counties of this State, to make a return to the next term of the court, after which any person shall be adjudged to be sold as a servant for the payment of fines, forfeitures, restitution money, costs or jail fees, the sum such person was sold for, and the name of the purchaser.

SEC. 4. *Be it enacted by the authority aforesaid,*

Clerks of  
oyer and of  
the peace to  
endorse on or-  
der of sale the  
items for  
which sold,  
term of ser-  
vice, & make  
record of the  
sheriff's return  
time of it,  
sum and pur-  
chaser.

That the respective clerks of the court of oyer and terminer and general jail delivery, or the clerks of the court of general sessions of the peace within the counties of this State, shall be, and they are hereby required and directed to endorse on the order of the court, that shall adjudge a person to be sold as a servant for the payment of fine and forfeiture, restitution money, costs or jail fees, the several items for which such person is to be sold, shall be entered on such order, as well as the term of time, and the clerk shall enter on the record of the court making such order, the time when the sheriff shall make return, the sum sold for and the name of the purchaser.

SEC. 5. *Be it further enacted,* That it shall be

Clerks to re-  
port to State  
treasurer,  
sums due  
from sheriff  
on sales of  
persons as ser-  
vants—when,

the duty of the clerks of oyer and terminer and general jail delivery, or the clerks of the court of general sessions of the peace within the respective counties of this State, to report to the State-treasurer, on or before the first Monday of December next, and on or before the first Monday of December annually in each and every year thereafter, the sum or sums of money due and owing from the respective sheriffs, on sales of persons, after costs and other charges are deducted; and if it shall appear

from the report made to the State-treasurer by the clerks of the respective counties in this State, that the person adjudged to be sold as a servant to pay the fine and forfeiture has not sold for a sum over and above the costs sufficient to pay the fine and forfeiture, then, in that case the State-treasurer shall credit the account of such sheriff making the sale of such person, with the deficiency.

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SEC. 6. *And be it further enacted by the authority aforesaid,* That the chief justice of the court of oyer and terminer and general jail delivery, or of the court of general quarter sessions of the peace, within the respective counties of this State, in all cases when it shall appear to such chief justice by the return of the sheriffs of the respective counties, that the person adjudged to be sold as a servant for the payment of fine and forfeiture, restitution money, costs or jail fees, has not sold for such amount, the chief judge shall cause the clerk thereof, to make out a list of the fees, remaining due to the respective officers and witnesses, after deducting the amount of sale so made, and transmit the same, after being signed by such judge to the levy-court of the respective counties, who are hereby required to raise the amount thereof as other county rates and levies, and the clerks of the respective courts within the counties of this State, shall draw orders on the county-treasurer in favour of the persons so certified, by the chief justice of such court, to be due, and the treasurer of such county, shall pay such orders so drawn upon him out of the funds of the county in his hands; and the clerks of the courts drawing orders on the county-treasurer shall transmit to the auditor of accounts, a list of all orders by them drawn under the authority of this act, specifying the name of the person, the amount and date thereof, on or before the first Monday of December next, and annually, on or before the first Monday of December thereafter.

Chief justices to transmit to levy-court balance of fees, after sales.

Duty of levy-court, and of clerks; County-treasurer.

SEC. 7. *Be it enacted by the authority aforesaid,* That if any sheriff or clerk shall neglect to do and

Sheriff or clerk neglect.

ing, the same- perform the several things required by this act, the  
dy. respective courts shall punish the said sheriff or  
clerk for contempt of the said court as other con-  
tempt is punished.

Justices of the peace to  
transmit list of fines to au-  
ditor of accounts; when  
in what such lists must con-  
tain.

SEC. 8. *Be it further enacted by the authority*  
*aforsaid.* That it shall be the duty of the respec-  
tive justices of the peace in the several counties of  
this State, and they are hereby required and direc-  
ted to transmit a list of all fines imposed by them,  
on or before the first Monday of December next,  
and on or before the first Monday of December  
annually thereafter, to the auditor of accounts of  
this State; in such list the respective justices shall  
report the use to which such fine imposed is appli-  
cable, the name of the constable who shall be ap-  
pointed to collect the same, the date when imposed,  
and the name of the person adjudged to pay such  
fine.

PASSED AT DOVER, }  
January 29, 1821. }

## CHAPTER XLII.

A SUPPLEMENT to an act entitled "*In act  
for stopping St. George's creek, and for em-  
banking and draining a quantity of marsh and  
cripple on both sides of said creek; being deem-  
ed about three thousand acres, situate in Red-  
lion and St. George's hundreds and county of  
Newcastle, and for keeping the dykes and  
dams belonging to the same in good order and  
repair.*"

PASSED AT DOVER, }  
January 29, 1821. }

PRIVATE ACT.

# OF DELAWARE.

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## CHAPTER XLIII.

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**AN ACT** to incorporate a company for cutting and opening two canals to facilitate the navigating of Christiana creek.

WHEREAS the cutting and opening two navigable canals, communicating with Christiana creek, a short distance below or to the eastward of the harbour of Christiana village, in Newcastle county, to pass through certain marsh or low-grounds of Jeremiah Lewden, and also of Samuel Johnson, formerly of Benjamin Patterson, respectively, would afford great facilities to vessels navigating the said creek and be of public benefit.

Preamble.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That David Nevin and Abraham Egbert of the village of Christiana, be, and they are hereby appointed commissioners, to do and perform the several acts and things hereinafter mentioned; that is to say: they shall on or before the twenty-eighth day of February next, procure one or more books, and in each of them enter as follows: "we and each of us whose names are hereunto subscribed, do promise to pay to the president and managers of the Christiana canal company, the sum of five dollars for every share of stock in the said company, set opposite to our respective names; that is to say: one dollar at the time of subscribing on each and every share subscribed for, and the remainder shall be paid in such manner and at such time or times as the said president and managers may appoint and direct," which promise and engagement shall and is hereby declared to create and impose on each and every subscriber thereto, a legal obligation to perform the terms thereof; and the said commissioners shall thereupon give ten days notice, by advertisements, set up in public views of the time and place of opening the said book or books, to receive subscriptions as

Commissioners

to open books for subscriptions,

amount of each share & manner of payment;

notice of opening books

aforesaid, to the capital stock of the said company, at which place the said commissioners or one of them, shall on the day appointed attend and receive subscriptions from all persons who may be able and capable in law to make a contract, who shall offer to subscribe for share or shares in the said stock, in their own name or the name or names of any person or persons duly authorizing the same; and the said book or books shall be kept and continue open for six hours on the said day, and for the same period of time on each succeeding juridical day until the said books shall have one hundred and twenty shares therein subscribed: *Provided always, and be it enacted.* that the said attending commissioner or commissioners shall be entitled to receive, and receive the said payment of one dollar on each and every share subscribed for, from the subscribers, respectively, at the time of subscription in trust for the said president and managers to be paid over to them when the said company shall be organized and those officers chosen.

**SEC. 2.** *And be it enacted.* That when and as soon as one hundred and twenty shares in the said capital stock shall have been subscribed for, the subscribers, their successors and assigns shall be, and hereby are created and made a body corporate and politic, in deed and in law, by the name, style and title of "The Christiana canal company," and by the same name the said subscribers shall have perpetual succession; and are hereby made able and capable in law 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 any lesser estate, all such lands, tenements and hereditaments and estate, real and personal as shall be necessary for them in the prosecution of their works; and of su-

who may subscribe;

how long books kept open;

sum to be paid on subscribing.

Subscribers incorporated, when 120 shares subscribed.

Name;

power of enlarging stock & other powers:

ing and being sued, pleading and being impleaded, answering and being answered, defending and being defended in courts of law and equity and elsewhere; and also to make have and use a common seal, and the same to break, alter and renew at pleasure; and also to ordain, establish and put in execution such by-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 the said president and managers shall have power to call general meetings of the stockholders on reasonable notice to be given by them, by advertisements set up in public view, and generally of doing all and every other matter and thing which a corporation or body politic may lawfully do.

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general meet-  
ings of stock-  
holders, how  
called.

SEC. 3. *And be it enacted,* That the said commissioners as soon as conveniently may be, after the said number of shares shall be subscribed as aforesaid, shall give notice, by advertisements set up in public view of the time and place by them to be appointed for the meeting, at least five days previous to the meeting of the said subscribers, at which time and place the 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 three managers, one treasurer and such other officers as they shall think necessary to manage and conduct the business of the said company until the first Tuesday, in the month of February then next ensuing, and until other such officers be chosen; and moreover, shall annually thereafter on the same day in every succeeding month of February, at the same place or such other place as the president and managers, for the time being, shall direct by advertisements set up ten days previously in public view, the said first Tuesday in February, choose a president and three managers, a treasurer and such other officers for the purpose aforesaid, as may be deemed necessary and convenient.

When 120  
shares sub-  
scribed, com-  
missioners to  
appoint meet-  
ing of sub-  
scribers, and  
give notice.  
Corporation  
organized.

Officers,

Continuance  
in office;

annual meet-  
ing.

**SEC. 4.** *And be it enacted,* That the president and managers first to be chosen shall procure certificates to be printed or written, to be made out and issued under the seal of the corporation, signed by the president and countersigned by the treasurer, to be delivered to the respective subscribers for the share or shares of stock by them held: *Provided,* that the part or parts of the subscription money at the time payable, be paid to the said treasurer, and the residue thereof secured to be paid by bond or note to be given to the said president and managers delivered by the subscribers aforesaid to the said treasurer; which certificates of stock aforesaid shall be transferable by the owner and holder thereof, 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 him to be recorded or entered in a book of the company to be kept for the purpose, shall be a member of the corporation entitled to the share or shares of stock therein mentioned, and all the estate and emoluments of the company, and to enjoy and exercise all the rights and benefits of membership, and to vote at all elections and on all questions arising at the meetings of the said company.

**SEC. 5.** *And be it enacted,* That of the president and managers, any three of them duly assembled shall form a quorum to do business; and in absence of the president the managers assembled may choose a chairman and shall keep minutes of their proceedings to be entered in a book: and shall have full power and authority, and they are hereby vested with full power and authority to cut, open and improve, and cause to be cut, opened and improved for the purpose of shortening and facilitating the navigating of Christiana creek aforesaid, to and from Christiana village aforesaid, two canals connecting with different points of the said creek; that is to say: one of the said canals shall be cut, opened and improved, through the marsh or low-grounds of Jeremiah Lowden, beginning at the

Certificates of stock, how and by whom issued.

Proviso.

Certificates transferable, and manner of transfers.

Assignee how to become a member.

President and managers quorum

In absence of president, his place supplied.

Minutes.

Powers of president and managers to cut two canals:

One canal description of;

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distance of about forty perches below the wharves of the said village on the south side of the said creek, and at or near the upper part or point of the great bend of the said creek next below or to the eastward of the said wharves, and running thence through and across the same marsh or low-grounds by a straight line forty-six perches on to its intersection with the said creek in its course further eastward; and the other of the said canals shall be cut, opened and improved through the wild or unimproved marsh or low-grounds of the said Samuel Johnson, beginning in the said creek at the upper part or point of the lesser bend of the said creek next below and to the eastward of the said greater bend, about one hundred and thirty-eight perches below or to the eastward (following the courses of the said creek) of the eastern point of intersection of the said forty-six perch line with the said creek, and running thence on the north side of the said creek by a straight line seventeen perches across and through the same wild or unimproved marsh or low-ground to its intersection with the said creek in its course further northward and eastward; and moreover to make and render the said canals navigable for vessels navigating the said creek, and so to keep and continue the same canals thereafter, and shall and may as soon as the nature and exigency of the case will admit, enter as well into and upon the said marsh or low grounds of the said Jeremiah Lewden, as into and upon the said wild or unimproved marsh or low-grounds of the said Samuel Johnson, and into, upon and over the lands, tenements and hereditaments adjacent, respectively, to the said canals and marsh or low-grounds, with full, free and uninterrupted ingress, egress and regress to, upon, through and over the same, with their surveyors, engineers, superintendants, agents, artists, workmen, labourers and chain carriers, at all times for and during the period of time they shall be engaged in surveying, marking, laying out, cutting, opening, improving, rendering navigable as aforesaid, and completing the said canals, for the purpose of surveying, marking, laying out, cutting, opening, improving, rendering navigable as

description of  
the other canal:

canal to be navigable for vessels:

further powers.

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aforesaid, and completing the said canals in all respects; and furthermore, are hereby vested with all power and authority as well direct as incidental, for commencing, carrying on, and completing all works and operations in and about the said canals.

Toll gather-  
ers to be ap-  
pointed;

all vessels  
passing either  
canal liable to  
toll;

rates of toll:  
tolls by whom  
and where  
paid;

how recover-  
ed:

SEC. 6. *And be it enacted*, That the said president and managers having completed the said canal and rendered the same navigable for vessels navigating Christiana creek aforesaid, it shall and may be lawful for them to appoint a toll-gatherer or toll-gatherers as they may think proper, to collect and receive from the owner or person having the charge and command of each and every vessel passing through the said canals or either of them, the tolls and rates hereinafter mentioned, to which said tolls and rates all and every vessel and vessels passing the said canals or either of them are hereby declared to be subject and chargeable with, that the said tolls and rates for passing the said canals or either of them shall be as follows, to wit: for every vessel ladened in whole or in part with goods, wares or merchandize or articles of property, fifty cents; for every other vessel, thirty-seven and a half cents; for every scow or lighter, whether laden or unladen, twelve and a half cents; for every raft of lumber, fifty cents; that the said respective tolls and rates shall be paid to the toll-gatherer of the said company by the owner or skipper or person having the charge or command of each respective vessel bound or passing up the said creek after passing the said canals or either of them at Christiana village aforesaid, without delay, and by the owner or skipper or person having the charge or command of each respective vessel bound down the said creek, intending to pass through the said canals or either of them before such vessel leave or depart from the port or harbor of the said village, and that in case of neglect or refusal on the part of the person or persons bound to pay the said tolls, the said toll-gatherer shall without delay cause the said toll to be proceeded for and recovered in the name of the said

company against the person or persons bound to neglect or refusal to pay the same before any justice assigned to keep the peace, &c. in and for Newcastle county, together with the further sum or penalty of four dollars, as debts under forty scillings are recoverable agreeably to the laws of this State, and shall be paid when so recovered and received by the said toll-gatherer into the hands of the said treasurer for the use of the said company, and in like manner all other tolls by him received from time to time.

SEC. 7. *And be it enacted*, That the subscription monies aforesaid so as aforesaid directed to be paid by the said subscribers, to the president and managers aforesaid, to be applied by them after defraying the expenses incurred in procuring the said subscriptions and organizing the said company to the cutting, opening, improving and rendering navigable for vessels as aforesaid, the said canals shall in the first instance to be paid by them over to the said treasurer, whose duty it shall be to receive and safe keep the same; and all other monies that shall be paid over to him for or on account of the said company to be paid and disbursed by him on orders to be drawn by the president, signed by him, and countersigned by one of the said managers, in favour of any person or persons; and the said monies and funds are hereby declared to be applicable, and shall be applied to the commencing, carrying on, completing the said works and operations, and otherwise after that shall be satisfied, for the use, benefit and emolument of the said stockholders: and that the said treasurer shall give bond to the said company, in the penalty of fifteen hundred dollars, to be delivered to the said president and managers, and safely kept by them conditioned for the due performance of his said office of treasurer, with sufficient surety, if required, and that before he enters on the execution of the duties of his said office.

**SEC. 8.** *And be it enacted,* That the said president and managers shall keep fair and just accounts of all monies which shall be received by them from the said commissioners and from the subscribers to the stock of the said company on account of their several subscriptions, and also an account of all monies expended by them in the prosecution of their works, and submit such accounts to a meeting of the said stockholders, to be called for the purpose, by the said president and managers upon reasonable public notice, of the time and place of such meeting, to be given by the said president and managers when, and as soon as the said canals shall be completed, and 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 of the said capital stock shall be nearly expended it shall be found that the said capital stock will not be sufficient to complete the said canals according to the true intent and meaning of this act; it shall be lawful for the said president and managers at a stated or special meeting to be convened according to the provisions of this act or their own by-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 as herein before provided for the original subscriptions or as shall be provided by their by-laws.

*Accounts of all monies received and expended, to be submitted to stockholders; when: in what case capital increased.*

**SEC. 9.** *And be it enacted,* That the said president and managers shall keep a just and true account of all monies received for toll, which it shall be the duty of the said treasurer to render them a weekly account and shall half yearly make and declare a dividend of the clear profits, all incidental and other costs, charges and expenses and a reasonable fund for the repairs of the said canals and other improvements, being first deducted and reserved among all the stockholders of the said company, and shall publish and make known the half yearly dividends to be made of the clear profits as a-

*Account of tolls rendered weekly by treasurer, and kept by president and managers. Dividends of profits to be published with time and place of payment.*

foresaid among the said stockholders, and shall also give public notice of the time and place of payment thereof, and cause the same to be paid: *Provided always nevertheless, and be it enacted*, that the first dividend of the said profits shall be made and declared on the first Monday in February, in the year eighteen hundred and twenty-two, and not before; and dividends shall be made and declared semi-annually as aforesaid thereafter, payable in ten days afterwards by the treasurer, by orders to be drawn as aforesaid on him in favour of the said stockholders respectively.

SEC. 10. *And be it enacted*, That in order to ascertain and fix the damages, if any, that may be sustained by the said Jeremiah Lewden, and the said Samuel Johnson, respectively, by reason of cutting and opening the said canals through the said several parcels of marsh or low-grounds aforesaid, it shall be lawful for the said president and managers of the said company, after the completion of the said canals at the request of Jeremiah Lewden aforesaid, to choose one person, being a freeholder of the said county, and for the said Jeremiah to choose another person, a freeholder, who shall be fit and disinterested persons, which two persons shall thereupon mutually choose a third fit and disinterested person, also a freeholder of the said county, who after being sworn or affirmed to discharge their duty in this respect, faithfully shall, or any two of them shall proceed to ascertain and determine and assess the damages, if any sustained by the said Jeremiah, by reason of the said canal passing through his said marsh or low-grounds, taking into consideration the advantages as well as the disadvantages arising from the said canal to the said Jeremiah, *ex parte* on five days to be given to the parties respectively, of the time and place of meeting of the said referees, who shall make their report in writing, affixing their hands and seals to duplicates thereof; one of which shall be delivered by the said referees to the said presi-

**SEC. 8.** *And be it enacted,* That the said president and managers shall keep fair and just accounts of all monies which shall be received by them from the said commissioners and from the subscribers to the stock of the said company on account of their several subscriptions, and also an account of all monies expended by them in the prosecution of their works, and submit such accounts to a meeting of the said stockholders, to be called for the purpose, by the said president and managers upon reasonable public notice, of the time and place of such meeting, to be given by the said president and managers when, and as soon as the said canals shall be completed, and 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 of the said capital stock shall be nearly expended it shall be found that the said capital stock will not be sufficient to complete the said canals according to the true intent and meaning of this act; it shall be lawful for the said president and managers at a stated or special meeting to be convened according to the provisions of this act or their own by-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 as herein before provided for the original subscriptions or as shall be provided by their by-laws.

*Accounts of all monies received and expended, to be submitted to stockholders, when: in what case capital increased.*

**SEC. 9.** *And be it enacted,* That the said president and managers shall keep a just and true account of all monies received for toll, which it shall be the duty of the said treasurer to render them a weekly account and shall half yearly make and declare a dividend of the clear profits, all incidental and other costs, charges and expenses and a reasonable fund for the repairs of the said canals and other improvements, being first deducted and reserved among all the stockholders of the said company, and shall publish and make known the half yearly dividends to be made of the clear profits as a-

*Account of tolls rendered weekly by treasurer, and kept by president and managers. Dividends of profits to be published with time and place of payment.*

foresaid among the said stockholders, and shall also give public notice of the time and place of payment thereof, and cause the same to be paid: *Provided always nevertheless, and be it enacted*, that the first dividend of the said profits shall be made and declared on the first Monday in February, in the year eighteen hundred and twenty-two, and not before; and dividends shall be made and declared semi-annually as aforesaid thereafter, payable in ten days afterwards by the treasurer, by orders to be drawn as aforesaid on him in favour of the said stockholders respectively.

no dividend till first Monday in February, 1822, semi annually thereafter, when payable.

SEC. 10. *And be it enacted*, That in order to ascertain and fix the damages, if any, that may be sustained by the said Jeremiah Lewden, and the said Samuel Johnson, respectively, by reason of cutting and opening the said canals through the said several parcels of marsh or low-grounds aforesaid, it shall be lawful for the said president and managers of the said company, after the completion of the said canals at the request of Jeremiah Lewden aforesaid, to choose one person, being a freeholder of the said county, and for the said Jeremiah to choose another person, a freeholder, who shall be fit and disinterested persons, which two persons shall thereupon mutually choose a third fit and disinterested person, also a freeholder of the said county, who after being sworn or affirmed to discharge their duty in this respect, faithfully shall, or any two of them shall proceed to ascertain and determine and assess the damages, if any sustained by the said Jeremiah, by reason of the said canal passing through his said marsh or low-grounds, taking into consideration the advantages as well as the disadvantages arising from the said canal to the said Jeremiah, *ex parte* on five days to be given to the parties respectively, of the time and place of meeting of the said referees, who shall make their report in writing, affixing their hands and seals to duplicates thereof; one of which shall be delivered by the said referees to the said presi-

Damages sustained by Jeremiah Lewden, by reason of cutting said canals; when & how ascertained.

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Damages  
of Samuel  
Johnson as-  
sessed in  
like manner.

dent and managers, and the other of which shall be delivered to the said Jeremiah Lewden, which report shall be final and conclusive, in relation to the matter thereof between the said parties, and in like manner a similar proceeding and reference shall take place between the said president and managers and the said Samuel Johnson, to three fit and disinterested persons, freeholders to be selected by the said parties in the same manner, with the same power to hear, determine and assess damages, any two of them having authority as aforesaid, to proceed in the case, taking into their consideration the advantages, as well disadvantages as in the said other case *ex parte* on ten days; making report in writing and duplicates as provided for in the preceding case, which shall in like manner be conclusive between these parties as in the said other case between the parties therein.

SEC. 11. *And be it enacted*, That the said president and managers shall at the expiration of every fifth year from and after passing this act, render to the legislature of this State a fair and just account of the tolls and emoluments received by the said company from the said canals, the capital expended in cutting the said canals, the costs, charges and incidental expenses incurred, adding thereto nine per cent. annually, on the said capital expended, including in the said capital any monies that may be paid by the said company as damages of the said Lewden and Johnson; and when and as soon as it shall appear to the said legislature from the said accounts so as aforesaid to be rendered, that the said stockholders have been fully paid and reimbursed the capital to be expended by them as aforesaid, out of the tolls and profits of the said canals, that then and from thenceforth the said corporation shall be dissolved, and this act and the right to take tolls from vessels passing the said canals and other powers, authorities and privileges granted hereby to the said company shall cease and determine.

Accounts of  
all receipts &  
expenditures  
to be rendered  
to Legislature  
every  
fifth year;  
  
and when it  
shall appear  
stockholders  
are reimbursed,  
the capital  
expended,  
the corporation  
shall be  
dissolved.

PASSED AT DOVER, }  
January 29, 1821. }

## CHAPTER XLIV.

CHAP.  
XLIV.

AN ACT for the appointment of an Auditor of  
Accounts. 1821.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John M. Clayton, be and he is hereby appointed Auditor of Accounts for the term of three years from the passing of this act, and from thence to the end of the next session of the General Assembly.

John M.  
Clayton ap-  
pointed audi-  
tor for three  
years:

SEC. 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, it shall and may be lawful for the governor for the time being, to appoint some other fit person to that office, who shall continue in office until the end of the next session of the General Assembly after such appointment, and no longer, unless reappointed by the General Assembly.

In case of  
vacancy how  
supplied.

PASSED AT DOVER, }  
January 30, 1821. }

## CHAPTER XLV.

AN ACT for regulating the construction and use  
of wears in Spring creek.

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 any person or persons residing in Kent county, to make, construct and place in any part of Spring creek, above the bridge across the said creek near Frederica, being the north-west prong of Murderkill creek, any wear or wears or

Wears in  
Spring creek  
above the  
bridge—law-  
ful for resi-  
dents of Kent  
county.

*fikes*, for the purpose of taking fish in the said creek, and to have, hold, use and enjoy the said wear or wears or fikes for his, her or their own use and benefit: *Provide.* *Provided*, that nothing in this section contained shall authorize any person or persons to erect or construct any wear or fikes upon or contiguous to lands of any other person or persons without first obtaining his, her or their permission to erect and construct the same.

*SEC. 2. Provided nevertheless and be it further enacted,* That no weir or fikes shall extend in the said creek further than half across the channel or deepest part of the said creek, and that no two wiers or fikes shall be put or placed nearer each other than at the distance of twenty rods; and no weir shall be suffered by the owner thereof to remain longer in the said creek than four months in one year; the owner thereof upon taking up the same shall clean the bottom of said creek where the said wier stood.

*Extent of the weirs;*  
*distance from each other;*  
*how long remain;*  
*owner to clear bottom of creek;*

*SEC. 3. And provided also and be it further enacted,* That every wier or like so to be placed as aforesaid in the said creek shall be set and placed in the said creek under the directions of three disinterested freeholders to be appointed for that purpose by a justice of the peace residing in the village of Frederica or the nearest justice of the peace to said village, in case no justice of the peace should reside therein.

*under whose direction to be placed;*

*SEC. 4. And be it further enacted,* That no invisible, concealed or blind hedging shall be put or placed in said creek; and if any person or persons shall put or place or cause to be put or placed in the said creek, any such invisible, concealed or blind hedging, or any other obstruction or contrivance not expressly authorized by this act, every such person so offending, shall for every such offence forfeit and pay the sum of thirty dollars, to be recovered with costs, before any justice of the peace for Kent county aforesaid, and to be applied the one half thereof to the use of the person or

*concealed hedging prohibited;*  
*penalty for that or other unauthorized obstruction.*

persons suing for the same, and the other half to the use of the poor of Kent county aforesaid.

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1821.

PASSED AT DOVER, }  
January 31, 1821. }

CHAPTER XLVI.

AN ACT to authorize and empower Spencer Williams, administrator of Robert Dill, deceased, to make and execute a deed of conveyance to William Nutter, of certain lands and cripple therein mentioned.

PASSED AT DOVER, }  
January 31, 1821. }

PRIVATE ACT.

CHAPTER XLVII.

AN ACT laying duties on licenses to retailers of foreign goods, wares and merchandize.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That every person who shall deal in the selling of any goods, wares or merchandize, except such as are of the growth, produce or manufacture of the United States, and exclusively dealt in, or except such as are sold in the original cask, case, box or package wherein the same shall have been imported and exclusively thus sold, shall be deemed and taken to be a retailer of merchandize within the meaning of this act.

Who are retailers within the meaning of this act.

SEC. 2. And be it enacted, That every person within this State who shall on the first day of June next, be a retail dealer in goods, wares or merchandize, except as before excepted, shall before the said day, and every person who after the said day

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Retailer,  
must procure  
from clerk of  
the peace a li-  
cense:  
renewable an-  
nually:

Forfeiture,  
for retailing  
without li-  
cense after 1  
June, 1821:  
manner of re-  
covery.

Forfeiture,  
for selling at  
more than one  
place under  
same license.

shall become or intend to become such retail dealer as aforesaid, before he or she shall begin to sell by retail as aforesaid, any goods, wares or merchandize as aforesaid, apply for and obtain from the clerk of the peace of the county in which he or she may reside, a license for carrying on the business of retailing as aforesaid, which license shall be granted for the term of one year, upon the payment of the duty laid thereon by this act, and shall be renewed annually, upon the payment of the like sum: and if any person within this State, shall after the said first day of June next, deal in the selling of merchandize as aforesaid, without having obtained a license therefor, such person shall in addition to the payment of the duty, forfeit and pay the sum of one hundred dollars with full costs of prosecution to be recovered by indictment in any court of general quarter sessions of the peace and gaol delivery in this State: and no such license shall be sufficient for the selling of goods, wares and merchandize as aforesaid, by retail, at more than one place at the same time, and any person who by colour of such license shall sell any goods, wares and merchandize by retail as aforesaid, at more than one place, at the same time shall be deemed to be without license, and shall forfeit and pay the like sum of one hundred dollars in addition to the duty as aforesaid, to be recovered as herein before directed.

**SEC. 3. And be it enacted,** That the Secretary

Licenses,  
of State, for the time being, shall cause to be printed in proper form, a license for retailing goods, wares and merchandize as aforesaid, which shall be sealed with the seal of his office, signed by the Governour, countersigned by the Secretary of State, and put into the hands of the clerks of the peace in the respective counties of this State, to be by them distributed to any person who may apply therefor, and pay the prices hereinafter directed; and the clerks of the peace, respectively, shall account for, and pay over all monies arising from such licenses quarterly, to the Secretary of State, to be by him paid over to the State-treasurer, for the use herein-

Clerks ne-  
glecting to  
pay over mo-  
nies received  
for licenses,  
forfeiture of  
office.

after mentioned: and if any clerk of the peace in any county of this State shall neglect to do so for the space of sixty days after he should have so accounted for and made such quarterly payment of the monies arising from the sale of licenses in his county, he shall, *ipso facto* forfeit his office, and be immediately liable to a suit for the recovery of all the said monies.

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SEC. 4. *And be it enacted*, That a duty of twelve dollars shall be imposed on a license to sell in this State goods, wares and merchandize imported, which sum shall be paid by every retailer as aforesaid at the time of his taking out the same, except retailers that vend dry goods exclusively and whose stock in trade does not exceed four hundred dollars, who shall pay the sum of five dollars each, having been first qualified to the amount of his or her stock in trade by the clerk of the peace in the county in which he or she may reside.

Duty to be  
paid for licenses.

SEC. 5. *And be it enacted*, That it shall be the duty of the Secretary of State annually in the month of March after the year eighteen hundred and twenty-one, to publish in two of the newspapers, edited in this State, a list of the names of all retailers of goods, wares and merchandize as aforesaid, who have conformably to the provisions of this act therefore obtained and paid for licenses.

Lists of re-  
tailers under  
the provisions  
of this act to  
be published.

SEC. 6. *And be it enacted*, That the Secretary of State is hereby required and directed annually in the month of October, to examine what number of the aforesaid licenses each of the said clerks may have on hand, undistributed, which he shall deduct from the number delivered to said clerk, and whatever sum or sums of money the residue amounts to, according to the duty herein imposed, shall be forthwith paid over by the said clerks of the peace to the Secretary of State, for which he shall give two receipts, one of which shall be transmitted to the auditor of accounts; and the said Secretary

Secretary  
to examine in  
October, what  
number of li-  
censes have  
been distribu-  
ted &c.

Receipts,  
one to be  
transmitted to  
auditor.

Secretary to  
pay over mo-  
ney received,  
in one month.  
Secretary is hereby directed within one month af-  
ter the receipt of all and every such sum or sums  
of money as aforesaid to pay the same into the  
State treasury, for which he shall take duplicate  
receipts, one of which he shall transmit to the audi-  
tor of accounts.

Repeal of  
part of chap.  
xcviii, c 2 vol.  
1247 page.  
SEC. 7. *And be it enacted,* That so much of the  
act entitled, "An act for the valuation of real and  
personal property within this State," passed on the  
ninth day of February, in the year seventeen hun-  
dred and ninety-six, as directs that the goods,  
wares and merchandize of a merchant or shopkeep-  
er shall be assessed, be and the same is hereby re-  
pealed, made null and void.

One moiety  
of money a-  
rising under  
this act ap-  
propriated to  
the Delaware  
college, at  
Newark.  
SEC. 8. *And be it further enacted by the autho-  
rity aforesaid,* That the State treasurer shall pay  
over from time to time as the same may be demand-  
ed, by the trustees hereafter to be appointed of the  
"Delaware College," at Newark, in this State, for  
the erection, completion and endowment of the said  
college, a moiety, or one half part of all the monies  
arising under and by virtue of this act; and the re-  
maining moiety or half part thereof shall, by the  
said treasurer be placed to the credit and retained  
for the use of the said State: and the State treasur-  
er shall be entitled to and receive at the rate of one  
and one half per centum on all monies received  
and by him accounted for, under and by virtue of  
this act: and the said Treasurer shall moreover  
make report annually to the Legislature of all his  
proceedings under this act.

State trea-  
surer's com-  
missions.

PASSED AT DOVER, }  
January 31, 1821. }

## OF DELAWARE.

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### CHAPTER XLVIII.

AN ACT to repeal the act entitled "*An act directing the mode of selecting and returning jurors, and for other purposes.*" 5 vol. 247,  
ch. cxlv.

SECTION 1. 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, the act entitled "*An act directing the mode of selecting and returning jurors,*" passed on the fifth day of February, in the year of our Lord, one thousand eight hundred and seventeen, shall be, and the same is hereby repealed, made null and void, and that so much of all and every act of the General Assembly as is by the said act altered or repealed, be and the same is hereby Repeal of ch.  
145, vol. 5. revived and re-enacted. And revival  
of former  
law, 4 vol. ch.  
158 pa. 445.

SEC. 2. And be it further enacted, That any person who shall have served one year as a grand juror, shall not be again selected for the grand jury the next succeeding year; nor shall any person serving as a petit juror in either of the courts of this State, be summoned to serve more than one court in the same year: and the jurors so summoned according to this act, shall be subject to the same fines and penalties for non-attendance as are prescribed by law. Time of serving.  
Grand juror,  
  
Petit juror,

SEC. 3. And be it enacted, That all practising physicians, shall be exempt from serving on grand and general juries. Practising  
physicians ex-  
cused from  
serving on ju-  
ries.

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### CHAPTER XLIX.

AN ACT to establish a college in the village of Newark or its vicinity, in Newcastle county, in the State of Delaware, and for other purposes.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware  
E

*in General Assembly met,* That there shall be erected and founded in the village of Newark or its vicinity, in Newcastle county, in the State of Delaware, a college for the education of youth, in the English, Latin and Greek languages, besides the arts and sciences, or all such branches of literature as are usually taught in seminaries of similar grade in the United States, the name, style and title of which said college and the constitution thereof, shall be, and are hereby declared to be, as hereinafter mentioned and defined; that is to say:

constitution, style. 1. The said college shall be forever hereafter called and known by the name of "Delaware college."

Trustees, 2. The said college shall be under the direction, management, and government of a number of trustees not exceeding thirty, or of a quorum or board thereof, as is hereinafter mentioned.

how appointed; their meetings 3. The first trustees of the said college shall be appointed by the General Assembly of this State, as soon as the taxes to be hereinafter laid, shall have produced a sufficient sum to render it proper to commence the erection thereof; and for the purpose of making their arrangements to begin and carry on the work, they shall meet at the village of Newark, on a day to be specified in the resolution or act which shall be passed by the Legislature for appointing them; and they shall have power to adjourn, from time to time, as they shall see cause, to any other times and places for the purpose of perfecting the same.

incorporated. 4. The said trustees, and their successors to be elected in the manner hereafter mentioned, shall forever hereafter be, and they are hereby ordained and declared to be one body politic and corporate, with perpetual succession in deed and in law, to all intents and purposes whatsoever, by the name, style and title of "the trustees of Delaware college;" by which name and title they the said trus-

Name of corporation.

tees and their successors shall be competent and capable at law and in equity, to take to themselves and their successors for the use of the said college, any estate in any messuages, lands, tenements, hereditaments, goods, chattels, monies or other effects, by the gift, grant, bargain, sale, conveyance, assurance, will, devise, or bequest of any person or persons whatsoever: *Provided*, the same do not exceed in the whole the yearly value of ten thousand pounds: and the same messuages, lands, tenements, hereditaments and estate, real and personal, to grant, bargain, sell, convey, assure, demise and to farm, let and place out on interest or otherwise dispose of, for the use of the said college, in such manner as to them or at least seven of them shall seem most beneficial to the institution, and to receive the rents, issues, profits, income and interest of the same, and to apply the same to the proper use and support of the said college; 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 or 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 concerns, and to hold, enjoy and exercise all such powers, authorities and jurisdictions as are customary in other colleges in the United States of America.

Trustees, their powers;

limitation of the amount;

number required to dispose of property;

5. 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, diplomas, certificates and acts of the said corporation shall pass and be authenticated, and the same seal at their pleasure break, and devise a new one.

common seal,

6. There shall be a stated meeting of the said trustees held twice in every year at least, at the

stated meetings of trustees;

how appointed; village of Newark, at such time as the said trustees or a quorum thereof shall appoint, of which public notice shall be given after the first meeting, at least twenty days before the time of such intended meeting, and there shall be occasional meetings of the said trustees whenever the president to be appointed by them, shall deem the business of the institution to require the same, and shall give due notice thereof, which he is hereby authorized to do, and if at such stated or occasional meetings seven of the said trustees shall not be present, those of them who shall be present, shall have power to adjourn the meeting to any other day, as fully and effectually to all intents and purposes, as if the whole number of trustees, for the time being, were present; but if seven or more of the said trustees shall meet at the said appointed times, or at any other time of adjournment, then such seven of the said trustees shall be a board or quorum, and a majority of the votes of them shall be capable of doing and transacting all the business and concerns of the said college not otherwise provided for by this act, and particularly of making and enacting ordinances for the government of the said college, of electing trustees in the place or stead of those who shall resign their places or who shall die, of electing and appointing the principal and professors of the said college, of agreeing with them for their salaries and stipends, and removing them for misconduct or breach of the laws of the institution; of appointing committees of their own body to carry into execution all and every the resolutions of the board, of appointing a president, treasurer, secretary, steward, managers 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 voices of the board or quorum of the said trustees consisting of seven persons at least, at any semi-annual, occasional or adjourned meeting after notice given as aforesaid, shall determine all matters and things (although the same be not herein particularly mentioned) which shall occasionally arise, and be incidentally necessary to be determined and transacted by the said trustees.

*Provided always*, that no ordinances shall be of force, which shall be repugnant to the laws of this State.

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7. The head or chief master of the said college shall be called and styled "the principal of the college," and the masters thereof shall be called and styled "professors," but neither principal nor professors while they remain such, shall ever be capable of the office of trustee. Style of the teachers.

8. The principal and professors or a majority of them, shall be called and styled "the faculty of the college," which faculty shall have the power of enforcing the rules and regulations adopted by the trustees for the government of the pupils, by rewarding or censuring them, and finally by suspending or expelling such of them as after repealed admonitions shall continue disobedient and refractory, and of granting and confirming by and with the approbation and consent of a board of the trustees, signified by their mandamus, such degrees in the liberal arts and sciences to such pupils of the college or others, who by their proficiency in learning, or other meritorious distinction, they shall think entitled to them, as are usually granted and conferred in other colleges in the United States of America, and to grant to such graduates, diplomas or certificates under their common seal, and signed by the faculty to authenticate and perpetuate the memory of such graduation. Faculty of the college  
their powers;  
Degrees.

9. Persons of every religious denomination among christians, shall be capable of being elected trustees; nor shall any person either as principal, professor, or pupil, be refused admittance for his conscientious persuasion in matters of religion, provided he shall demean himself in a sober, orderly manner, and conform to the rules and regulations of the college. No incapacity on account of religious persuasion.

10. The Legislature shall have the power hereafter to make and enact such regulations as may be Power of the legislature.

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necessary for the selection of poor youths of genius to be educated at the said college out of the funds of the said college.

Misnomer of the corporation, not to defeat grants, &c. 11. No misnomer of the said corporation shall defeat or annul any gift, grant, devise or dequest, to or from the said corporation; provided the intent of the parties shall sufficiently appear upon the face of the gift, grant, will or other writing, whereby any estate or interest was intended to pass to or from the said corporation; nor shall any misuser or nonuser of the rights, liberties, privileges, jurisdictions and authorities hereby granted to said corporation or any of them, create or cause a forfeiture thereof.

Nonuser not to forfeit rights, &c.

This constitution liable to be altered only by act of the legislature. SEC. 2. *And be it enacted*, That the constitution of the said college herein and hereby declared and established, shall not be altered by any ordinance or law of the said trustees, nor in any other manner than by an act of the Legislature of this State.

Oaths of office SEC. 3. *And be it enacted*, That the said trustees herein ordered to be first appointed and their successors, and the principal and professors and every of them hereafter to be appointed, in such manner and form as herein is directed and required before he or they enter upon the duties of their trust or office, shall take and subscribe the oaths or affirmations prescribed by the ninth article of the constitution of this State.

Licenses to steam boats; SEC. 4. *And be it enacted*, That for the purpose of providing the necessary funds, for erecting and endowing the said college, the proprietors of all steam boats which now are or hereafter may be employed to convey, carry or transport to Philadelphia or elsewhere, from any place or places on the western shore of the river Delaware, within the limits and jurisdiction of the State of Delaware, or from Philadelphia or elsewhere to any place or places as aforesaid, shall annually hereafter on or before the first day of March, obtain

from the Governor of this State a license for each and every steam boat, which shall be so employed, for which license the proprietors of every such steam boat shall pay at the rate of twenty-five cents for each passenger so conveyed or transported, except children from four to fourteen years old who shall be rated each at twelve and a half cents.

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rates for li-  
censes.

SEC. 5. *And be it enacted,* That the master of each and every steam boat thus employed shall keep a book in which he shall make entry of the number of passengers conveyed or transported daily therein, the entries to be made in two distinct columns, according as the passengers come under the designations specified in the next preceding section, a statement or exhibit of which entries shall be rendered quarterly to the proprietors by the said master on his qualification, for every failure to do which, he shall forfeit and pay the sum of two thousand dollars: and the proprietors of each and every steam boat as aforesaid shall make or cause to be made to the State treasurer once in three months from the time they commence until they quit running every year, a return of the number of passengers as stated aforesaid, to have been conveyed or transported therein during that period, together with the amount of monies received from them, at the rates herein before prescribed and limited, which amount having been qualified to by one at least of the proprietors, shall at the same time be paid to the State treasurer, and by him be laid out semi-annually or annually, as he shall judge most expedient, in the purchase of evidences of the debt of the United States, or of stock of the United States bank, or of any of the banks in this State, or in the neighbouring States, which maintain their paper at par, or be by him otherwise profitably vested: and the commissions of the State treasurer upon all monies received and duly accounted for under the provisions of this act shall be at the rate of one and an half per centum, and no more: and he shall be authorized and

Accounts to  
be kept by  
masters of  
steam boats.

Accounts to  
be rendered  
by proprietors  
quarterly:

how appoint-  
ed.

State treasur-  
er's commis-  
sions,

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1821.

empowered to vest the dividends which shall be made on all stocks as aforesaid in further purchases of the same, at the times and in the manner aforesaid, or as he shall judge most advantageous for the fund.

Remedy for  
recovering  
rates, &c,

SEC. 6. *And be it enacted,* That for securing payment of the said rates of passengers, at the times, and in the manner herein provided for, a lien shall be created and imposed on each and every steam boat licensed as aforesaid, with her tackle, furniture and machinery: and should the proprietors fail in returning and paying the quarterly product of said rates as is herein directed and required, then and in such case, it shall be lawful for the State-treasurer, for the time being, and he is hereby authorized and empowered to issue a warrant in the name of the State of Delaware, directed to any sheriff of any county in this State, commanding him to levy by distress and sale of such steam boat or steam boats, or her or their tackle, furniture, or machinery, whose proprietors shall have so failed, the sum of two thousand dollars for every such failure, returning to them or their assigns the overplus, if any, after deducting the sum of money for which the warrant issued, and the costs of the proceeding.

Licenses to  
stages, &c.

SEC. 7. *And be it enacted,* That the provisions contained in the fourth and fifth sections of this act shall so far as they are applicable, be extended to the proprietors of all stages, coaches or coachees, or lines of stages, coaches or coachees, which are now or hereafter may be employed in carrying or conveying persons in or through this State for hire; that is to say: they shall in like manner, and for the like purpose, obtain licenses from the governor of this State for the stages, coaches or coachees or lines of stages, coaches or coachees thus employed by them, for which they shall pay at the rate of eight per centum on all monies demanded and received from passengers (except such as in the progress of their journey shall have taken or

rates payable;

shall take passage in some steam boat licensed by <sup>accounts kept</sup> this State) as stage hire, half that rate to be paid for children from four to fourteen years of age: they shall keep books in which they shall make entries of the number of persons carried or conveyed daily therein, the enteries to be made in distinct columns, according as they come under the designations aforesaid; they shall make or cause to be made to the State treasurer once in three months a return of the number of passengers carried or conveyed therein, together with the amount of monies received from them at the rates per centum herein prescribed and limited, which amount having been qualified to by one at least of the proprietors, shall at the same time be paid to the State treasurer, who shall lay out and vest the same as the monies received from the passengers in steam boats are directed to be laid out and vested: *Provided however*, that the proprietors of no stages or lines of stages connected with any of the steam boats belonging to this State shall be required to obtain a license or licenses therefor: <sup>Proviso.</sup>

SEC. 8. *And be it enacted*, That for securing payment of the said rates of persons travelling in stages, at the times, and in the manner herein provided for, a lien shall be created and imposed on all stages, coaches or coachees, and their horses, licensed as aforesaid; and should the proprietors thereof fail in returning the number of persons who have taken passage therein, and paying the quarterly product of said rates demandable from them, as is herein prescribed and limited, then and in such case, it shall be lawful for the State treasurer for the time being, and he is hereby authorized and empowered to issue a warrant in the name of the State of Delaware, directed to any sheriff of any county in this State, commanding him to levy by distress and sale of such stages, coaches or coachees and horses, whose proprietors shall have failed to make such return and payment, the sum of five hundred dollars for every such failure, returning to

<sup>Remedy for  
recovering  
rates against  
stages, &c.</sup>

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them or their assigns the overplus, if any, after deducting the sum of money for which the warrant issued, and the costs of the proceeding.

Forfeiture for carrying persons in steam boats or stages without license;

how recovered.

SEC. 9. *And be it enacted,* That if the proprietors of any steam boat or steam boats shall employ the same for conveying or transmitting by water to or from the places aforesaid, any person or persons—or the proprietors of any stage or stages, coachee or coachees shall employ the same for carrying or conveying any person or persons in or through this State, not having obtained a license or licenses therefor, as is by this act directed and required, they shall for every such person so carried, conveyed, or transported, contrary to the provisions of this act, forfeit and pay the sum of five dollars, to be sued for and recovered in the same manner as debts under forty shillings are now to be sued and recovered by the laws of this State.

Fund produced pledged to the Delaware college.

SEC. 10. *And be it enacted,* That the fund which shall be produced by the rates imposed by this act on passengers in steam boats and stages, coaches or coachees licensed in this State as aforesaid, shall be pledged in the first place for building and endowing the said college in the village of Newark or its vicinity; and after that object has been accomplished, and the fund has accumulated sufficiently, it shall be applied to the erection and establishment of such academies in the different counties of this State as the General Assembly shall from time to time order and direct.

State treasurer to pay over monies received

SEC. 11. *And be it enacted,* That the aforesaid fund or any part thereof shall be paid by the State treasurer to the order or orders of the said trustees to be hereafter appointed or their successors, as they shall from time to time draw for the same.

Legislature may repeal the provisions

SEC. 12. *And be it enacted,* That the rights, privileges and powers granted by this charter shall not be construed to deprive the Legislature at any

time of the right to alter or repeal the provisions contained in this act for licensing steam boats and stages, and imposing rates of tax on passengers therein.

for licensing  
steam boats &  
stages.

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CHAPTER L.

A SUPPLEMENT to the act entitled "*An act for the relief of the heirs of Thomas Sorden, deceased.*"

PASSED AT DOVER, }  
February 1, 1821. }

PRIVATE ACT.

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CHAPTER LI.

AN ACT to authorize Nathaniel Ross, to pass and repass his negroes from this State to the State of Maryland.

PASSED AT DOVER, }  
1 February, 1821. }

PRIVATE ACT.

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CHAPTER LII.

AN ACT to vacate and alter part of a road therein mentioned.

WHEREAS it has been represented to this General Assembly, that part of the State road leading from the Maryland line to Prospect Hill, and thence by doctor Luff Lewis's to Jester's Cross-roads, and lying between Prospect Hill, and the old causeway, near which Covington Messick lives, is incommodious and disadvantageous in its present site and direction: and whereas it has been

Preamble.

Description  
of the road.

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further represented, that the said road would be much more convenient to the public, were it laid out in a straight direction from a point eastward of Ezekiel Anderson's dwelling-house, on the road from Prospect Hill to Milford, and across the plantations of the said Ezekiel Anderson and doctor Luff Lewis to the aforesaid causeway:

Alteration

Proviso.

SECTION 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the above described road shall be, and is hereby declared to be vacated; and that it shall and may be lawful to lay out and make a road commencing at a point easterly of the said Ezekiel Anderson's house, on the aforesaid road leading from Prospect Hill to Milford, and running thence south eleven degrees east one hundred and twenty perches to the old road, intersecting it near the north end of the above mentioned old causeway: Provided however, that the same shall be of lawful breadth, cleared and made a good and passable road, at the expense of the petitioners or of those of them who are immediately interested: And provided moreover, that the present road shall not be located or obstructed, until the new road herein authorized, be opened and completed.*

PASSED AT DOVER, }  
February, 1821. }

## CHAPTER LIII.

## AN ACT to limit suits on constables' bonds.

SECTION 1. *BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That all actions or suits hereafter to be brought on bonds of constables and their sureties conditioned for the faithful performance of the duties of the office of constable hereaf-*

Limitation  
as to all con-  
stables' bonds  
hereafter.

ter to be given, shall be sued and brought within the space of four years after the execution thereof, 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 shall be removed: and all actions hereafter to be brought on constables' bonds heretofore given, shall be brought and commenced within four years from the passing of this act, saving the right of any person or persons within the age of twenty-one years, *feme covert, non-compos mentis*, or imprisoned beyond sea, of bringing such actions within one year after such impediment removed.

Saving.

On all such bonds heretofore given. Saving.

## CHAPTER LIV.

## AN ACT concerning the execution of criminals in capital cases.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when a criminal has been capitally convicted in any court of this State, and sentence of death has thereupon passed, it shall be the duty of the said court at the time of passing sentence to assign the day of execution of the said criminal, which day shall be at least ten days from the time of pronouncing sentence: *Provided nevertheless*, that it shall and may be lawful for the Governour to suspend the execution of such sentence in any case, and to appoint, from time to time, such further day as he in his discretion shall deem proper.

In capital cases, the court to assign day of execution.

Governour may appoint a more distant day.

SEC. 2. And be it enacted, That the judgment and sentence of the court, in the case of a criminal capitally convicted, shall be a sufficient warrant to the sheriff of the county in which said criminal is so capitally convicted, to proceed thereupon to execute the sentence, upon the day assigned by the court.

Sentences of the court a sufficient warrant.

CHAP.  
LV.

## CHAPTER LV.

1821. AN ACT for raising by way of lottery, a sum not exceeding fifteen thousand dollars, for the purpose of repairing and enlarging the Protestant Episcopal Church in the town of Newcastle, called Immanuel Church; building a parsonage-house, and discharging the debts of the said Church.

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 vestry and wardens of the Protestant Episcopal Church in the town of Newcastle, called Immanuel Church, and their successors, at any meeting of the said vestry and wardens after the passing of this act, and by a majority of the votes of the said vestry and wardens, who shall be then assembled, to elect and appoint one or more person or persons not exceeding three in number, as manager or managers; and the said person or persons so to be elected and appointed, shall be manager or managers to institute, carry on and draw a lottery in one or more classes, for raising a sum not exceeding fifteen thousand dollars, clear of all expenses, costs and charges; which said sum shall be applied by and under the direction of the said vestry and wardens and their successors, to the repairing and enlarging of the fabrick of the said Church, to the erecting a house for the residence of the incumbent or rector, who may, from time to time, officiate in the said Church, and to the discharging of the debts due from the congregation, incurred by rebuilding the brick wall enclosing the burying ground and putting a new roof on the said Church; and if any balance of the said monies so to be raised as aforesaid should remain, such balance shall be employed and appropriated by and under the direction of the said vestry and wardens and their successors, in such way and manner as they may think most proper for the use and benefit of the said Church.

Lottery.

Managers.

Classes—& sum to be raised;

application.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the said vestry and wardens shall notify to the Governour of the State of Delaware, the name or names of the person or persons, who shall be elected and appointed manager or managers in pursuance of this act.

Names of managers to be notified to Governour.

SEC. 3. *And be it further enacted by the authority aforesaid,* That the said manager or managers previously to his or their selling any tickets in the said lottery, shall give bond to the persons by name who now are the vestry and wardens of the said Church, or the survivors or survivor of them, or such other security as they or a majority of them, may approve of, for the due and faithful performance of the duty of the said manager or managers, in the sales of the tickets, drawing the lottery, paying the prizes, paying over to the vestry and wardens or their order, the nett proceeds of the said lottery, and managing all the business of the said lottery.

Managers' bond.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the said manager or managers before he or they proceed to draw the said lottery, shall certify to the Governour of the said State, the time and place of drawing the said lottery; and upon such certificate being presented, the Governour shall appoint three commissioners to superintend the drawing of the said lottery; which said commissioners shall take an oath or affirmation diligently and faithfully to perform the duties entrusted to them.

Commissioners to draw the lottery, to be appointed by the Governour; their oath.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the said commissioners or any two of them, shall attend at the drawing of each day, and when the whole is completed, or if the said lottery be drawn by classes, then when the drawing of each class be completed, the said commissioners shall cause an accurate list of the fortunate numbers and prizes drawn in the said lottery, to be published in at least one newspaper printed

Duty of commissioners;

## LAWS OF THE STATE

in the State of Delaware, one in the City of Philadelphia, and one in the City of Baltimore: and the said commissioners shall receive from the said manager or managers, out of the proceeds of the said lottery, one dollar and fifty cents each, for every day's attendance at the drawing of the said lottery.

their compensation.

SEC. 6. *And be it further enacted by the authority aforesaid,* That the said manager or managers be, and they are hereby authorized to settle and adjust all accounts which may be exhibited by any person or persons legally employed in carrying this act into effect; and that all expenses necessarily attending the carrying of this act into effect, shall be paid by the said manager or managers out of the proceeds of the said lottery as aforesaid.

Expenses of carrying this act into effect, how settled & paid.

SEC. 7. *And be it further enacted by the authority aforesaid,* That all prizes not demanded within twelve months next after publication as aforesaid, shall be applied to the benefit of the said Church.

Within what time prizes must be demanded.

SEC. 8. *And be it enacted by the authority aforesaid,* That if the said lottery shall not be drawn in five years after the publication of the scheme of the said lottery, the said manager or managers, respectively, shall on demand, pay back to any person or persons, who shall have purchased or may hold any ticket or tickets, the respective sum or sums which shall have been paid for such ticket or tickets to such manager, or to any agent by him appointed for the sale of tickets; each manager to be responsible only for those monies received by him or his agent or agents on the sale of tickets, and no further: and the said manager or managers shall each have power to appoint any agent or agents for the sale of tickets in the said lottery.

Within what time lottery must be drawn.

PASSED AT DOVER, }  
February 1, 1821. }

OF DELAWARE.

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CHAPTER LVI.

AN ADDITIONAL SUPPLEMENT to the, Chap cxxxix  
act entitled, "An act for the more easy and vol. 5, p. 320  
speedy recovery of small debts."

SECTION 1. BE IT ENACTED by the Senate and  
House of Representatives of the State of Delaware  
in General Assembly met, That the twenty-first,  
twenty-second and twenty-third sections of the act<sup>21 22 & 235</sup>  
entitled, "An act for the more easy and speedy re-<sup>vol. 5, p. 329,</sup>  
covery of small debts", passed at Dover on the<sup>330 revived;</sup>  
third day of February, in the year of our Lord,  
one thousand eight hundred and eighteen be and  
the same are hereby revived and re-enacted.

SEC. 2. And be it further enacted, That it shall<sup>Only one even;</sup>  
not be lawful for a justice of the peace to issue<sup>exp. to be is-</sup>  
more than one execution in the nature of a writ of<sup>case.</sup>  
*venditioni exponas* in any case; and if the sheriff  
or constable to whom the said execution in the na-  
ture of a writ of *venditioni exponas* shall be deli-<sup>and if not</sup>  
vered, shall not in all things comply with the com-<sup>complicated with</sup>  
mands of the said execution, he shall be liable for  
the debt or damages, interest and costs in such ex-  
ecution in the same manner as if he had returned<sup>officer liable;</sup>  
the said execution and thereon certified that he had  
levied and received the full amount of the debt or  
damages, interest and costs therein and upon the  
request of the plaintiff or plaintiffs in the said ex-  
ecution the justice of the peace who issued the<sup>and execution</sup>  
same shall issue an execution against such sheriff<sup>may be had</sup>  
or constable for the amount of debt or damages,<sup>against him.</sup>  
interest and costs.

SEC. 3. And be it further enacted, That all re-<sup>Recognizances</sup>  
cognizances acknowledged before any justice of<sup>in civil ca-</sup>  
the peace in civil causes shall be signed by the<sup>ses, signed by</sup>  
cognizers, otherwise they shall be utterly null and<sup>void.</sup>  
void.<sup>vol. 5, § 329</sup>  
<sup>§ 12, pa 326,</sup>  
<sup>vol. 4, § 1 310,</sup>

PASSED AT DOVER, }  
February 1, 1821. }

CHAP.  
LVII.

## CHAPTER LVII.

1821. AN ACT for securing to purchasers at Sheriffs' sale, the quiet possession of their purchases.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That where the lands of any person or persons being defendant or defendants in any judgment or decree, shall be sold in virtue of a writ of *venditioni exponas*, or of a writ of *levari facias*, or in virtue of a decree of a court of equity, and the said defendants or any of them in case there be more than one, shall be in the actual possession of such lands, and shall refuse to deliver up to the purchaser or purchasers, the possession thereof, it shall and may be lawful for the court, which made the order, or out of which the writ issued, as the case may be, upon application of the purchaser or purchasers, supported by his, her or their affidavit, that the defendants or some one of them, if there be more than one, is in possession of the lands purchased, and has according to the belief of the deponent, such an interest therein as was sold in virtue of such writ or decree at any time after the confirmation of such sale by the court to issue a summons to the defendant or defendants in possession to appear within four days after service thereof and shew cause why a writ of *habere facias possessionem* shall not issue in favour of the purchaser or purchasers, and thereupon if good and sufficient cause in law, shall not be shewn or if the defendant or defendants shall not appear within four days after service of such summons as aforesaid, to grant a writ of *habere facias possessionem* directed to the sheriff of the county and commanding him to put the purchaser or purchasers of such lands in the quiet and peaceable possession thereof: *Provided*, that if it shall appear to the court by the claim of any other person or otherwise that the defendant or defendants is or are in possession as tenant or tenants or by the

Defendant  
refusing to de-  
liver posses-  
sion of land  
sold by the  
sheriff;

the remedy;

to what case  
not applicable

permission of any other person or persons, no such writ shall issue, but the purchaser shall be put to his action.

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LVII.

1821.

SEC. 2. *And be it enacted, That if the lands sold as aforesaid shall not be in the actual possession of the defendant or defendants, but of a tenant or tenants holding under such defendant or defendants the purchaser or purchasers as aforesaid, shall be and he, she or they are hereby entitled to all the remedies provided in the case of tenants holding over after the determination of their leases by the laws of this State.*

Same remedy against tenant of defendant.

PASSED AT DOVER, }  
February 1, 1821. }

## CHAPTER LVIII.

A SUPPLEMENT to the act entitled, "*An act making provision for the payment of the printing the laws and journals of the Senate and of the House of Representatives.*"

Chap. ciii, 3  
vol. pa. 229.

SECTION. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the clerk of the Senate and the clerk of the House of Representatives, in making contracts for the printing of the journals of the Senate and House of Representatives respectively, are directed and required to have all such journals printed and stitched in octavo size, and each page closely printed, with such type as the journals have usually been printed, and so arranged that the greatest possible number of words shall be comprised within each and every page: and the said clerks respectively, are hereby directed to make proposals, in two of the newspapers of this State, to the different printers thereof, for the publication of the journals, and to employ

Journal of the Senate and house of representatives to be printed in 8vo;

general directions;

proposals for printing to be published.

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LVIII.

1821.

for this purpose, such printer or printers as shall undertake the execution thereof, upon the cheapest and most advantageous terms.

Appropriation for printing journals of session of 1821.

SEC. 2. *And be it enacted by the authority aforesaid,* That the sum of two hundred and fifty dollars and no more, be and the same is hereby appropriated and made subject to the order of the governor, for paying for the printing of the journal of the House of Representatives; and the further sum of one hundred and fifty dollars is hereby in like manner appropriated and made subject to the order of the governor, for paying for the printing of the journal of the Senate; which orders shall be drawn and paid as is directed by the act to which this is a supplement,

If appropriation insufficient, claim may be presented to General Assembly.

SEC. 3. *And be it enacted by the authority aforesaid,* That in case the aforesaid sum of four hundred dollars shall not be sufficient to defray the expenses of such printing, the person or persons interested may present such future claim to the next session of the General Assembly thereafter.

Repeal.

SEC. 4. *And be it enacted by the authority aforesaid,* That so much of the act to which this is a supplement, as is by this act altered, amended or supplied, be and the same is hereby repealed.

PASSED AT DOVER, }  
February 1, 1821. }

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## CHAPTER LIX.

AN ACT to vest the title to a certain tract of land therein mentioned in Aaron Barber and Peggy Tucker, the surviving children of Sarah Barber.

PASSED AT DOVER, }  
2 February, 1821. }

PRIVATE ACT.

## OF DELAWARE.

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### CHAPTER LX.

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LX.

AN ACT granting to Joseph Bush and James Sykes a certain tract or parcel of marsh therein mentioned. 1821.

PASSED AT DOVER, }  
February 2, 1821. }

PRIVATE ACT.

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### CHAPTER LXI.

AN ADDITIONAL SUPPLEMENT to the act entitled, "*An act to establish a bank, and to incorporate a company under the name of the accommodation bank of Delaware.*"

Chap co. vol  
4, p. 536; ch.  
ccii, vol 4, 561

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the twentieth section of the act to which this is an additional supplement, imposing a tax of one half per centum annually upon the said bank, is hereby repealed, made null and void,

Repeal of tax  
§ 20, chap cc,  
pa. 547.

PASSED AT DOVER, }  
February 2, 1821. }

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### CHAPTER LXII.

AN ACT authorizing and empowering Benjamin Ferris of the borough of Wilmington, to convey a messuage and lot of ground therein situate to Amelia Shad, a coloured woman of said borough.

PASSED AT DOVER, }  
February 2, 1821. }

PRIVATE ACT.

CHAP.  
LXIII.

## CHAPTER LXIII.

1821. AN ACT for laying out the lands escheated to the State of Delaware, at Cantwell's Bridge, in Newcastle county.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That John Merrit, Out-Commissioners and their powers. - ten Davis, Jacob Vaudegrift, John Reynolds and John Clark or a majority of them be, and they are hereby appointed to go upon the escheated lands at Cantwell's Bridge in said county, and to survey and lay out and locate as a public street the road now used as the principal street in the said town, to lay out and locate a road running from the point of intersection of the State road leading from said town to Wilmington, with the north-eastern boundary of the said escheated lands to such point in the street aforesaid, that it will strike the same at right angles, and to lay out and locate in so much of the said land as shall lie on the south eastern side of such road, such and so many streets and lanes as the said commissioners shall in their discretion think proper: *Provided*, that such streets shall be so laid out as to be at right angles and parallel to the principal street aforesaid, that the breadth of such streets shall not be less than sixty feet, and that the squares or lots formed by the intersection thereof shall not exceed four hundred feet in length and four hundred feet in breadth.

Further powers of commissioners. SEC. 2. *And be it enacted*, That the said commissioners or a majority of them shall survey and lay out so much of the escheated land aforesaid as lies on the north-western side of the road before directed to be laid out, in lots not exceeding five acres each, with such and so many lanes as may be necessary.

SEC. 3. *And be it enacted*, That the said commissioners or a majority of them, shall return into the

office for recording of deeds in and for Newcastle county, a survey of the roads, streets, lanes, squares and lots by them laid out, which said survey shall be recorded in said office. Survey to be recorded.

SEC. 4. *And be it enacted*, That the escheator of Newcastle county shall on the second day of April next, or upon such other day or days in this present year as he may appoint, sell the squares and lots aforesaid at public auction: *Provided*, that the said escheator may subdivide the squares or lots laid out as directed by the first section of this act, in such manner as may best conduce to the interest of this State. Escheator—his power & duty.

SEC. 5. *And be it enacted*, That the said escheator shall and may give to the purchasers at such sale, a credit on three-fourths of the purchase money, of one year for one-fourth, of two years for one-fourth, and three years for the remaining fourth: *Provided*, that the purchase money shall be and remain till paid a lien on the land for which the same was bid. Credit on sales; purchase money a lien.

SEC. 6. *And be it enacted*, That the commissioners aforesaid shall lay out and locate on some part of said escheated land, a school house lot, not exceeding one hundred and twenty feet in front, and two hundred feet in depth, which shall be reserved for the use of the inhabitants of Cantwell's bridge and its vicinity. School-house lot.

SEC. 7. *And be it enacted*, That the road heretofore laid out through the said land, shall be and is hereby declared to be vacated. Road vacated.

SEC. 8. *And be it enacted*, That the commissioners herein appointed, shall each be allowed two dollars per day for their attendance and services under this act, which the escheator of Newcastle county is directed to pay out of the proceeds of the sales aforesaid. Compensation to commissioners.

PASSED AT DOVER, }  
February 2, 1821. }

## CHAP.

## LXIV.

## CHAPTER LXIV.

1821. AN ACT *enjoining certain duties on collectors, and varying their compensation.*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the collectors of tax in each of the hundreds of the respective counties of this State, shall attend from ten o'clock in the forenoon until five o'clock in the afternoon, at some convenient place in their hundreds, respectively, upon the first Saturday in the months of May, June, August, September, October and November, in each and every year from and after the passing of this act, when and where they shall, without refusal, or unnecessary delay, receive the amount charged on their duplicates against any person or persons, who may by him or herself, or his, her or their agent offer to pay the same: *Provided however*, that no two such places of meeting shall in the same year be held in the same place: *And provided also*, that the time, place and purpose of every such meeting shall be given at least ten days previous to the days aforesaid, by each collector in his respective hundred, by five advertisements set up in the most public places in his district.

days of attendance to receive taxes;

not two meetings in same place; advertisements of meetings.

Persons not paying taxes by 2d Saturday in Dec'r;

to be proceeded against;

SEC. 2. *And be it further enacted*, That each and every person charged with tax upon any regular duplicate of assessment, in any of the hundreds of the respective counties of this State; who shall not have paid off and discharged the same before the second Saturday of the month of December, in that year for which the same may have been levied, he or she so making default as aforesaid, shall be proceeded against for the recovery of the same by the collector of the hundred in which such tax may have been assessed, in the same manner as is directed by the several acts of assembly of this State in that behalf made; and in addition to the sum charged upon the duplicate of assessment, as afore-

said, such delinquent or delinquents shall be charged and pay the sum of ten per centum : *Provided* <sup>and pay 10 per cent. additional;</sup> *however,* that nothing in this act contained shall be deemed or taken to prevent the collector of any of the hundreds in the respective counties of this State <sup>collector may proceed as heretofore.</sup> from proceeding at any time to the collection of taxes charged on his duplicate of assessment, to any person or persons at any time as he may now do by the existing laws of the State.

SEC. 3. *And be it enacted,* That all such additional per centum recovered as forfeitures under and by virtue of the provision contained in the second section of this act, shall be for the use and benefit of the collector, in lieu and place of all costs and trouble by him incurred in recovering such delinquent tax or taxes. <sup>Additional 10 per cent. in lieu of costs,</sup>

SEC. 4. *And be it enacted,* That it shall not be lawful for any justice of the peace to issue any warrant in favour of any collector, for the recovery of any tax or taxes hereafter to become due, excepting for the recovery of taxes against persons who may have removed out of the district. <sup>Justices not to issue warrant for taxes Exception.</sup>

SEC. 5. *And be it enacted,* That in lieu of the commissions heretofore allowed to collectors of State, county, road and poor taxes, there shall be allowed five per centum upon all such taxes collected and paid over, and no more, any law, usage or custom to the contrary notwithstanding. <sup>Collectors commissions;</sup>

PASSED AT DOVER, }  
February 2, 1821. }

## CHAPTER LXV.

AN ACT for the encouragement and support of schools in this State.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware

*in General Assembly met,* That every school or Sabbath schools instituted in this State, for the education of children on the Sabbath day shall, upon sufficient proof being made of the due organization of such school, be entitled to receive a certain sum annually, to be paid by the treasurer of the county in which such school may be established, in such manner as shall be hereinafter directed.

*SEC. 2. And be it enacted,* That upon a return being made by the teacher or teachers of any such Sabbath schools to the commissioners of the levy-court of the county, stating the number of scholars in such school, and certified by two respectable freeholders of the neighbourhood, the said commissioners are hereby authorized and directed to draw an order on the County-treasurer, annually, for a sum of money not exceeding the rate of twenty cents per annum for each white scholar so returned, which order shall be paid by the County-treasurer to the said teacher or manager of the said school, and shall be raised as other county rates and levies are by the laws of this State: *Provided,* that the sum annually drawn for upon the treasurer of each county, under and by virtue of the provisions of this act shall not exceed two hundred dollars: *And provided further,* that no school shall be entitled to receive any aid under this act, unless such school shall have continued three months in each year, which fact must be stated and certified in the manner above mentioned.

*SEC. 3. And be it enacted,* That for each and every poor white child taught at any incorporated or other regular english school within this State, and for whose tuition the teacher thereof cannot in any other way receive compensation, by reason of the indigence of such child, and his or her relations and friends, one dollar per quarter, or four dollars annually, shall be paid out of any unappropriated money in the fund for establishing schools within this State.

SEC. 4. *And be it enacted,* That each and every teacher having accounts for the tuition of any poor child, or children under the authority of this act, shall state such account with the items thereof, and make oath thereto, before some justice of the peace in this State; and shall moreover obtain the certificate of at least three credible freeholders of the neighbourhood, that the child or children, for whose schooling the charges in said account are made, are such as ought to be entitled to the benefit of this act, that such account is to their knowledge just and true as it may stand stated; which accounts so certified and proven shall be transmitted to the General Assembly at the next session thereof, for their examination, inspection and approval, which if found correct shall thereupon be paid out of the fund aforesaid.

Account for  
such tuition;  
must be pro-  
ved;  
certified,  
and approved  
by General  
Assembly.

PASSED AT DOVER, }  
3 February, 1821. }

## CHAPTER LXVI.

AN ACT to prevent swine running at large in the village of Camden, and certain bounds and limits therein prescribed.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That no swine, hog or hogs, shall be permitted to run at large within the village of Camden, and the limits and bounds following; that is to say: beginning at Howell's mill-branch where the road to Dover crosses; from thence down said branch to the line dividing Thomas Howell's land from the land owned, time back, by Edward Rogers; thence with the line dividing said Howell and Rogers' land until it intersects the line of Daniel Mifflin's heirs land, where Caleb Stradley lives; thence with line of said Mifflin's land, south-westerly to the mill-road so called; thence

Prohibition;  
limits.

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1821.

with the said mill-road westerly, to the State-road leading from Camden to Canterbury; thence crossing said road and running on the line dividing the Hardcastle farm from a lot which said Hardcastle purchased of George Temple, to the road leading from Camden to Willow-grove; thence with said road to the land of doctor James Fisher; thence with the line of said Fisher's land, to the head of Jarrel-town branch; thence down said branch to the head of Howell's mill-pond; thence down said pond and branch to the place of beginning.

SEC. 2. *And be it enacted by the authority afore-*

*Remedy; said.* That from and after the passing of this act, upon complaint and information made by any per-

son or persons inhabitants of said village, before a justice of the peace in and for the county of Kent, against any person or persons, having or suffering any swine, hog or hogs, to run at large within the bounds and limits aforesaid; that the said justice on such, or every complaint or information, shall summon him, her or them, so offending, to be and appear before him or some other justice of the peace in and for said county; and upon due proof made in the premises, to the satisfaction of said justice, that the person or persons so offending shall forfeit and pay to the said justice, the sum of one

fine;

how recovered;  
able;

in certain cases costs only to be adjudged

dollar for each and every such swine or hog, so running at large within the bounds and limits aforesaid, if found to belong to any person or persons residing within said limits, and half that sum for each and every swine or hog if found to belong to any person or persons residing without said limits, to be recovered in manner and form as debts under forty shillings, together with costs of suit: unless it shall appear to the satisfaction of said justice, that the hog or hogs so found at large within the limits aforesaid, had accidentally come there, contrary to the wish, intention and reasonable endeavours to prevent it, in which case the owner or owners thereof shall be subject to the costs of suit only.

SEC. 3. *And be it enacted by the authority afore-*

*Pound, to impound hogs said,* That it shall and may be lawful, for the in-

inhabitants of said village, to erect a suitable pound <sup>when owners unknown;</sup> for the purpose of pounding any swine, hog or hogs, found running at large within the limits aforesaid, whose owner or owners are not known: and in order to facilitate such discovery. some one or more of the inhabitants of said village, who may be appointed to superintend the due execution of this act, shall immediately after such pounding of any swine, hog or hogs found running at large within the limits aforesaid, give public written notice at the tavern, <sup>notice of impounding;</sup> or one or more of the stores in said village, for the space of five days, at least; and if no owner or owners of such swine, hog or hogs, shall appear within the time aforesaid; it shall and may be lawful for the person or persons to be appointed by the inhabitants of said village as aforesaid, to proceed to advertise and sell such hog or hogs, to the highest bidder for the benefit of said village; they giving at least three days notice in manner aforesaid of such intended sale: but if the owner or owners of such swine, hog or hogs, shall appear within the time limited for so doing, and shall pay for the expense and trouble of pounding, feeding, &c. of said hog or hogs, to be judged of by the nearest justice of the peace, together with the one dollar, for each <sup>owner paying fine and expenses may take the hogs in pound.</sup> and every hog, or one-half this sum, as the case may be, according as they are owned by a person or persons, in or out of said limits; they may then take and carry them away.

**SEC. 4.** *And be it enacted by the authority aforesaid,* That it shall and may be lawful, for the inhabitants of said village to meet in the month of <sup>Meeting to choose persons to attend to the execution of this act;</sup> March, annually, to choose and appoint two or more suitable persons, to attend to the due execution of this act, and to do and perform the several requisite duties thereof; who shall continue in the <sup>time of service;</sup> exercise thereof, until released by the appointment of others, into the hands of whom the aforesaid justice or justices shall pay over all such fines and forfeitures as may by them be received in consequence of this act, to be applied in manner and form as <sup>fines appropriated.</sup> the inhabitants may think most advantageous to said village.

Repeal;  
Chap. ccxli b  
2 vol. 1025.

SEC. 5. *And be it further enacted by the authority aforesaid, That the act entitled "An act to prevent swine running at large in the village of Camden, and certain bounds and limits therein prescribed," passed the 21st of January, 1792, be and the same is hereby repealed.*

PASSED AT DOVER, }  
3 February, 1821. }

## CHAPTER LXVII.

AN ACT to authorize *Moses Merredith* to bring his slave *Lucretia* from the State of Maryland into this State.

PASSED AT DOVER, }  
February 3, 1821. }

PRIVATE ACT.

## CHAPTER LXVIII.

AN ACT permitting *Isaac Davis, esquire*, to remove from this State to his farm in the State of Maryland, two certain negroes therein named.

PASSED AT DOVER, }  
February 3, 1821. }

PRIVATE ACT.

## CHAPTER LXIX.

AN ACT to empower *James L. Waller, Richard Waller and George Waller* to remove certain slaves therein named from this State to the State of Maryland.

PASSED AT DOVER, }  
3 February, 1821. }

PRIVATE ACT.

## CHAPTER LXX.

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1821.

AN ACT to authorize and empower James J. Brindley of Christiana hundred, in Newcastle county, to bring into this State from the State of Maryland, certain negro and mulatto slaves, and hold and retain them as slaves in this State.

PASSED AT DOVER, }  
February 3, 1821. }

PRIVATE ACT.

## CHAPTER LXXI.

AN ACT for the better regulation of the division of intestates' lands into portions or allotments; for their final division in cases of non-acceptance; and to amend the act entitled, "An act for the partition of lands and tenements among joint tenants and tenants in common."

Chapter  
lxxxv, 5 vol.  
153.

SECTION. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when the freeholders appointed by any orphans' court in this State, to go upon and divide the real estate of an intestate, or any three of them, have been or shall be of opinion that the same will not bear any division without prejudicing and spoiling the whole, and have valued and appraised, or hereafter shall value and appraise the said estate, and they or any three of them agreeing, have made or hereafter shall make return of their proceedings to the orphans' court from which the order issued, certifying that the said intestates' real estate will not bear any division, and setting forth the sum at which they have valued and appraised the same, and if the said return hath been or shall be approved by the court; or when the said freeholders, or any three of them, have heretofore parted and divided, or hereafter shall part and divide the said real es-

Upon return  
that lands of  
intestate will  
not bear divi-  
sion, and ap-  
praisement  
thereof;

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1821.

or a division  
into certain  
portions and  
appraisement  
of such por-  
tions;

and refusal to  
accept;

any person  
not having  
full portion of  
such estate,

tate into as many portions or allotments as they have deemed; or hereafter may deem, most advantageous to the persons interested in the estate, and have valued and appraised, or hereafter shall value and appraise each portion and allotment, and have made or hereafter shall make return of such division and appraisement or valuation to the orphans' court from which the order issued, and such return of partition and valuation, hath been or shall be approved by the court; and the eldest son and all and every the child or children or other person or persons, respectively, having the right of acceptance, have or hereafter shall severally and respectively refuse to accept the whole of such real estate, not bearing any division as aforesaid or any such portion or allotment, parted and divided and valued and appraised as aforesaid, or if there shall be one or more of such portions or allotments accepted, according to the intestate laws of this State, and one or more of such portions or allotments not accepted as aforesaid, then in all and every such case where the whole of such real estate not bearing any division as aforesaid hath been or shall be refused to be accepted as aforesaid, or no portion or allotment parted and divided and valued and appraised as aforesaid hath been or shall be accepted as aforesaid; or where one or more of such portions or allotments hath been or shall be accepted as aforesaid, and one or more of such portions or allotments hath not been or shall not be accepted as aforesaid, it shall be lawful for any such eldest son, child or other person or persons as aforesaid who hath not or shall not have been satisfied by his, her or their acceptance either of the whole real estate, or any portions or allotments thereof, of his, her or their equal part or share thereof, or who hath not been paid nor had secured to be paid, his, her or their equal part or share of the appraised value of such real estate, portions or allotments, by the acceptance by any eldest son, child, or other person, of such real estate, portions or allotments, to apply by himself or herself, or if under the age of twenty-one years by his or her guardian or guardians, to the said court, by petition, stating the

facts, describing the real estate, portions or allotments not accepted as aforesaid, and praying partition thereof, among the several persons entitled to the same, according to their several and respective rights and shares in the said unaccepted real estate, portions or allotments; and thereupon it shall be lawful, and the court is hereby empowered to appoint five freeholders of the county, who being first sworn or affirmed for that purpose in open court, or before some judge or justice of the peace of the county, or agreeably to an act, entitled "An act for the administration of certain oaths and affirmations," shall take with them a skillful surveyor to be qualified on his solemn oath or affirmation, and go upon the said unaccepted real estate, portions or allotments, and divide the same equally among the children or other heirs of the intestate, or the assignee or assignees of any such children or other heirs who were of age before such assignment, according to the directions, true intent and meaning of the intestate laws of this State, due regard being had to the quality and quantity of the said real estate, portions or allotments, and to the satisfaction, payment or security which any child, or children, or other heir or assignee as aforesaid may have had of his, her or their parts or shares of such real estate, portions or allotments, or any three of them agreeing, shall make return of such division to the next orphans' court, and if said division be approved of by the said court, the same shall remain firm and stable forever: *Provided nevertheless*, that the petitioner or petitioners shall give or cause to be given, notice in writing three days before any such order for division shall be made, to the child or children, or other heirs of the intestate or assignees as aforesaid, respectively, who may be residing in the State and be entitled to any part or share of any such real estate, or of any such unaccepted portions or allotments of the intention to apply to the said court, by petition, or that application has been made to the said court by petition as aforesaid, for the purpose aforesaid; and if any such child or children

may petition  
orphans' court  
for partition  
of what is not  
accepted;

upon which  
court may ap-  
point freehol-  
ders to divide;

chap. exli vol.  
5, pa. 238.

Provido, re-  
quiring notice  
of application

In case a par-  
ty resides out

the state, publication of notice.

court may postpone or order for division.

or other heir or assignee as aforesaid shall reside out of the State, then upon affidavit or affidavits made thereof in open court, or in vacation, before the judge or clerk of the orphans' court, of the county, or before any judge of the supreme court, or of the court of common pleas, notice of such intended application by petition as aforesaid, or that application has been made to the court by petition as aforesaid shall be published in such newspaper or newspapers, as the judge of the orphans' court, in vacation or at the court in term time shall order, and be continued therein four weeks, and proved to the satisfaction of the court, before any such order shall be made as aforesaid; and if it shall appear to the court that it will be more advantageous to any child or heir of the intestate, or to any assignee, to postpone making such order to a future day, then and in such case the said orphans' court shall postpone making such order to a future day, then to be made or not as shall appear to the court most advantageous to the person interested in said estate, portions or allotments, or if upon the first, or any hearing of the parties, or on the application by petition as aforesaid, in the first instance it shall appear to the court, that the making of such division will be more injurious to a majority of such children, heirs or assignees than it will be beneficial to a majority of them, then and in such case, the said orphans' court is hereby required not to make any such order for division; but such order may be made at any future time when it shall appear to the court more advantageous to a majority of such children, heirs or assignees, that such division should be made.

**SEC. 2.** *And be it enacted by the authority aforesaid,* That whenever the real estate of the intestate hath been or shall be parted and di-

In case of a division of intestates' lands into portions and appraisement of such portions;

vided into portions or allotments, and each portion or allotment hath been or shall be valued and appraised as aforesaid, and return of such division and appraisement or valuation hath been or shall be made to, and approved and confirmed by the court,

and one or more portions or allotments shall hereafter be adjudged and ordered by the court to the eldest son or other person or persons, respectively, <sup>persons ac-</sup> <sup>cepting shall</sup> <sup>pay or secure;</sup> having the right of acceptance, that such eldest son, or other person or persons shall be required to pay or give good security to pay to the other children or heirs of the deceased, or their representatives or assignees, so much only of the appraised value of such portions or allotments so adjudged and ordered to the eldest son, or other person or persons as aforesaid as shall exceed the interest, share, <sup>only the ex-</sup> <sup>cess of the ap-</sup> <sup>praisement a-</sup> <sup>bove his own</sup> <sup>share of</sup> <sup>whole lands;</sup> portion or value which the said eldest son or other person or persons is or are entitled or hath or have right to, in the whole real estate of the said deceased, so parted, divided, valued and appraised by order of the said court; and the said eldest son, or other person or persons to whom any portions or allotments shall be adjudged and ordered by the court, which shall have been appraised and valued to a greater sum of money than such eldest son or other person or persons shall be entitled to have, or hath right to, in the whole of said real estate so appraised and valued, shall not be entitled to be <sup>and portions</sup> <sup>accepted shall</sup> <sup>be satisfac-</sup> <sup>tion of his</sup> <sup>right in the</sup> <sup>whole lands;</sup> paid, or have secured to be paid any part, share, or portion of the appraised value of the other portions or allotments of the said real estate, and in case of the division of any unaccepted portions or allotments of the said real estate, according to the <sup>if equal to</sup> <sup>the value</sup> <sup>thereof.</sup> provisions of this act, such eldest son or other person or persons to whom any portion or allotment of such real estate, shall be adjudged and ordered as aforesaid, which hath been or shall be appraised and valued to a sum of money equal to, or exceeding the appraised value of the part, share or portion of the said real estate, to which eldest son or other person or persons is or are entitled to, or hath right; then and in such case such eldest son or other person or persons shall not have divided, allotted or laid off to him, her or them any part whatever of such unaccepted portions or allotments.

**SEC. 3.** *And be it enacted by the authority aforesaid, That in the partition of lands and tenements*

Chap. 85, 5, to be made by authority of the act entitled, "An  
vol. 153,

not necessary  
in all cases in  
partition to  
lay off every  
share in se-  
veralty;

those of full  
age may elect;  
proceeding in  
case of mi-  
nors.

Provide.

act respecting the partition of lands and tenements among joint tenants and tenants in common;" it shall not be necessary in all cases that the shares of all and every the said tenants shall be allotted in severalty; but that in cases where some of the said tenants, being of full age, shall elect still to hold among themselves, their shares or parts of the lands and tenements jointly or in common as the case may be, without partition among themselves; and in cases where some of the said tenants are under the age of twenty-one years, and the said tenants so under age, shall elect by their guardian or guardians still to hold among themselves their shares or parts of said lands and tenements jointly or in common, as the case may be, without partition among themselves, and such tenants of either class as aforesaid, shall by a petition presented to the chancellor, in term time, and before decree made, pray that such tenants may still hold among themselves their shares or parts of the said lands and tenements jointly or in common as the case may be, without partition among themselves, and it shall appear to the chancellor more advantageous to such tenants so under the age aforesaid, that the shares or parts of such tenants should remain without partition among themselves, then and in such cases, respectively, the partition of the shares or parts of such tenants so electing to hold among themselves, shall not be made among such tenants; and the chancellor in his decree shall state the share or shares of such of the said tenants, respectively, to whom his or her share or part shall be allotted in severalty, and the shares or parts of such of the tenants as may still hold among themselves the shares or parts which belong to them, without partition: and the estates of the said tenants in said lands and tenements so remaining without partition among themselves shall be and remain in joint tenancy, or in common in the same manner as if no such partition had been made: *Provided*, that such election and decree shall not prevent at any future time, partition being made among the tenants

of such shares or parts of said lands and tenements in the like manner as if no such election and decree had been made.

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LXXI.  
1821.

PASSED AT DOVER, }  
February 3, 1821. }

CHAPTER LXXII.

AN ACT to authorize and empower Frederick Hasting, of Sussex county, to bring into this State from Winchester county, in the State of Maryland, a certain negro girl, and to hold her as a slave.

PASSED AT DOVER, }  
February 5, 1821. }

PRIVATE ACT.

CHAPTER LXXIII.

AN ACT to establish a bank and to incorporate a company under the name of the Bank of Smyrna.

SECTION 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 Bank of Smyrna, shall be established at the town of Smyrna in Kent county. Bank at  
Smyrna;  
Name.

SEC. 2. Be it further enacted, That the capital stock of the said bank shall not exceed one hundred thousand dollars, divided into two thousand shares of fifty dollars each, and shall be subscribed for in manner following; that is to say: at the town of Smyrna, in Kent county, under the direction of Samuel Thomas, John Cowgill, Israel Peterson, senior, Piner Mansfield, Thomas Rothwell, Pres- Capital \$100,  
000;  
place for sub-  
scribing;  
commission-  
ers.

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LXXIII.

1821.

ley Spruance, senior, Jonathan Alston, Joseph Parsons and Robert Wilson, or a majority of them.

**SEC. 3.** *And be it further enacted,* That books for said subscriptions shall be opened by the commissioners aforesaid, or a majority of them, between the hours of ten and eleven o'clock in the forenoon, on the first Monday of January, eighteen hundred and twenty two, and shall continue open until four o'clock past 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,* if it should so happen that more than the stipulated number of shares should be subscribed for on the first day; then the said commissioners or a majority of them, are hereby authorized and directed to apportion the shares among the several subscribers, by deducting from the highest subscriptions until they be reduced to the proper number.

**SEC. 4.** *And be it further 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 of the State of Delaware, or of banks established by law, in Philadelphia or Baltimore: (*provided,* the said banks pay or redeem their notes, respectively, in specie,) in 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 for; and each subscriber shall within sixty days thereafter, pay the further sum of five dollars on each share, to the commissioners aforesaid, and in like manner the sum of five dollars shall be paid on each share at the expiration of every sixty days,

to the directors of the said bank, until twenty-five dollars shall have been paid on each and every share; and the remainder shall be paid in such proportion, and at such times as the directors may appoint: *Provided nevertheless*, that not more than ten dollars on each share so remaining unpaid shall be demanded in any one year, and that after three months notice of such demand shall be given.

until \$25 be paid on each share;  
manner of  
paying residue.

SEC. 5. *And be it further enacted*, That if any stockholder 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 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 if any stockholder shall fail to make regular payments of any instalments after ten dollars shall have been paid; such stockholder shall be entitled to no interest or dividend on any payments already made, 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.

Default of  
paying to a  
amount of \$10  
on each share;  
forfeiture of  
money before  
paid.  
after \$10  
paid on each  
share;  
subsequent  
default;  
forfeiture of  
dividends.

SEC. 6. *And be it further enacted*, That the subscribers to the said bank, their successors and assigns, shall be, and are hereby enacted 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 Bank of Smyrna," and shall continue until the first day of September, one thousand eight hundred thirty-seven; 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, rents, hereditaments, goods, chattels and effects of whatsoever kind, nature or quality to an amount not exceeding in the whole two hundred and fifty thousand dollars, including the capital stock aforesaid, and the same to sell, grant, demise,

Incorporated;  
name;  
continuance;  
powers to  
hold property;  
amount limited;

general pow- alien or dispose of, to sue and be sued, plead and  
ers, 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, es-  
tablish and put in execution, such by-laws, ordi-  
nances and regulations, as shall be necessary and  
convenient, for the government of the said corpo-  
ration, 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 hereinafter prescribed and declared.

SEC. 7. *And be it further enacted*, That no dis-  
count or loan shall be made, or notes issued until  
count until fifty thousand dollars, or half of the capital stock  
\$50,000 of shall have been paid in, and actually deposited in  
capital paid in the vaults of said bank one-half at least in specie  
and the other half in notes of banks of this State,  
or of Philadelphia and Baltimore, paying specie,  
and that it shall be the duty of the president, cash-  
ier and directors to certify under oath, the amount  
affidavit, and description of such deposits, and forward said  
affidavit to the governor of this State previous to  
the bank going into operation.

SEC. 8. *And be it further enacted*, That no sub-  
scriber or stockholder, or member of the said com-  
pany shall be answerable in his person or individ-  
ual property, for any contract or engagement of  
said company or for any losses, deficiencies or fail-  
ure 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 shall at all times be  
answerable for the demands against the said com-  
pany.

SEC. 9. *And be it further enacted, That for the* <sup>Directors,</sup> well ordering of the affairs of said corporation <sup>chosen.</sup> there shall be nine directors, 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 stockholders, to be held at the town of Smyrna, on the first <sup>General meet-</sup> Thursday of May, in the year eighteen hundred <sup>ing,</sup> and twenty two, and the first Thursday of May, annually: 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 first Thursday 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: *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 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 hereby further provided,* that in case of death, absence from the United States, resignation or removal of a director or his ceasing to be a stockholder, his place may be filled up by a new choice by the directors for the remainder of the year. <sup>continuance of directors in office:</sup> <sup>President;</sup> <sup>failure to elect directors;</sup> <sup>how remedied</sup> <sup>vacancy how supplied.</sup>

SEC. 10. *And be it further enacted, That not more than six who may have served as directors any proceeding year shall be elected directors the next ensuing year, and no chancellor or judge in any of the courts in this State shall be capable of being elected by the stockholders of the bank, a director during his continuance in office, nor shall any chancellor or judge of any of the courts in* <sup>Persons incapable of being directors,</sup>

or stockholders. this State, be a stockholder, in his own name, or in the name of any other person in trust for him in the corporation hereby created.

Director must be stockholder. SEC. 11. *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 stockholder, and if he shall at any time cease to be a stockholder, he shall cease to be a director.

Powers of directors. SEC. 12. *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. SEC. 13. *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:

Manner of voting. *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 or co 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.

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*Second.* Powers of attorney duly executed in favour of any person or persons in the presence of two witnesses, shall authorize such person or persons, if more than one appearing, at any stockholders meeting to represent such stockholder so executing such power of attorney, as fully to all intents and purposes as if he or she were personally present.

Powers of attorney.

*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 president for his extraordinary attendance at the bank as shall appear to them reasonable.

No emolument to directors unless, President's compensation

*Fourth.* The directors shall hold occasional meetings at the bank, at such times as may be previously appointed by them.

Occasional meetings of directors,

*Fifth.* Not less than five directors shall constitute a board for the transaction of 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.

board of directors, how constituted.

*Sixth.* Any number of stockholders, not less than ten, who together shall be proprietors of one hundred shares or upwards, shall have power at any time to call a meeting of the stockholders for purposes relative to the institution, giving at least five weeks notice 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.

General meetings of stockholders, how called.

*Seventh.* Every cashier or treasurer, before he enters upon the duties of his office, shall be required.

Cashier's bond.

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red 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 thirty thousand dollars with condition for his good behaviour.

What lands  
the corpora-  
tion may hold;

*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 purchased at sales upon judgment which shall have been obtained for such debts.

Rate of interest;

*Ninth.* The said corporation shall take no more than at the rate of six per centum per annum upon its loans or discounts.

stock assign-  
ble.

*Tenth.* 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.

Bills obliga-  
tory of the  
corporation:

*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 such corporation aforesaid, signed by the president and countersigned by the 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 like manner and with the like

Bills or notes  
of the bank.

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.

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*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 stockholders 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 nevertheless*, 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.

Statements  
to be exhibi-  
ted to stock-  
holders.

*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.

Dividends  
of surplus.

*Fourteenth.* The directors shall keep books at their banking-house, in which shall be fairly entered the stock subscribed and paid for by the stockholders, and transfers from one to another shall be made on the books of the said bank, on proper application by the stockholders.

Books con-  
taining ac-  
count of stock.

SEC. 14. *And be it further enacted,* That the said company shall in no case be concerned in any article but bonds, notes, bills of exchange, mortgages, stock of the United States or bullion, except in case of debts to the bank, then they may

In what ar-  
ticles corpora-  
tion may be  
concerned.

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

Disposition  
of shares not  
subscribed for

SEC. 15. *And be it further enacted*, That should any part of the shares allotted to the said bank not be subscribed for, the directors of 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 which shall not be subscribed, and the time and place when and where they will open a subscription for the disposal of such shares.

Amount of  
debts which  
corporation  
may owe:

deposits not  
included;

in case of ex-  
cess directors  
liable;

unless absent,  
and discent-  
ing, and no-  
tice given,

SEC. 16. *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 in to the said bank, 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 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 in such case may 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 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 stockholders at a general meeting which they shall have power to call for that purpose.

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SEC. 17. *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 stations; which oath or affirmation may be administered by any judge or justice of the peace of the State, and the cashier, book-keepers and clerks shall also take an oath or affirmation of a similar import, to be administered as aforesaid, and shall beside give bond with security to the satisfaction of the board of directors for the faithful discharge of their duties in their several stations.

Oaths,

bonds of  
clerks, &c.

SEC. 18. *Provided always and be it further enacted*, That if the sum subscribed for on the first day of September, eighteen hundred and twenty-two, shall not amount to seventy-five thousand dollars, then this charter and act of incorporation shall cease and be of no effect.

If on 1 Sep-  
tember, 1822,  
\$75,000 be  
not subscribed  
this charter  
void.

SEC. 19. *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 Bank of Smyrna, and when such note shall become due and payable, and payment not be made to the officer of said bank, the drawer and endorser on said note or notes shall be to all intents and purposes held and considered to be as completely bound to pay the said note or notes as if notice had been personally served on each of them.

Notes dis-  
counted, how  
made.

Endorsers  
liable without  
notice.

SEC. 20. *And be it further enacted*, That as a condition of the passing of this act the president, directors and company of the Bank of Smyrna shall semi-annually pay to the treasurer of the State, for the use of the State, at the rate of one half of one per centum per annum on the stock actually paid in for and during the continuance of the present charter.

Tax to the  
State.

Refusal to  
pay their  
notes in spe-  
cie;

penalty.

SEC. 21. *And be it enacted*, That if the said bank shall refuse when duly called upon at its banking-house, for the payment of any note there payable, to pay in specie the full amount thereof, to the person presenting the same, the bank so refusing shall forfeit and pay to such person twenty per centum in addition to the amount of such note to be sued for and recovered by the holder thereof, with costs of suit as other debts due from the said bank may be sued for and recovered.

Statement,  
submitted to  
General As-  
sembly.

SEC. 22. *And be it enacted*, That the said president, directors and company, shall from time to time make out and submit, or cause to be made out and submitted to the General Assembly, such statements of their accounts and affairs, as shall by any vote or resolution of the General Assembly be required.

If sec. 20 be  
not complied  
with, this act  
to cease;

acceptance of  
this act to be  
signified to  
the Governor,

SEC. 23. *And be it enacted*, That it is upon the condition contained in the twentieth section, and upon the other conditions in this act mentioned, that this charter of incorporation is granted: and in case the same and every part thereof should not be complied with by the president, directors and company of the said bank, according to the true intent and meaning thereof, then the authority hereby given shall cease and be of no effect: *Provided also nevertheless*, 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 six months after the first Thursday of May, in the year eighteen hundred and twenty-two, to be by him transmitted to the Legislature.

PASSED AT DOVER, }  
5 February, 1821. }

OF DELAWARE.

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CHAPTER LXXIV.

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AN ACT to appropriate the monies in the treasury of this State.

1821.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the monies now in the treasury of this State shall be 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 Tuesday of January, eighteen hundred and twenty-two; and so much thereof as may be necessary, shall be applied to payment of the daily allowance to the members of the general assembly, their clerk and other expenses, and for printing the laws passed at the session of the general assembly, and the votes and proceedings of the two branches thereof; and the residue thereof to the payment of any sums of money due to the citizens of this State for which provision has been made by law.

PASSED AT DOVER, }  
5 February, 1821. }

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CHAPTER LXXV.

AN ACT authorizing and requiring the auditor of accounts to allow as a credit to the claim of the State of Delaware against the estate of Enoch Joyce, deceased, certain fines and costs therein mentioned.

PASSED AT DOVER, }  
February 5, 1821. }

PRIVATE ACT.

L

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LXXVI.

## CHAPTER LXXVI.

1821. AN ACT to authorize Isaac Walker, to erect a mill-dam across the waters of the north-west branch of Duck-creek, at the place called by the name of Bassetts bridges, and for the condemnation of certain lands for the use of a saw and grist mill.

PASSED AT DOVER, }  
February 5, 1821. }

PRIVATE ACT.

## CHAPTER LXXVII.

AN ACT for the regulation of hawkers, pedlers and petty-chapmen, in the State of Delaware, and for enforcing the payment of the prices of their licenses.

SECTION 1. BE 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 next, no person or persons whatsoever, shall follow or employ him, her or themselves, in the business or traffic or employment of a hawker, pedler or petty-chapman in any of the counties of this State, until he or she has entered into a recognizance before the justices of the court of quarter sessions of the peace and gaol dilevery, with two sufficient freeholders, at least in the name of the State of Delaware, in the sum of five hundred dollars, conditioned that he or she shall be of good behaviour during the continuance of his or her license, to be obtained under and in pursuance of the provisions of this act, and shall well and truly pay and satisfy all such taxes and duties as shall during that time be legally assessed or imposed on him or her in this State; and shall thereupon have obtained a license from the Governor, and paid the sum which he or she may be enjoined to pay for such license by this act.

Hawkers,  
pedlers and  
petty-chap-  
men;

their recogni-  
zances;

condition;

licenses;

*Provided nevertheless,* That nothing in this act contained shall prohibit or be construed to prohibit any manufacturer from carrying abroad, exposing to sale or selling, in any fair, market or elsewhere, any article or articles manufactured within this State: and further, that nothing in this act shall extend or be construed to extend to prevent any person or persons from selling or exposing for sale, any grain, fruits, provisions or provender, in any fair, market or elsewhere in this State. Provide.

SEC. 2. *And be it enacted,* That for every such license to be granted as aforesaid, there shall be paid to the Secretary of State the following sum; Fees for licenses.  
to wit:

For every hawker, pedler or petty-chapman travelling on foot, without a horse or other beast of burthen the sum of eight dollars; for every hawker, pedler or petty-chapman travelling with one horse or other beast of burthen without a cart, wagon or other vehicle sixteen dollars; for every hawker, pedler or petty-chapman, travelling with two horses or other beasts of burthen without a cart, wagon or other vehicle thirty dollars; and for every other horse or beast of burthen, with which such hawker, pedler or petty-chapman, may so travel as aforesaid, without a cart, wagon or other vehicle, ten dollars each; and for every hawker, pedler or petty-chapman, travelling with a cart, wagon or other vehicle drawn by one horse or other beast of burthen, twenty-five dollars; for every hawker, pedler or petty-chapman, travelling with a cart, wagon or other vehicle drawn by two horses or other beasts of burthen, thirty five dollars; and for every other horse or beast of burthen drawing a cart, wagon or other vehicle, with which such hawker, pedler or petty-chapman may so travel as aforesaid, ten dollars each.

SEC. 3. *And be it enacted,* That if any person not licensed as aforesaid, (except those whose licenses may not have expired,) shall from and after Penalty for being found in the busi-

ness of a hawker &c. without license; the first day of May next, be found in the business, traffic or employment of a hawker, pedler or petty-chapman, he or she so offending shall forfeit the sum of five hundred dollars for every such offence, to be recovered by any person or persons who will sue for the same with costs of suit, by action of debt in any court of record of this State, one moiety thereof for the use of the State, and the other moiety thereof for the use of the person or persons who may sue as aforesaid.

appropriation

Penalty for refusing to shew license, on request of a civil officer; SEC. 4. *And be it enacted*, That if any pedler, hawker or petty-chapman, or person required by this act to obtain a license as aforesaid, shall refuse upon request of any justice of the peace, constable or other civil officer, to shew his or her licenses, every person so offending shall forfeit the sum of ten dollars for every such offence, to be recovered by any person or persons who will sue for the same with costs of suit, by action of debt in any court of record of this State, for the use of the person or persons who may sue for the same.

appropriation

License numbered, and no. with certificate recorded, SEC. 5. *And be it further enacted*, That every license to be granted in pursuance of this act, shall be numbered, and the number thereof, with the certificate hereinbefore mentioned, be recorded in the office for recording of deeds in and for the county where such license may have been obtained; and if such pedler, hawker or petty-chapman, shall omit to have his or her number and certificate recorded as aforesaid, within two months after obtaining his or her license, such license shall be null and void: and it shall be the duty of every such pedler, hawker or petty-chapman, to have and to keep his or her number labelled or inscribed in plain and legible letters and figures, in a conspicuous place, on his or her cart, wagon or other vehicle, and on failure to do so, he or she shall incur the same penalties, to be recovered in the same manner and for the same uses as are mentioned and specified in the third section of this act.

or void;

and the No. labelled, &c.

SEC. 6. *And be it enacted*, That if any pedler, <sup>Penalty, on</sup> hawker or petty-chapman, or person who may ob- <sup>hawker, &c.</sup> tain a license as aforesaid, shall lend or otherwise <sup>lending or dis-</sup> dispose of the same to any other person, the person <sup>posing of his</sup> so receiving it, and the person so lending or dis- <sup>license.</sup> posing thereof, shall each forfeit the sum of five hundred dollars for every such offence, to be recovered by any person or persons who will sue for the same, with costs, by action of debt in any court of record of this State, one moiety thereof, for the use of the State, and the other moiety for the use of the person or persons who may sue for the same.

SEC. 7. *And be it enacted*, That the licenses to <sup>Licenses in</sup> be granted as aforesaid, shall be and remain in force <sup>force one year</sup> for the term of one year from the granting thereof and no longer.

SEC. 8. *And be it further enacted*, That from <sup>Penalty on</sup> and after the day prescribed by this act for carrying <sup>hawker, &c.</sup> into effect the provisions therein contained, if any <sup>exposing, &c.</sup> hawker, pedler or petty-chapman, shall sell or ex- <sup>drugs or me-</sup> pose for sale, any drugs or medicines whatsoever, <sup>dicines.</sup> such hawker, pedler or petty-chapman, so selling or exposing for sale, such drugs or medicines, shall for every such offence, on conviction thereof, forfeit one hundred dollars, to be recovered as debts of a like amount are recoverable by the laws of this State, one moiety thereof for the use of the State, and one moiety thereof for the use of the person so prosecuting and recovering the same.

SEC. 9. *And be it enacted*, That nothing in this <sup>Exception.</sup> act, or any other act of assembly of this State contained, shall be deemed, construed or taken to prevent the sale, or to impose any tax for a license or otherwise, on any person or persons who may travel exclusively for the sale of books within this State.

SEC. 10. *And be it enacted*, That all and every <sup>Repeal.</sup> the laws of this State, which are hereby altered, amended or supplied, be, and the same are hereby repealed, made null and void.

PASSED AT DOVER, }  
5 February, 1821. }

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## CHAPTER LXXVIII.

1821.

AN ACT to authorize the State-treasurer to pay certain claims therein mentioned, and for other purposes.

SECTION 1. 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

Allowances  
to Sel. Osborn  
J. Robertson

pay to Selleck Osborn, seventy dollars and seventy-five cents for printing; to John Robertson, seventy dollars and sixty two and a half cents for

Jno. Stidham  
Sam. Harker

printing; to John Stidham, six dollars for freight of arms from Philadelphia; to Samuel Harker, fifty one dollars and fifty cents for printing; to General James Wolfe, fifty-four dollars and twenty-five

G. J. Wolfe

cents, as military commissary of Newcastle county; to John W. Many, fifteen dollars, as military commissary of Kent county; to Joseph Smithers, seven

J. W. Many

dollars and twenty-one and a half cents, the balance of his account for services rendered the State; to James Gaskins, fifteen dollars, as military commissary of Sussex county; to Vincent Vandever, four dollars for his services as door-keeper

Jos. Smithers

to the commissioners of property; to Joseph Harper, for six marriage licenses, twelve dollars, heretofore paid the Secretary of State; to Henry M. Ridgely, late Secretary of State, twenty dollars, for making an index to the laws of one thousand

Jas. Gaskins

eight hundred and twenty; to Richard Harrington, sheriff of Kent county, ten dollars, for his attendance and services as bailiff of the high court of errors and appeals, during the terms of that court in June, eighteen hundred and twenty, and January, eighteen hundred and twenty-one; and to Augustus M. Schee, six dollars and forty cents, for printing pedlers licenses; and the State treasurer, as trustee of the fund for establishing schools in this State, be authorized to retain in his hands from any unappropriated money belonging to the said fund, thirty-nine dollars and twenty-five cents for a ledger and day-book, and for printing ordered to be done as trustee aforesaid.

V. Vandever

Jos. Harper

H.M. Ridgely

R Harrington

Aug M. Schee

trustee of the  
school fund.

SEC. 2. *Be it enacted*, That the Secretary of State is hereby empowered, authorized and required to settle and adjust the accounts of Caleb Barratt, Abraham Staats, Kendal Batson, William Elligood, Presley Allee, Nathan Vickers, Caleb Kirk and John Raymond, for services rendered the State by them respectively on account of the general assessment, and for the amount found due to the said persons respectively the governor is hereby authorized and empowered to draw his warrant upon the State treasurer in favour of the said persons respectively, which shall be paid out of any monies in the treasury not otherwise appropriated.

Secretary of State to settle certain accts.  
and the governor to draw warrant for amount.

PASSED AT DOVER, }  
February 5, 1821. }

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## CHAPTER LXXIX.

A SUPPLEMENT to the act entitled, "*An act for the continuance of certain banks therein mentioned, and for securing payments in specie by the said banks to persons holding their notes.*" Chap. xxiv, 6 vol. p. 21.

SECTION. 1. BE 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 establish a bank and incorporate a company under the name of the Farmers' bank of the State of Delaware,*" passed on the fourth day of February, in the year of our Lord one thousand eight hundred and seven, and the act entitled, "*A supplement to an act entitled an to establish a bank and to incorporate a company under the name of the Farmers' Bank of the State of Delaware,*" passed on the thirty first day of January, in the year of our Lord one thousand eight hundred and nine, and the act entitled, "*An additional supplement to the act entitled an act to establish a bank*" Chap. xxxix, 4 vol. p. 87; chap. xcv. 4 vol. p. 273; chap. cxxi, 4 vol. 325;

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chap. ccxxii,  
4 vol. p. 594;

extended  
from

1 September,  
1822, for 20  
years.

forfeiture of  
20 per cent.

mode of re-  
covery.

Statement to  
be submitted  
to General  
Assembly.

No judge can  
be a director;

and incorporate a company under the name of the Farmers' Bank of the State of Delaware," passed on the thirtieth day of January, in the year of our Lord one thousand eight hundred and ten, and the act entitled, "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," passed on the twenty-second day of January, in the year of our Lord one thousand eight hundred and thirteen, or so much of the said recited acts as is now in force, shall be and they are hereby re-enacted and declared to be in full force from and after the first day of September, one thousand eight hundred and twenty-two, for and during and until the period of twenty years thereafter shall be fully complete and ended, excepting so much of the said acts respectively as is repugnant to the provisions of this act.

SEC. 2. *And be it further enacted,* That if the said bank, at the principal bank or either of its branches shall refuse at their banking houses respectively, when there called upon for payment of any notes of the said bank there payable, to pay in specie, the full amount thereof to the person presenting the same, the bank so refusing, shall forfeit and pay to such person twenty per centum in addition to the amount of such notes, to be sued for and recovered by the holder thereof with costs of suit, as other debts due from the said bank may be sued for and recovered.

SEC. 3. *And be it enacted,* That this act is and shall be considered as having been passed upon the express condition that the said bank shall from time to time make out and submit or cause to be submitted to the General Assembly such statements of its accounts as shall by any vote of the said General Assembly be required to be done.

SEC. 4. *And be it enacted,* That no judge of any of the courts of this State shall be capable of being elected by the stockholders of the said bank,

or appointed by the General Assembly, a director <sup>after 22 Sept. 1822;</sup> during his continuance in office, nor shall any chancellor or judge of any of the courts of this State, <sup>no chancellor</sup> either directly or indirectly, purchase in his own <sup>or judge can</sup> name or in the name of any other person in trust <sup>purchase</sup> for him, any stock in the bank, the charter of which <sup>stock,</sup> is herein intended to be extended, from and after the twenty-second September, eighteen hundred and twenty-two, during the continuance of the said charter.

SEC. 5. *And be it further enacted,* That as a <sup>One-half of</sup> condition of the passing of this act, the president, <sup>one per cent.</sup> directors and company of the Farmers' Bank of <sup>on stock paid</sup> the State of Delaware shall semi-annually pay to <sup>in, as he paid</sup> the treasurer of this State, for the use of the State, <sup>to State-treasurer, for use</sup> at the rate of one-half of one per centum per annum on the whole capital stock of the said bank actually paid in, for and during the continuance of the charter hereby granted. <sup>of the State,</sup>

SEC. 6. *And be it further enacted,* That each and every of the provisions contained in the act to which this is a supplement be and the same are hereby repealed, so far as they relate or apply to the Farmers' Bank of the State of Delaware, and it is hereby understood and declared that the said act shall have no control or effect upon the said bank. <sup>Repeal of part of 24— ante 21.</sup>

PASSED AT DOVER, }  
February 5, 1821. }

## CHAPTER LXXX.

AN ADDITIONAL SUPPLEMENT to an act entitled, "An act for regulating the fees of sheriffs and for other purposes."

SECTION. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after

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the passing of this act, it shall be the duty of each of the sheriffs of this State, in all cases of execution coming into their hands which they may or do settle, to give to each defendant a certified copy of the fees of such suit or suits, specifying each and every particular item of cost and what such cost was charged for; and shall also return the like statement of fees to the court from which such writ was issued.

Penalty for refusal or neglect.

SEC. 2. *And be it enacted.* That if any sheriff shall neglect or refuse to give to or leave for the defendant at his or her house or place where such settlement is to be made a certified copy, every such sheriff so neglecting or refusing, shall forfeit and pay to such defendant, one hundred and fifty dollars to be by him recovered of such sheriff as debts of like amount are recovered by the laws of this State.

PASSED AT DOVER, }  
February 5, 1821. }

## CHAPTER LXXXI.

Chap. C. c.  
2 vol. p. 1277;  
chap vi, 3 vol  
p. 20; chap.  
lxviii, 4 vol.  
pa. 221.

AN ADDITIONAL SUPPLEMENT to an act entitled, "*An act for the better regulation of roads in the county of Sussex.*"

Commissions of collectors of road tax in Sussex county on that portion of this tax discharged in labour;

SECTION 1. 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 the collectors of road-tax in the county of Sussex shall respectively, receive for their trouble and expenses in and about the settling with the county treasurer for that proportion of the road-tax of said county, which shall or may be discharged in labour agreeably to the existing laws of this State, and for their other trouble and expenses in regard to that proportion of said road-

2 vol 1282,  
\$14, 3 vol. 21,  
32, \$7, 4. 5,  
4 vol. p. 221,

tax, the sum of five per centum on the amount of said road-tax so worked out in their respective hundreds; and that it shall and may be lawful for the treasurer of the county of Sussex to allow the said collectors respectively, the sum of five per centum on the amount of said road tax so worked out in labour as aforesaid, and by them the said collectors respectively, adjusted and settled for with the said treasurer for their trouble and expenses in and about the said road-tax for the last year.

PASSED AT DOVER. }  
5 February, 1821. }

CHAP.  
LXXXI.

1821.

## CHAPTER LXXXII.

**AN ACT** to incorporate the trustees of the Union School house Academy, in Appoquinimink hundred, Newcastle county.

**SECTION 1.** BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Mitchell Olley, James Chambers, John Finnemore, Jacob Staats and Henry Walker and their successors be, and they are hereby constituted a body politic and corporate, by the name of "The trustees of the Union Academy," and by that name shall have perpetual succession, and have a common seal, may sue and be sued, plead and be impleaded in any court of law or equity.

Union school house academy.  
Trustees incorporated.

**SEC. 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 academy, and to sell, rent or dispose of the same in such manner as to them shall seem most beneficial to the said institution.

Capacity to take &c. property.

Powers to  
make by-laws  
appoint off-  
cers, &c.

SEC. 3. *And be it enacted*, That the said trustees or a majority of them shall have power from time to time to make and establish such by-laws, rules and ordinances, not contrary to the laws and constitution of this State, or of the United States, as they shall judge necessary for the government of the said institution, and to appoint a president, secretary, tutor or tutors and treasurer, the last of whom shall receive all monies accruing to the said institution, and property delivered to his care, and pay or deliver the same to the order of the trustees; and the said treasurer before he enters upon the Treasurer's duties of his office shall give bond and security in hand. 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 shall when required by the 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 institution.

Subscriptions.

SEC. 4. *And be it enacted*, That the said trustees and their successors shall have power to take and receive subscriptions for the use and benefit of the said institution or academy; and in case any person shall fail to comply with his or her subscription, to enforce the payment thereof.

Elections of  
trustees.

SEC. 5. *And be it enacted*, That an election shall be held on the first Monday in May, in the year eighteen hundred and twenty-two, and annually on the first Monday in May, at the said academy, at which time and place those persons who shall have subscribed to the articles of association and signed the constitution of said institution shall be and are hereby authorized to choose by ballot, five trustees for said institution or school, no person or persons shall be chosen a trustee or trustees for the said institution or school unless they shall have the same qualifications as those who are entitled to Vacancy in board of trustees how supplied; in vote at such election, and in case of any vacancy in the board of trustees during the year for which they may be elected, the remaining trustees shall

have the power and they are hereby authorized and empowered to fill such vacancy, and in case it should so happen that the said trustees should not be chosen as aforesaid, of the day aforesaid, then and in such case the trustees then in office shall continue in office until their place shall be supplied by a new election.

PASSED AT DOVER, }  
5 February, 1821. }

### CHAPTER LXXXIII.

RESOLVED by the Senate and House of Representatives of the State of Delaware, That the Secretary of State furnish ten copies of the fifth volume of the bound laws, in his office, to the House of Representatives, and six copies to the Senate, for the use of the members, and that he distribute the remaining copies on hand, after retaining what may be necessary according to law for the use of his office, and for interchange with the several States, amongst the different prothonotaries of the respective counties of this State, in equal proportions.

RESOLVED FURTHER, That the prothonotaries of the respective counties be directed to sell to the citizens of this State, or others who may offer to purchase the same, any of the bound volumes of the laws which now be, or which hereafter may come into their hands, respectively, at one dollar and fifty cents for each volume: *Provided always*, that the two first volumes be not sold separate; and after retaining thereout five per centum for their trouble, that they, respectively, account half-yearly with the Secretary of State, for the use of the State, and pay over to him the balance of all such sums as may be received as aforesaid, and in case of neglect or refusal to account and pay over the defaulter, shall pay an addition of twenty-five per centum.

ADOPTED AT DOVER, }  
January 22, 1821. }

## LAWS OF THE STATE

CHAP.  
LXXXI.

## CHAPTER LXXXIV.

1821.

State-treasurer.

RESOLVED by the House of Representatives of the State of Delaware with the concurrence of the Senate, That Cornelius P. Comegys, be, and he is hereby appointed State-treasurer.

ADOPTED AT DOVER,

January 26, 1821.

## CHAPTER LXXXV.

Directors of  
the Farmers'  
Bank.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That the following persons, be, and they are hereby appointed directors of the Farmers' Bank of the State of Delaware, on the part of this State, agreeably to an act of the General Assembly of this State, in such case made and provided; to wit,

For the principal Bank, George Cummins, Jonathan Jenkins and James Fisher; for the branch at Wilmington, John Brinckle, Archibald Alexander and John Gordon; for the branch at Newcastle, Levi Boulden, John Janvier and Samuel Meteer; for the branch at Georgetown, Jehu Stockley, Jesse Green and Edward Dingle, junior.

ADOPTED AT DOVER,

January 31, 1821.

## CHAPTER LXXXVI.

Request to  
the chancellor  
and chief  
justices.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the chancellor, the chief justice of the supreme court and the chief justice of the court of common pleas, are hereby requested to ex-

OF DELAWARES

amine and report to the annual session, which of in force in this State, and in their opinion, ought THE statute laws of this State

ADOPTED AT DOVER

February 2, 1821.

DELAWARE.

CHAPTER LXXXIX.

CHAP. LXXXIX.

1822.

RESOLVE to authorize Joseph King of Sussex to bring into this State a certain slave.

representatives  
assembly met  
committee  
make a  
particular

DOVER, }  
January, 1822. }

PRIVATE ACT.

CHAPTER XC.

ACT to vest in John Doherty, Richard Doherty and Deborah Doherty all the real and personal estate of which Edward Doherty, their uncle, died possessed or entitled to.

PASSED AT DOVER, }  
January 12, 1822. }

PRIVATE ACT.

CHAPTER XCI.

AN ACT for the relief of Samuel Stephens the younger and Eliza his wife.

PASSED AT DOVER, }  
45 January, 1822. }

PRIVATE ACT.

## LAWS OF THE STATE

CHAP.  
LXXXV.

1821.

State-treasurer.

CHAPTER in conveying or transporting the first day of March  
to obtain from the Governor  
the State of Delaware in steam boats, stages, coaches  
Senate. That Cornelius is hereby appointed State-treasurer so employed.

ADOPTED AT DOVER,  
January 26, 1821.

## CHAPTER LXXX

Directors of  
the Farmers'  
Bank.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That the following persons, in they are hereby appointed directors of the Farmers' Bank of the State of Delaware, on the part of the State, agreeably to an act of the General Assembly of this State, in such case made and provided; to wit:

For the principal Bank, George Cummins, Jonathan Jenkins and James Fisher; for the branch at Wilmington, John Brinckle, Archibald Alexander and John Gordon; for the branch at Newcastle, Levi Boulton. John Janvier and Samuel McTeer; for the branch at Georgetown, Jehu Stockley, Jesse Green and Edward Dingle, junior.

ADOPTED AT DOVER,  
January 31, 1821.

## CHAPTER LXXXVI.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the chancellor, the chief justice of the supreme court and the chief justice of the court of common pleas, are hereby requested to examine the request of the chancellor and chief justices.

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**LAWS**

**OF THE**

**STATE OF DELAWARE.**

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**CHAPTER LXXXIX.**

CHAP.  
LXXXIX.

*AN ACT to authorize Joseph King of Sussex county to bring into this State a certain slave.*

1822.

PASSED AT DOVER, }  
10 January, 1822. }

PRIVATE ACT.

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**CHAPTER XC.**

*AN ACT to vest in John Doherty, Richard Doherty and Deborah Doherty all the real and personal estate of which Edward Doherty, their uncle, died possessed or entitled to.*

PASSED AT DOVER, }  
January 12, 1822. }

PRIVATE ACT.

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**CHAPTER XCI.**

*AN ACT for the relief of Samuel Stephens the younger and Eliza his wife.*

PASSED AT DOVER, }  
45 January, 1822. }

PRIVATE ACT.

CHAR.  
XCII.

## CHAPTER XCII.

1822.

AN ACT to divorce Sarah Buckmaster from her husband Abraham Buckmaster.

PASSED AT DOVER, }  
January 19, 1822. }

PRIVATE ACT.

## CHAPTER XCIII.

AN ACT to authorize Philip Keybold to bring a certain negro slave into this State.

PASSED AT DOVER, }  
23 January, 1822. }

PRIVATE ACT.

## CHAPTER XCIV.

AN ACT for the relief of the heirs of John Gullett deceased.

PASSED AT DOVER, }  
23 January, 1822. }

PRIVATE ACT.

## CHAPTER XCV.

AN ACT for the security of creditors in certain cases.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That whenever the sheriff in either of the counties of this State shall sell any lands or tenements by virtue of an execution, every creditor claiming any debt or sum of money out of the proceeds of such sale, shall, before the sheriff pay the same, make oath or affirmation before some judge, justice of the peace, or other per-

Sheriff—  
selling lands  
on execution,  
not to pay o-  
ver money to  
creditor with-  
out oath, &c.

son duly authorized to administer oaths or affirmations where the said creditor shall reside, that the debt or sum claimed is justly and honestly due and was contracted *bona fide*, and for a valuable consideration, and that no part thereof hath been paid, nor any thing delivered or received towards satisfaction thereof, more than is taken notice of in such oath or affirmation; and whenever any debt or sum of money shall be claimed by any incorporated company, body politic or corporate, out of the proceeds of such sale, then the oath or affirmation aforesaid shall be made by the treasurer, cashier, trustee or chief clerk thereof, according to the best of his knowledge and belief.

CHAP.  
XCV.

1822.

Corporations  
who shall  
make oath.

SEC. 2. *And be it enacted by the authority aforesaid,* That every executor or administrator of a creditor, shall before the receipts of any debt or sum of money, out of the proceeds of such sale as aforesaid, make oath or affirmation before some judge, justice of the peace, or other person duly authorized to administer oaths or affirmations as aforesaid, that to their knowledge, nor by any book, writing, or other thing appearing to them, the creditor in his lifetime, or such his executor or administrator after his decease, did not receive any part or parcel of the debt or sum so claimed, or other security or satisfaction for the same, more than is mentioned in their oath or affirmation.

Executors  
or adminis-  
trators of  
creditors;their oath or  
affirmation.

PASSED AT DOVER, }  
23 January, 1822. }

## CHAPTER XCVI.

AN ACT for the better regulation of the borough of Wilmington and for fixing the ascents and descents of the streets and alleys within the same.

WHEREAS in and by an act of Assembly passed in the year of our Lord one thousand seven hun-

Preamble.  
3 vol. 53.

CHAP.  
XCVI.

1822,

1 vol. 431.

dred and ninety nine, entitled, "An act for the better regulation of the borough of Wilmington," it is among other things enacted "that the map or plan of the said borough of Wilmington, signed by order of the burgesses and assistants of the said borough, by Joseph Warner and Samuel Nichols, esquires, the present burgesses, with the seal of the said corporation affixed, and which is hereto annexed shall hereafter be deemed and taken to be the true map, plan or ground plot of the said borough and that all the streets and squares, lanes and allies of the said borough shall be and remain as they are now laid out by the said map or plan, with such extensions and alterations as may hereafter be made by virtue of an act of Assembly passed in the year of our Lord one thousand, seven hundred and seventy-two".—*And whereas*, it has been found in some cases impracticable to regulate the ascents and descents of the streets in the said borough, conformably to the said map or plan, and in other cases very injurious to the property of individuals.—*And whereas* a new map or plan of the said borough has been prepared under the direction of the burgesses and borough council, on which are distinctly marked out and laid down all the ascents and descents of the streets and alleys in the said borough that are already opened southward from Chesnut street and Market-street, northward of Chesnut to Washington; which said map or plot has been agreed to by the inhabitants of said borough in a general town meeting, called for the purpose of considering the same—Therefore,

Map of the  
borough

SECTION 1. *Be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the map or plan of the borough of Wilmington, signed by order of the burgesses and borough council of the said borough by Robert Porter and James Sorden, the present burgesses, with the seal of the said corporation affixed, and which on the fifth day of January 1822, was submitted to the consideration of

the inhabitants of the said borough, and by them approved in public town meeting shall hereafter be deemed and taken to be the true map or ground-plan of the said borough, and that in future the streets and alleys of the said borough southward of Chesnut-street shall be regulated and made conformably to the said map or plan and to the ascents and descents laid down and marked thereon.

established—  
and streets  
southward of  
Chesnutstreet  
regulated  
thereby.

SEC. 2. *And be it further enacted.* That it shall and may be lawful for the burgesses and borough council of the said borough by ordinances passed for the purpose, to regulate and fix the ascents and descents of all the streets and alleys within the said borough, the ascents and descents of which are not marked and laid down in the aforesaid map or plan:—*Provided always,* that the said ordinances shall first be sanctioned and approved by the citizens of the said borough in general town's meeting assembled.

Powers of  
burgesses and  
council as to  
streets.

*Provided,*

SEC. 3. *And be it enacted,* That it shall be the duty of the burgesses and borough-council of the said town, and they are hereby required and directed to cause the map or plan laid before the General Assembly at the time of the passing of this act and signed by Robert Porter and James Sorden, burgesses of the said town, and approved by the inhabitants of said town in a general town meeting held on the fifth day of January, eighteen hundred and twenty-two, to be recorded in the recorder's office, in the town of Newcastle; which, when recorded, shall be deemed and taken to be a public record.

Map to be  
recorded.

PASSED AT DOVER. }  
January 21, 1822. }

CHAP.  
CXVII.

## CHAPTER XCVII.

1822.

AN ACT to incorporate the trustees of the Franklin school, in Dragon neck, Newcastle county.

Trustees in-  
corporated; SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That George Clark, Philip Reyhold, John H. Cannon, William Vandegrift and Charles T. Vanhekle, 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 Franklin school." and by that name shall have perpetual succession.

Powers. SEC. 2. And be it enacted, That the said trustees and their successors in office, 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 institution.

By-laws. SEC. 3. And be it enacted, That the said trustees or a majority of them and their successors or a majority of them, shall have power to make, alter, repeal and re-enact all laws, ordinances and regulations which they may deem necessary for the government and good order of the said school: Provided the same shall not be contrary to the laws or constitution of this State or of the United States.

Power of  
Trustees. SEC. 4. And be it enacted, That the said trustees may appoint such professors, tutor or tutors or such other officers or persons as they may deem requisite for such school, under such rules and stipulations and for such pecuniary or other compensation as they may deem right and proper.

SEC. 5. *And be it enacted*, That the said corporation shall be able and capable in law to sue and be sued, plead and be impleaded, defend and be defended in any court of law or equity in this State; and to do and execute all other matters and things which bodies corporate may lawfully do.

Other corporate powers.

SEC. 6. *And be it enacted*, That the said corporation may have and use a common seal, with such device as they shall think proper, and the same break, alter and amend at pleasure.

Common seal.

SEC. 7. *And be it enacted*, That the aforesaid trustees shall continue in office for one year from and after the first Monday in May next, and no longer, unless re-elected; and their succession shall be kept up and continued by annual meetings in each and every year thereafter upon the first Monday in every May: *Provided however*, That if no such election should be held upon any day herein appointed for that purpose, then and in that case the trustees of the last year shall continue in office until the next annual election or until their places shall be supplied by other trustees as herein before directed.

Trustees—  
term of office  
and manner  
of continuing.

SEC. 8. *And be it enacted*, That such free white persons as shall have contributed to the erection of the school-house the sum of five dollars or upwards or who shall hereafter contribute not less than ten dollars to the funds of the institution, or who shall for and during the last preceding year have sent by subscription one scholar or more to the said school, shall be entitled to vote at each annual election for trustees of the said school.

Voters.

PASSED AT DOVER. }  
January 23, 1822. }

CHAP.  
CXVIII.

## CHAPTER XCVIII.

1822.

AN ACT in addition to the supplement to the act entitled "An act to authorise and empower the owners and possessors of the marsh, cripple and low grounds, lying on Muddy branch, in Little-creek hundred, in Kent county, to ditch, drain and bank the same."

Description  
of the marsh:

name of the  
company:

general pow-  
ers.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That the owners and possessors of the marsh, cripple and low grounds, lying in Little-creek neck and hundred and Kent county, upon the following waters, viz.: Beginning upon the south-west branch of Duck-creek, at the bank lately made by James M. Mann, and thence extending down and with said branch to its junction with Dead creek otherwise called Simon's creek, and thence down and with said last mentioned creek to its junction with the Marshtown channel, thence up and with the Marshtown channel to the mouth of Herring branch, and thence up and with said last mentioned branch to the bank across the same, including all the marsh, cripple and low grounds between the said waters and the fast land, shall compose a company to be called "The Simon's creek marsh company," and shall have full power and authority to make dams and banks across the said Dead creek or Simon's creek at or near its junction with the south-west branch of Duck creek, and also at or near its junction with the Marshtown channel afore-said; and to bank all the said marshes by making and constructing a suitable bank or banks, dam or dams with the requisite trunks and sluices, extending from and to such places, in such sites and directions, and of such form and dimensions as shall be deemed most proper for said purposes; and to keep and maintain the said dams, banks, trunks and sluices amended and in good order and repair; and to make such additions to or alterations either in form or dimensions of said banks or dams, trunks or sluices as may be deemed expedient.

SEC. 2. *And be it further enacted,* That the sites, forms and dimensions for the banks and dams for Sites, &c. of banking the aforesaid marsh, cripple and low present banks grounds, which have already been settled, shall be observed unless observed un- less, &c. observed, unless a regular meeting of the said owners and possessors shall determine otherwise.

SEC. 3. *And be it further enacted,* That there Annual meet- shall be an annual meeting of the owners and pos- ings: sessors of the aforesaid marsh, cripple and low grounds, on the fourth Monday of December, in the present year, and in every year hereafter, at the village of Leipsic; of which meeting and of the house where the same will be held, the managers for the time being shall give ten days notice by advertisements posted, one at a public place in said notified; village, and one at the place called Clayton Cowgill's corner, at which meeting the said owners and possessors shall choose by ballot, and a majority of the votes, one treasurer and three managers for the officers chosen year ensuing the said meeting; and shall do and determine upon such matters and things as shall be deemed requisite; and the managers for the time being or a majority of them may call occasional meet- occasional meetings how ings of the said owners and possessors to be held: called and no- either at the said village of Leipsic or at said Clay- tified; ton Cowgill's corner, by giving ten days notice of the time and place of such meetings by advertisements posted in one of the most public places in said village, and at the said corner, and five days personal notice thereof to the owners and possessors of said marsh, cripple and low grounds residing in Kent county, if known to said managers; at which occasional meetings like acts may be done as at the annual meetings, and in all meetings of said company a guardian of any minor owner or possessor shall be entitled to vote, and any owner residing out of the State or unable to attend, may vote by proxies; proxy, duly constituted in writing under hand and seal, and before two or more witnesses; and at all such meetings all questions shall be determined by a majority of the votes actually and legally voted, and the determinations shall be binding upon the whole company: *Provided always,* That none of

restriction of power of meetings. the provisions of this act shall be interfered with or liable to be defeated by any act or determination of any such meeting; but any act or determination of that nature shall be absolutely void.

**SEC. 4.** *And be it further enacted,* That John Cowgill, Abraham Moor and Jacob Stout, the present managers of the company aforesaid, shall continue in office until the fourth Monday of December next, and afterwards until successors to them respectively shall be duly chosen; and that John Cowgill, the present treasurer of said company shall continue in office until the fourth Monday in December next, and afterward until a successor to him shall be duly chosen, and every manager and treasurer hereafter to be chosen shall continue in office until the fourth Monday in December next, after such choice, and afterward until successors to them respectively shall be duly chosen; and if said officers or either of them shall not be chosen at the annual meeting aforesaid, or in case of a vacancy in either of said offices by death, resignation, removal from the county, or refusal to serve, the choice may be made or the vacancy supplied at any occasional meeting duly called.

Present managers;  
present treasurer;  
continuance in office—failure to elect;  
vacancies.

**SEC. 5.** *And be it further enacted,* That every treasurer hereafter to be chosen as aforesaid shall within twenty days after being chosen enter into an obligation, with at least one sufficient surety, to be approved by the managers, or a majority of them, for the time being, to the company aforesaid, in the penal sum of two thousand dollars, conditioned that he will faithfully discharge the trust reposed in him, and use due diligence in collecting all the monies which he as such treasurer shall be authorized to receive, and that he will on sight, pay all orders drawn upon him by the managers of the company aforesaid, or by a majority of them, so far as he shall have in hand money for that purpose; and that he will, from time to time, account with the said managers for all monies that shall come to his hands, as may be reasonably required; and that he will pay any balance in his hands to his successor

Treasurer to give bond;

in office or to such other person as the company may at any annual or occasional meeting under this act direct; and that he will deliver to his successor all books of account and papers touching said office; and that he will at any meeting of said company, when required, lay before them a full and true account of all his receipts and disbursements; which said obligation may be sued and proceeded on to judgment and execution in the name of said company; the commissions of the treasurer on the monies which he shall collect shall be five per cent.

CHAP.  
XCVIII.

1822.

his commis-  
sions;

SEC. 6. *And be it further enacted*, That it shall be the duty of the managers aforementioned, and of the managers who shall hereafter be chosen in pursuance of this act to enter upon the aforesaid marsh, cripple and low grounds. and cause and procure the same to be well and effectually banked at the proper costs and charges of the company aforesaid; and to that end the managers aforesaid and the managers who shall be hereafter chosen, are empowered and enjoined to make and construct good and sufficient dams across the aforesaid Dead creek, otherwise called Simon's creek, at or near the places herein before pointed out for that purpose; and also to make and construct good and suitable banks with the requisite trunks and sluices; and when the said dams and banks shall be completed, it shall be the duty of the managers, for the time being, to cause and procure the said dams, banks, trunks and sluices to be kept and maintained, amended and in good and sufficient order and condition, and such additions or alterations to be made to or of said dams, banks, trunks and sluices as may be deemed expedient, also at the proper costs and charges of the said company; and for the purpose of making and constructing, and of amending, repairing, adding to, or altering the said dams, banks, trunks and sluices the managers aforementioned, and all the managers hereafter to be chosen in pursuance of this act, for the time being, or a majority of them shall have full power and authority, and they are enjoined and required to employ all such workmen and labourers, and to procure and purchase

Powers & duties of managers.

CHAP.  
XCVIII.

1822.

all such materials as they may think fit; and further shall have full power and authority to dig, take and carry away mud, wherever it may be convenient, without any expense or charge for such mud; and it shall be the further duty of the managers, for the time being, and they are hereby enjoined, from time to time, to enter upon, inspect and carefully examine the said dams, banks, trunks and sluices.

SEC. 7. *And be it further enacted,* That the <sup>Wages of</sup> managers aforesaid, and the managers hereafter to be chosen in pursuance of this act for the time being, or a majority of them, shall pay the wages of all workmen and labourers by them employed, and all charges and expenses by them incurred, by orders drawn by them or a majority of them upon the treasurer for the time being, which orders it shall be the duty of the treasurer to pay on sight, if he have in hand money for that purpose, or if he have not, as soon as he can collect a sufficient sum; and the said managers shall keep just and true accounts of all such orders, and of all wages, charges and expenses which they shall pay, and the object and purposes thereof, and shall lay the same before the said company at their annual meeting, or at any other meeting if required.

SEC. 8. *And be it further enacted,* That Jonathan Alston, Jonathan W. Mifflin and John Fleetwood be and they are hereby appointed commissioners—and their powers and duties;—and they shall go upon, view and examine all the aforesaid marsh, cripple and low grounds, and make and establish a valuation or rate of assessment to be observed in assessing and laying all taxes under this act; and for which purpose the said Jonathan Alston, Jonathan W. Mifflin and John Fleetwood being first sworn or affirmed before some judge of the State, or justice of the peace in and for Kent county aforesaid, to execute and perform the duties required of them by this act, faithfully and impartially, according to the best of their skill and judgment, shall go upon the said marsh, cripple and low grounds, and they or a majority of

them shall ascertain and determine all the owners of all the said marsh, cripple and low grounds, which in the opinion of them, or a majority of them will be benefited and improved by the banking thereof as aforesaid; and the quantity thereof held by each and every of the said owners, or if any shall be held in coparcenary, joint tenancy or in common, the quantity held by such coparceners, joint tenants or tenants in common; for which purpose they shall have power to hear evidence, examine title papers, and procure surveys to be made; and after the said commissioners shall have ascertained the said owners and the quantity held by them respectively as aforesaid, they the said commissioners or a majority of them, shall appraise and value all the said respective parcels or quantities of the said marsh, cripple and low grounds, which will in the opinion of them or a majority of them, be benefited and improved by banking thereof as aforesaid, by fixing the true value thereof per acre, according to the quality, situation and circumstances of each quantity or parcel, and in such manner as to do equal and exact justice to all persons; which said appraisement or valuation shall be the rate of assessment, and shall be observed as the rule of taxation in assessing and laying all taxes under this act; and the said commissioners or a majority of them, shall make a certificate under their hands or the hands of a majority of them, of the owners so as aforesaid to be ascertained and determined, of the quantities or parcels so held by said owners respectively as aforesaid, and of the appraisement and valuation of the said parcels or quantities so to be made as aforesaid, and generally of their proceedings in the premises; and shall deliver the same into the office for recording of deeds, at Dover, in and for Kent county aforesaid, there to be recorded by the recorder of deeds; which certificate shall be final and conclusive upon all parties, and a copy of the record thereof duly certified under the hand and seal of the recorder of deeds, in and for Kent county, shall be good and sufficient evidence.

certificate of  
their proceed-  
ings to be re-  
corded & co-  
py of record  
evidence.

**SEC. 9.** *And be it further enacted,* That any  
 Oath &c of surveyor whom the commissioners aforesaid or a  
 surveyor; majority of them shall employ, touching any the  
 premises, shall before acting, be sworn or affirmed  
 before one of the said commissioners, who is au-  
 thorized to administer the oath or affirmation, or  
 before a justice of the peace in and for Kent county  
 aforesaid, to make a fair and just survey, and a  
 true and accurate computation of the marsh, cripple  
 and low grounds which he shall be requested  
 expenses of surveys paid by owners, & how recovered.  
 to survey; and the expenses of surveying any of  
 the said marsh, cripple and low grounds shall be  
 paid by the owners thereof respectively; and the  
 same may be recovered by such surveyor from such  
 owners in the same manner as other debts of the  
 same amount are recoverable, either by proceed-  
 ing before a justice of the peace, or in the supreme  
 court or court of common pleas, and a certificate  
 of the bill of the surveyor by the commissioners  
 aforesaid, shall be conclusive evidence of the debt;  
 or if it shall be so elected, the commissioners a-  
 foresaid, or a majority of them, may certify the bill  
 of the surveyor to the treasurer, and he shall be  
 authorized to collect the same, with ten per cent.  
 addition for his trouble, and for that purpose to use  
 all the powers which are given to him by this act  
 for the collection of the taxes which may be imposed  
 under it, and the amount of the bill when collected  
 shall be paid to the surveyor.

**SEC. 10.** *And be it further enacted,* That if any  
 Vacancy of of the commissioners aforesaid shall die, resign,  
 commissioners. remove from Kent county, or refuse to act, the  
 owners and possessors of the aforesaid marsh,  
 cripple and low grounds at an annual or occasional  
 meeting, held in pursuance of this act may choose  
 other commissioner or commissioners to fill the va-  
 cancy or vacancies; and the said owners or posses-  
 sors may at such meeting or meetings choose a  
 commissioner or commissioners in the place and  
 stead of any one or more so dying, resigning, re-  
 fusing to serve, or removing. *toties quoties*, until  
 all the duties assigned to such commissioners shall  
 be performed; and the said commissioner or com-

missioners so to be chosen, shall have the same powers and be required to do the same acts, and his or their acts shall be valid and effectual to all intents and purposes, as fully and amply as the said commissioner or commissioners, in the place of whom he or they may be chosen, and a majority shall in like manner be capable of doing all acts required.

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SEC. 11. *And be it further enacted,* That the commissioners aforesaid shall not procure any part of the aforesaid marsh, cripple or low grounds to be surveyed, of which they can ascertain the quantity satisfactorily to themselves otherwise than by a survey; and that if the owners shall cause surveys to be made, or if surveys have been made with which the commissioners aforesaid shall be satisfied, they may proceed in ascertaining the quantity by such surveys, and their determination shall be as valid and effectual as if a survey had been made according to the provisions of this act.

When surveys not procured.

SEC. 12. *And be it further enacted,* That after the appraisement and valuation aforesaid shall be made, and the certificate aforesaid made and recorded as prescribed in the eighth section of this act, the managers aforesaid or a majority of them shall have full power, and they are hereby authorized and required to lay and assess upon the value of the said marsh, cripple and low grounds mentioned in said certificate, such sum of money or tax as they or a majority of them may determine ought to be levied and raised; and the said managers or a majority of them, and the managers who shall hereafter be chosen in pursuance of this act, for the time being, or a majority of them shall have full power and authority, and they or a majority of them are hereby authorized from time to time to lay and assess upon the said value of said marsh, cripple and low grounds, which shall be mentioned in said certificate all such sum and sums of money and taxes, as they or a majority of them may determine ought from time to

Assessing of taxes;

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manner of  
laying;lists—what to  
contain;One list to be  
delivered to  
treasurer,

time to be levied and raised; that is to say, the said managers for the time being or a majority of them having determined upon the sum of money necessary to be levied and raised, shall apportion and assess the same among the several owners of the said marsh, cripple and low grounds, which shall be mentioned in said certificate, according to and upon the value of the respective quantities or parcels of said marsh cripple and low grounds held by him, her or them or any of them, at and according to a certain rate upon and for each and every dollar of said value, and so *pro rata*; and the said managers for the time being or a majority of them, shall make out under their hands, duplicate lists, which shall contain the sum of money to be levied, the names of all the owners of the said marsh, cripple and low grounds, and of the persons in the possession thereof, so far as the same shall be known, the quantity belonging to each owner, or to any two or more of them, if held undivided, the value per acre, and the total value of each quantity or parcel, according to the aforesaid valuation, the rate per dollar, and the total sum assessed upon each quantity; and in case of any changes in the ownership of the said marsh, cripple and low grounds, or any part thereof, in consequence of death and intestacy, devises, alienations or otherwise, the said managers or a majority of them, in such lists shall note such changes and insert the names of the owners for the time being if known, with the quantity held by them respectively, which may be ascertained by actual survey if necessary, the expenses of which surveys shall be paid by the respective owners, and assessed upon and recovered from them respectively, in like manner and by like means as provided in case of surveys directed by the commissioners aforesaid; and the managers or a majority of them making out said lists shall in writing in or upon said lists, or annexed thereto, direct the sums of money or taxes so assessed and in said lists set forth to be paid, either entire or by instalments, and shall appoint the time or times of such payments, and shall order the treasurer of the said company

by the name of his office to collect, levy and make all and every the said sums of money or taxes, and the said assessments and lists shall be final and conclusive upon all the parties concerned; and the managers or a majority of them, making out the same shall deliver or cause to be delivered to the treasurer of the said company for the time being, one of the said lists, and the other shall be kept by said managers; and the said list so delivered to the treasurer, with the order aforesaid, shall be a sufficient warrant and authority for collecting, levying and making all and every the sums of money or taxes in said list mentioned according to the form, effect and appointment of the said list; and in case of the death, resignation, removal, or refusal to act, of any treasurer to whom any such list shall have been delivered, before all the sums of money or taxes contained in such list shall have been paid, his successor in office or any succeeding treasurer of said company for the time being, shall have the same power and authority to collect, levy and make all and every the sums of money or taxes contained in such list and remaining unpaid, or any unpaid part thereof, as fully and amply to all intents and purposes as the treasurer to whom said list shall have been delivered, had or could have.

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SEC. 13. *And be it further enacted,* That it shall be the duty of the owners and possessors of the said marsh, cripple and low grounds, which shall be mentioned and included in the certificate aforesaid prescribed of the commissioners aforesaid, respectively, and the said owners and possessors, respectively, are required and enjoined to pay to the treasurer of the company aforesaid, for the time being, all and every the sum or sums of money or taxes which the said owners, respectively, shall according to the lists aforesaid, be chargeable or charged with according to the form, effect and appointment of the said lists, and in case of refusal or neglect so to do the owner or owners so neglecting or refusing, shall forfeit and pay the rate of fifteen per cent. per annum upon every sum remaining unpaid, computing

Owners enjoined to pay the taxes assessed;

forfeiture for neglect;

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powers for  
levying.1 vol. 263, ch.  
102 a sec. 9,  
2 vol. 1259-  
1260.Taxes liens  
on the marsh  
and the same  
liable to be  
sold therefor.

from the time when the same ought to have been paid; which forfeiture shall be added to and collected with the sum whereon the same shall be so computed, as part thereof, and accounted for therewith, and the treasurer to whom any list as aforesaid shall be delivered, or his successor in office, or any succeeding treasurer, for the time being, shall have full power and authority to collect, levy and make all and every the sums of money or taxes which shall be, from time to time, so as aforesaid, assessed, laid and apportioned, and shall be specified and contained in any such lists as aforesaid, from all and every the person and persons, who according to such lists shall be chargeable and charged therewith, with all forfeitures for non-payment; and in case any such sum or tax, or any part thereof shall remain unpaid for the space of ten days after the time appointed for payment thereof, the said treasurer, or his successor in office, or any succeeding treasurer, for the time being, shall and may proceed to levy and make all such sums or taxes which shall so remain unpaid, or the part thereof which shall be payable in the same manner and by the same means and proceedings as are provided by the act of the General Assembly of this State, entitled, "An act for raising county rates and levies," and by the twenty-fifth and twenty-sixth sections of the act of the General Assembly of this State, entitled, "An act for the valuation of real and personal property within this State," for levying and recovering the rates and taxes in said acts mentioned; and full power is granted to such treasurer for that purpose; and further, all and every the sums of money or taxes, which shall, from time to time, be assessed and laid by virtue of this act, shall be liens upon the respective quantities or parcels of the said marsh, cripple and low grounds, upon the value of which the same shall be laid and assessed; and so much of the said quantities or parcels, respectively, as may be necessary to pay the said respective sums or taxes, with all forfeitures for non-payment and costs so assessed and laid, may be sold for that purpose by the treasurer aforesaid.

named, or the treasurer hereafter to be chosen by virtue of this act for the time being.

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SEC. 14. *And be it further enacted*, That proceedings for the sale and conveyance of any part or parts of the aforesaid marsh, cripple and low grounds, for the payment of the sums of money or taxes thereon assessed, shall be as follows, to wit: if any sum or tax which shall, from time to time, be assessed and laid by virtue of this act, or any part thereof, or of the forfeiture for non-payment, shall remain in arrear and unpaid for the space of sixty days after the time appointed for the payment of such sum or such part thereof, the treasurer aforesaid or the treasurer hereafter to be chosen by virtue of this act, for the time being, shall and may seize the quantity or parcel of marsh, cripple or low grounds, upon or in respect to which such sum or tax shall have been assessed or laid, and appoint a time and place for the sale of so much of the said quantity or parcel so seized as shall be necessary to pay the said sum or tax or such part thereof as shall be payable at the time of such sale; and shall give public notice of such sale and the time and place thereof, at least twenty days before the day of sale, by advertisements posted in three of the most public places of Little creek hundred aforesaid, and in one of the most public places of each of the other hundreds, in Kent county aforesaid; and shall also give notice in writing of such sale, and the time and place thereof, at least twenty days before the day of sale, to the person in possession of such marsh, cripple and low grounds so seized, if any person be known to be in the possession thereof; and also to the owner or owners thereof, if residing within Kent county aforesaid, or the guardian of any minor owner or owners, if such there be residing in said county; and if the sum or tax, or part thereof payable, shall not together with the forfeiture and costs be paid before the time of sale, the treasurer may and shall at the time and place appointed sell by way of public vendue, to the highest and best bidder or bidders for the same, so much of the quantity or parcel of marsh, cripple

Manner of  
proceeding in  
case of sales,

Sales to be certified to court of common pleas of Kent.

ple and low grounds so seized, as shall be necessary and sufficient to pay the said sum or tax so assessed thereon as aforesaid, or such part thereof as shall be payable on the day of such sale, together with the forfeitures and costs; which sale shall be certified to the court of common pleas to be held at

Deeds.

Dover, in and for Kent county, next after making the same; and the said court shall inquire into the premises, and if the said sale shall be found to have been made conformably to the provisions of this act, the said court shall approve thereof and order the treasurer, for the time being, upon payment of the consideration money, to make a deed to the purchaser or purchasers for the marsh, cripple or low grounds, which shall have been so sold to him, her or them; which deed so made shall convey a good title to the purchaser or purchasers; and the costs for making such sale shall be the sum of two dollars, with two per cent. on the principal sum to be levied.

In case of death, &c. of treasurer—power of successor,

SEC. 15. *And be it further enacted,* That in case of any treasurer, who shall make sale of any marsh, cripple or low grounds as aforesaid, shall die, resign, remove from the county, refuse to act, or be removed from office before such sale shall be certified, or a deed made pursuant thereto, his successor in office, or any succeeding treasurer of said company, for the time being, shall and may certify such sale; and make such deed and such certificate of sale, and such deed, and all acts made or done by a succeeding treasurer of said company, for the time being, for levying and making any sum or tax assessed or laid as aforesaid, or any part thereof, or for selling or conveying any marsh, cripple or low grounds for that purpose shall be as available, good and sufficient, as if made or done by the treasurer to whom the list containing such tax or sum was first delivered.

Allowance to managers and commissioners.

SEC. 16. *And be it further enacted.* That all managers and commissioners acting under this act, shall each be entitled to one dollar per diem, for each and every day's attendance in overseeing the making or constructing, amending or altering, or

repairing the dams, banks, trunks and sluices by this act contemplated; or in performing any duty incident to their offices, or which it may be incumbent on them or any of them to discharge, which shall be paid by the treasurer, out of the monies which may come to his hands for the use of the said company, and for which the receipt of each manager shall be a sufficient voucher as to the monies paid to him.

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SEC. 17. *And be it further enacted,* That all discharges given by any annual meeting of said company, to any treasurer, shall be valid and effectual; and such discharges shall be sufficiently authenticated by being signed by the chairman and countersigned by the secretary of such meeting. Discharges to treasurer.

SEC. 18. *And be it further enacted,* That if any person or persons shall destroy, break, or in any manner injure any of the dams, banks, trunks or sluices, which may be made and constructed in pursuance of this act, or any part thereof, every such destroying, breaking or injuring of the said dams, banks, trunks or sluices, or either or any part of the same, shall be an indictable offence; and every person so destroying, breaking or injuring any the said dams, banks, trunks or sluices, or any part thereof, or aiding, abetting, or counselling therein or thereto, shall be liable to be proceeded against in the court of general quarter sessions of the peace and jail delivery, in Kent county aforesaid, by indictment; and on conviction shall be fined in any sum not exceeding two thousand dollars, at the discretion of said court, and shall be sentenced to pay the said fine with all costs, and such proceedings shall be had as in all other cases of indictable offences; and one half of the said fine shall be paid to the treasurer of the said company, for the time being, for the use of said company. Destroying, injuring, &c. the bank, &c. an indictable offence; fine.

SEC. 19. *And be it further enacted,* That all the acts and things, which have been done in pursuance of the act of the General Assembly, the title whereof is mentioned in the title of this present act, Proceedings under former acts confirmed.

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and of the supplement thereto stand confirmed; and that the said act and supplement are hereby recognized as in force, excepting so far as the same may be contrary to or supplied by this present act; and that the managers aforesaid or a majority of them, or the succeeding managers, for the time being, or a majority of them may and shall include in the sum of money or taxes first to be assessed and laid under this act, a sum sufficient to pay and satisfy all the wages, expenses, costs and charges, which have grown due, or arisen, or been incurred under the aforesaid act and supplement; and the treasurer aforesaid or his successor in office shall pay all the said wages, expenses, costs and charges out of the first monies which shall be collected by such treasurer in pursuance of the provisions of this act, either upon orders which have been drawn, or which shall be drawn for that purpose; which orders the said managers or a majority of them are authorized to draw; and all such orders which have been drawn or shall be drawn for payment of such wages, expenses, costs and charges, when paid by the treasurer, shall be good vouchers for him in settling his account, and the same shall be allowed.

Remedy for  
those who  
have made  
advances.

SEC. 20. *And whereas*, certain of the owners of the marsh, cripple and low grounds aforesaid, have paid and advanced divers sums of money toward defraying the wages, expenses and charges which have already arisen in carrying on the work and banks aforesaid;—*Therefore be it further enacted*, That in laying and assessing the first taxes under this act, the managers or a majority of them, who shall lay and assess the same shall allow and credit to each owner who has paid or advanced any sum or sums, the sum or sums thus paid and advanced, and consider the same as a portion of the tax of such owner actually paid, so that full allowance shall be thus made for all such payments and advances.

PASSED AT DOVER, }  
January 25, 1822. }

## CHAPTER XCIX.

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XCIX.

AN ACT concerning deeds for lands, tenements and hereditaments sold in execution of judgments or decrees in certain cases.

1822.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in all cases in

which lands, tenements or hereditaments have been sold heretofore, or shall be sold hereafter by virtue of any writ of *venditioni exponas* issued out of the supreme court or court of common pleas of this State, or by order of the chancellor, to give effect to or carry into execution a decree of the court of chancery, and the officer or person making such sale has died or been removed from office, or shall die or be removed from office without a deed made pursuant to such sale, the supreme court or the chancellor shall be, and is hereby authorized and required to hear and determine, whether such sale has been legally made; and if it shall appear that such sale has been legally made and that the purchase money has been paid, an order shall thereupon be made by the supreme court or the chancellor, authorizing and commanding the sheriff of the county where the premises lie, to execute a lawful deed therefor to the purchaser or purchasers; and every deed made pursuant to such order shall have the same force and effect as a deed made by the officer or person making the sale if living and in office would or could have.

In case of death, &c. of sheriff, &c. selling land on execution;

power of the supreme court and of the chancellor to order deeds;

effect of such deeds.

SEC. 2. And be it enacted, That all orders which have heretofore been made in the supreme court of this State, for a sheriff to execute a deed for lands, tenements or hereditaments, sold by a former sheriff or officer, by virtue of a writ or writs of *venditioni exponas*, and all deeds made by any sheriff or sheriffs in obedience to or by virtue of any order of said supreme court, for lands or premises so sold, be and the same are hereby confirmed, and enacted

Orders and deeds confirmed.

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115.

and declared to be as valid and effectual to all intents and purposes as orders made in the court of common pleas, pursuant to the ninth section of the act of the General Assembly entitled, "An act for taking lands in execution for payment of debts" or deeds made pursuant to such orders.

PASSED AT DOVER, }  
January 25, 1822. }

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### . CHAPTER C.

AN ACT to authorize *Thomas W. Veazey, his heirs or devisees to pass and repass slaves from the State of Maryland into this State, and from this State into the State of Maryland.*

PASSED AT DOVER, }  
25 January, 1822. } PRIVATE ACT.

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### CHAPTER CI.

AN ACT to enable *Daniel D. Satterfield, of Kent county, to bring a certain negro slave into this State from the State of Maryland.*

PASSED AT DOVER, }  
January 25, 1822. } PRIVATE ACT.

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### CHAPTER CII.

AN ACT to authorize and empower *John Thompson, of Newcastle county, to remove a certain slave therein mentioned from the State of Maryland into this State.*

PASSED AT DOVER, }  
January 25, 1822. } PRIVATE ACT.

## CHAPTER CIII.

CHAP.  
CIII.

## AN ACT to incorporate the Hagley cotton company.

1822.

WHEREAS, Archibald M<sup>c</sup>Call, Robert M<sup>c</sup>Call, Charles I. Dupont and Charles Dalmás, have by their petition to the Legislature set forth that they are desirous of establishing a manufactory of cotton yarn and cotton cloths upon the Brandywine creek, in the county of Newcastle, and that corporate powers are deemed essential to the advantageous accomplishment of their undertaking, and the Legislature deeming the said undertaking to be connected with the public interest, and being disposed to encourage the same—

SECTION 1. *Therefore be it enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Archibald M<sup>c</sup>Call, Robert M<sup>c</sup>Call, Charles I. Dupont, Charles Dalmás, and such others as shall hereafter be associated with them for the purpose of manufacturing cotton yarn and cotton cloths, and vending the same, shall be and hereby are constituted a body corporate in fact and in name, by the name of "The Hagley cotton company." and by that name they and their successors and assigns until the first day of May, in the year of our Lord, one thousand, eight hundred and forty-seven, shall and may have continual succession, and be persons in law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all courts and places, in all manner of actions, suits, complaints, matters and causes whatsoever; and they and their successors may have a common seal, and be capable of purchasing, holding and conveying any estate real or personal, for the use of the said corporation: *Provided* the same be such as shall be connected with and conducive to the objects of this corporation.*

Preamble.  
Corporation created;

continuance

and powers.

Directors  
chosen at

annual meet-  
ing of stock-  
holders;

vacancies.

SEC. 2. *And be it further enacted,* That the stock, property, affairs and concerns of the said corporation shall be managed and conducted by five directors, who shall be stockholders, and shall be elected on the first Monday of May, in every year, and all such elections shall be made by ballot, by a plurality of the votes of the stockholders present, allowing one vote to each share, and the stockholders not personally attending may vote by proxy at such elections; and the directors so chosen, shall as soon as may be, after every annual election elect, by ballot, one of their number to be their president; which president and directors shall continue in office for one year, and until others shall be chosen to supply their places, and enter on the duties of their offices; and a majority of the directors for the time, shall form a board for transaction of business of the corporation. and if any vacancy or vacancies shall at any time happen in the office of president or directors by death, resignation or otherwise, the remaining directors shall supply such vacancy or vacancies for the remainder of the year for which the same may happen, by new appointments, and in case of the absence at any time of the president, the board of directors shall have power to appoint a president *pro tempore*, with such powers and functions as the by-laws of the corporation may provide.

First direc-  
tors.

SEC. 3. *And be it further enacted,* That Archibald McCall, Robert McCall, Charles L. Dupont, William Reed and George Thomas, shall be the first directors, who shall severally hold their offices until the first Monday in May, one thousand eight hundred and twenty-three.

Corporation  
not dissolved  
by failure to  
elect direc-  
tors.

SEC. 4. *And be it further enacted,* That in case it should at any time happen that an election of directors should not be made on the day required by this act, the said corporation shall not thereby be deemed to be dissolved; but it shall be lawful to hold an election of directors at such other day, and in such a manner as may be regulated by the by-laws and ordinances of the said corporation.

SEC. 5. *And be it further enacted,* That the capital stock of the said company shall not exceed <sup>Capital stock,</sup> one hundred and fifty thousand dollars, and that each share therein shall be one thousand dollars, which share shall be assignable and transferable according to such rules and subject to such restrictions as the board of directors shall from time to time make and establish for the purpose, and they shall be considered as personal property, and it shall be lawful for the president and directors of the said corporation to call for and demand of the said stockholders respectively, the amount of their <sup>how paid in;</sup> respective shares by them subscribed towards the said capital stock, at such times and in such proportions and manner as they shall see fit: *Provided nevertheless,* that if any stockholder shall fail to pay his or her second instalment on each share at the time and manner prescribed by the by laws of the said corporation, such stockholder shall forfeit <sup>forfeiture.</sup> the first instalment to the company, but no forfeiture shall take place after the second instalment is paid; and if any stockholder shall fail to make good his third instalment, such stockholder shall not be entitled to any share or proportion of the profits, nor to any vote at elections of directors, till the instalment demanded be paid, and the share or proportion of the profits shall be calculated from the time of the last payment, and so of other instalments which may be demanded.

SEC. 6. *And be it further enacted,* That the board of directors of the said company for the time being, shall have power to make and prescribe <sup>By laws;</sup> such by laws, rules and regulations as they shall deem proper, respecting the management and disposition of the stock, property and estate of the said corporation, the transfer of the shares in its capital stock, the duties and conduct of the manager, workmen and servants in its employ, the election of directors, and all other matters appertaining to the concerns of the company; and they shall also have power to appoint clerks and other servants for carrying on the business, and from time to time, if authorized by their by-laws, to appoint

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restriction as  
to banking  
powers.

from their own body one or more persons to act in and superintend the management of their business, with such salaries and allowances as they may think proper: *Provided always*, that such by-laws, rules and regulations shall not be repugnant to the laws or constitution of this State, or of the United States: *And provided also*, that nothing in this act contained, shall be deemed or construed in any wise to vest in the said company the authority to loan money upon interest or with banking powers of any other description.

Public act.

SEC. 7. *And be it further enacted*, That this act be and the same is hereby declared to be a public act.

PASSED AT DOVER, }  
January 25, 1822. }

## CHAPTER CIV.

Chap. xxix,  
ante 6 vol. 31.

AN ACT to repeal certain parts of the act entitled "*An act for ascertaining the salaries of the Governor and Attorney-General, for fixing the compensation of the members of the General Assembly and their officers.*"

Repeal

of part of ch.  
29, ante rela-  
ting to salary  
of Governor  
and Attorney-  
general.

SECTION 1. 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 entitled "*An act for ascertaining the salaries of the Governor and Attorney-general, for fixing the compensation of the members of the General Assembly and their officers.*" passed on the fifteenth day of January, one thousand eight hundred and twenty-one, as relates to the salary of the Governor, and to the salary of the Attorney general of this State, be and the same is hereby repealed, made null and void.

PASSED AT DOVER, }  
January 29, 1822. }

## CHAPTER CV.

CHAP.  
CV.

1822.

AN ACT to authorize and empower George Reed and William Reed of Caroline county, in the State of Maryland, to remove a certain negro slave named Reuben, from and to this State.

PASSED AT DOVER. }  
29 January, 1822. }

PRIVATE ACT.

## CHAPTER CVI.

AN ACT to enable "The president, directors and company of the Farmers' and Mechanics' Bank of Delaware," to close the concerns of that bank. Chap. cc & ccl, 4 vol. 536, 561.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the corporation and body politic, created and made by the act of the General Assembly of this State, entitled "An act to establish a bank and incorporate a company under the name of "The Accommodation Bank of Delaware," passed at Dover, February 7th, 1812, and the supplement to said act passed at Dover, February 10, 1812, shall be continued and extended by and under their said name of "The president, directors and company of the Farmers' and Mechanics' Bank of Delaware," for the purpose of settling and closing the concerns of the said corporation; but for no other intent or purpose whatever, until the first day of March, which will be in the year of our Lord, one thousand eight hundred and twenty-four, and no longer; and the powers, privileges and immunities by the said act, and the said supplement thereto, and the additional supplement to said act, passed at Dover, February 2, 1821, granted to the said corporation are hereby continued and extended to them until the said first day of March, in the year of our Lord, one thousand eight hundred

4 vol. 536, 561.  
Charter extended to 1 March, 1824;  
Ante 81.

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and twenty-four, any thing in the said act contained to the contrary notwithstanding; to be used nevertheless, for settling and closing the concerns of said corporation and not otherwise, and subject to the restriction hereinafter enacted.

**SEC. 2.** *And be it further enacted,* That it shall not be lawful for the said corporation, and they shall not have power to make any new loan, nor to make or issue any bills obligatory or of credit, nor to issue any bills or notes of the said corporation after the first day of September next.

Bank prohibited from new business.

**SEC. 3.** *And be it further enacted,* That the present directors of the Farmers' and Mechanics' Bank aforesaid, shall at the meeting of the stockholders, on the first Tuesday of May next, lay before the stockholders a full and true account of all the business and concerns of the said bank, shewing all the credits, funds and effects of the said bank and demands of every nature outstanding against them; and also a statement of all the name or names of the drawers and indorsers, in bills or notes held by said bank, and all the obligors and defendants in bonds and judgments held by said bank, with the amount due by all such bills, notes, bonds and judgments, which said statement shall be verified by the oath or affirmation of the cashier; and that the directors, for the time being, hereafter shall at the meeting of the stockholders, on the first Tuesdays of May, in each year, lay before the stockholders a similar account and statement; and that if the said corporation shall find it necessary to apply to the General Assembly for a further extension of their charter, they shall with their petition or application for that purpose, exhibit a true copy of the account and statement, which shall have been laid before the said stockholders, on the first Tuesday of May, next preceding such application.

Accounts & statements to be laid before stockholders;

copy before General Assembly, in case, &c.

PASSED AT DOVER. }  
30 January, 1822. }

## CHAPTER CVII.

CHAP.  
CVII.

AN ACT to prevent swine from running at large in the village of Bridgeville in the county of Sussex.

1822.

SECTION 1. BE 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 April next, no swine, hog or hogs shall be permitted or suffered to run at large within the village of Bridgeville in the county of Sussex, or within three-eighths of a mile each and every way from the principle bridge now erected in said village.

Swine not to  
run at large  
in Bridgeville

limits.

SEC. 2. And be it further enacted, That if any swine, hog or hogs, belonging to any person or persons residing in said village, the limits herein described, shall be found running at large within the said village or limits before described, at any time after the said first day of April next, it shall and may be lawful for any person or persons to take up and secure such, swine, hog or hogs, and proceed to sell the same after giving at least five days notice, by one or more advertisements set up in the most public place or places in said village, and to retain one half the amount of any such sale for his or their trouble, and pay over the other half to the late owner or owners of any such swine, hog or hogs: *Provided nevertheless*, that the owner or owners of any such swine, hog or hogs shall have them or any of them delivered to him, her or them again by apply to the person in whose care they are, within twenty-four hours from the time where such hog or hogs or swine may be taken up and secured as aforesaid, and paying or tendering to him, her or them the following rates: to wit, for every hog or pig not exceeding twenty pounds weight, fifty cents; for every hog or pig not exceeding fifty pounds weight, one dollar; and for every hog, pig or swine not exceeding one hun-

Proceedings  
and forfeiture

application;

Proviso.

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dred pounds weight, one dollar and twenty-five cents; and for every other hog or swine, one dollar and fifty cents.

Person taking  
up may sell  
and be com-  
pelled to pay  
over, &c.

SEC. 3. *And be it enacted*, That if any person or persons whatsoever shall sell any swine, hog or hogs under the provisions of this act, such sale shall be good and available in law; and if any such person or persons, on demand being made, shall neglect or refuse to pay over one half the amount of any such sale or sales as before directed by this act (the person or persons so applying first making it appear that such swine, hog or hogs were at the time of taking up, the property of him, her or them) shall be liable to be sued for the same as for any other debt, before any court or before any justice of the peace in this State.

PASSED AT DOVER, }  
30th January, 1822. }

## CHAPTER CVIII.

*AN ACT granting relief to persons having claims against the estates of deceased persons.*

SECTION 1. *BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That whenever an ac-

Executor  
or adminis-  
trator failing  
to appear to  
suit,

tion shall be commenced against an executor or administrator in any of the courts of law in this State, and such executor or administrator shall be duly summoned therein, and shall neglect or fail to appear thereto at the term to which the writ is returnable, then and in such case it shall and may be lawful for the court in which such action is brought on the application of the plaintiff or his attorney to appoint three disinterested freeholders to hear and determine the matters in controversy between the parties, according to the very right of the matter and the law of the land: and judgment on their report, or the report of a majority of them, made to the court, shall be deemed and taken to be as available

on application  
of plaintiff  
court may ap-  
point freehol-  
ders;

And judg-

in law, and as binding on the real estate of the de-  
 ceased, as a judgment on the verdict of a jury; and  
 the said freeholders shall take the same qualifica-  
 tions, be entitled to the same fees, and their report  
 may be either confirmed or set aside as is usual in  
 like cases: *Provided*, That the said executor or  
 administrator shall have ten days notice of the meet-  
 ing of the freeholders so appointed by the court.

ment on re-  
 port. to bind  
 real estate &c.  
 2 vol. 1070,  
 1071, sec. 6.  
 1 vol. 163,  
 sec. 4, 474,  
 sec. 30, 31,  
 2 vol. 769, 4  
 vol. 593, sec.  
 2, 445, sec. 1.

PASSED AT DOVER, }  
 1 February, 1822. }

## CHAPTER CIX.

AN ACT to enable the persons therein named to  
 raise by lottery the sum of three thousand dol-  
 lars, for discharging the incumbrances a-  
 gainst St. Peter's church, in the borough of  
 Wilmington, and for finishing the said church.

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 managers hereinafter mentioned to  
 institute, carry on and draw a lottery for raising  
 the sum of three thousand dollars, clear of all ex-  
 penses, to be applied to paying off the incumbran-  
 ces and finishing St. Peter's church, in the borough  
 of Wilmington and State of Delaware.

Lottery au-  
 thorized.

SEC. 2. And be it enacted, That Matthew Ca-  
 rey, Nicholas G. Williamson, William Larkin, Ar-  
 thur Murphy, Patrick Higgins, Dennis M'Creedy  
 and Philip Smith, or a majority of them shall be,  
 and they are hereby appointed managers of said  
 lottery.

Managers.

SEC. 3. And be it enacted, That the said mana-  
 gers 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 ten thousand dollars, conditioned for

Bond,

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for whose use.

the faithful execution of this act, and due payment of all prizes that may be drawn in said lottery, at the expiration of sixty days after the same shall be drawn, if demanded; and further, conditioned faithfully to apply all such sums of money as may be raised by said lottery, clear of all expenses, to the discharge of the aforesaid incumbrances 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 or persons, and bodies corporate injured or aggrieved by said managers, and may be put in suit by any person or persons, or bodies corporate injured and aggrieved as aforesaid.

Oath &c. of  
managers;

their duty.

SEC. 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, dilligently, faithfully and honestly to perform the duties of a manager of 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 said lottery each day, and when the said lottery shall be completed, they shall forthwith cause an accurate list of the fortunate numbers in said lottery to be published, in one of the newspapers printed in this State and in Philadelphia.

Prizes not  
demanded in  
one year—re-  
tained.

SEC. 5. *And be it enacted*, That all prizes not demanded within one year from the publication aforesaid, shall be retained by the said managers and applied to the purposes aforesaid.

If lottery not  
drawn in two  
years—mo-  
ney to be re-  
turned.

SEC. 6. *And be it enacted*, That if the said lottery shall not be drawn within two years from the passing of this act, the said managers shall return and pay over, on demand, to every person or body corporate, the respective sums that may have been received for tickets sold in said lottery.

PASSED AT DOVER, }  
February 2, 1822. }

## CHAPTER CX.

CHAP.  
CX.

1822.

AN ACT for the suppression of tippling houses, and for preventing the sale of liquors by unlawful measures.

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 or persons shall, after the passing of this act, keep any tippling house, or sell or retail any wine, rum, brandy or any other spirituous liquors, or any punch or any other mixed liquors, contrary to the act of the General Assembly entitled, "An act for regulating innholders, tavern keepers and other public house keepers within this government, and empowering the justices to settle the rate of liquors;" and shall thereof be convicted in the court of general quarter sessions of the peace and jail delivery of the county whereof such offence shall be committed, or shall thereof be convicted by any justice of the peace within the county where the offence may be committed, unless the forfeiture, together with the costs shall be forthwith paid by the person or persons so convicted; the said court or justice of the peace, as the case may be, shall adjudge and order such person or persons so convicted to be imprisoned in the public jail of the county until such forfeiture and costs, together with the accruing costs shall be paid and satisfied.

In case of conviction of keeping a tippling house;

[ch. lxxv, a. vol. 192.]

if forfeiture and costs not paid offender to be committed.

SEC. 2. And be it enacted by the authority aforesaid, That every such forfeiture, together with the costs, shall after conviction as aforesaid, be a lien, incumbrance and charge upon the goods and chattels, lands and tenements of every such offender and offenders, and shall be first satisfied out of such goods and chattels, lands and tenements in preference to all and every rent, judgment, mortgage, recognizance and execution due or to become due, recovered, made, acknowledged or issued from, against or by such offender or offenders, whether before or after such conviction; and shall

Forfeiture and costs a lien on goods and lands in preference to rent, &c.

to be levied by writ in nature of *fi. fa.* be levied and made by a writ of execution in nature of a writ of *fi. facias*, issued from or by such court of general quarter sessions of the peace and jail delivery or justice of the peace, notwithstanding such adjudication and order for imprisonment as aforesaid, and actual imprisonment thereon, directed to the sheriff of the county, who shall proceed to levy and make such forfeiture and costs as aforesaid, and accruing costs, by sale of said goods and chattels, lands and tenements, without any other writ or writs to him directed, and without any inquiry or other proceedings usually made previous to the sale of lands and tenements, within sixty days after such writ shall be delivered to such sheriff; and the surplus, if any there be after satisfying such forfeiture, and all costs shall be paid, to such offender or offenders, his or her executors, administrators or assigns: *Provided nevertheless*, that all and every rent, judgment, mortgage, recognizance and execution which shall have been contracted for, rendered, made, acknowledged or issued before the passing of this act, shall be preferred and have priority to any forfeiture and costs incurred after the passing of this act.

sales of land,  
without in-  
quiry;

proviso, as to  
judgments &c.  
before this act

SEC. 3. *And be it enacted by the authority afore-*

After conviction, sales of goods by offender not valid against execution for forfeiture and costs. *said*, That if any such offender or offenders shall after any such conviction as aforesaid, sell any goods or chattels, such sales shall not exempt such goods and chattels in the hands of a purchaser or purchasers from being seized and taken in execution and sold by the sheriff as aforesaid, for the levying and making such forfeiture and costs as aforesaid, and the sale of any such goods and chattels after such conviction as aforesaid, shall be void and shall not change or alter the property of such goods and chattels in respect to such forfeitures and costs as aforesaid.

SEC. 4. *And be it enacted by the authority afore-*

Offender discharged on payment, *said*, That as soon as said forfeiture and all costs as aforesaid, shall be satisfied and fully paid, the sheriff shall discharge such offender or offenders from imprisonment.

SEC. 5. *And be it further enacted, That in case* Term of im-  
prisonment.  
of a failure to pay or recover the said forfeiture and costs, in such case every person so convicted as aforesaid, shall be imprisoned in the public jail of the county for the term of three calendar months.

PASSED AT DOVER, }  
2 February, 1822. }

## CHAPTER CXI.

AN ACT to incorporate "*The Brandywine manufacturing company.*"

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That a company shall be established for the purpose of carrying on manufactures of cotton upon the property held by "the mill seat company" on Brandywine creek in Brandywine hundred and Newcastle county; the capital stock of the said company shall not exceed two hundred and fifty thousand dollars, divided into two hundred and fifty shares, each of one thousand dollars.

Company  
established;  
location;  
capital and  
No. of shares

SEC. 2. *And be it further enacted, That James Canby, Edward Tatnal, Isaac Pennock, James Price and John Torbert shall be commissioners,* Subscriptions  
and they or any two of them are authorized to receive subscriptions to the said capital stock, and to open books for that purpose, at such time and at such place in the borough of Wilmington, as they or any two of them may appoint, giving at least ten days notice thereof in the newspapers published in the said borough; and the said books shall continue open until the said commissioners shall deem it proper to close the same, or until the first election of directors hereinafter prescribed; any person, copartnership or corporation may subscribe for any number of shares of the said capital stock; subscriptions may be made by proxy as well as in

to be levied by writ in nature of *fi. fa.* be levied and made by a writ of execution in nature of a writ of *fi. facias*, issued from or by such court of general quarter sessions of the peace and jail delivery or justice of the peace, notwithstanding such adjudication and order for imprisonment as aforesaid, and actual imprisonment thereon, directed to the sheriff of the county, who shall proceed to levy and make such forfeiture and costs as aforesaid, and accruing costs, by sale of said goods and chattels, lands and tenements, without any other writ or writs to him directed, and without any inquiry or other proceedings usually made previous to the sale of lands and tenements, within sixty days after such writ shall be delivered to such sheriff; and the surplus, if any there be after satisfying such forfeiture, and all costs shall be paid, to such offender or offenders, his or her executors, administrators or assigns: *Provided nevertheless*, that all and every rent, judgment, mortgage, recognizance and execution which shall have been contracted for, rendered, made, acknowledged or issued before the passing of this act, shall be preferred and have priority to any forfeiture and costs incurred after the passing of this act.

**SEC. 3.** *And be it enacted by the authority aforesaid*, That if any such offender or offenders shall after any such conviction as aforesaid, sell any goods or chattels, such sales shall not exempt such goods and chattels in the hands of a purchaser or purchasers from being seized and taken in execution and sold by the sheriff as aforesaid, for the levying and making such forfeiture and costs as aforesaid, and the sale of any such goods and chattels after such conviction as aforesaid, shall be void and shall not change or alter the property of such goods and chattels in respect to such forfeitures and costs as aforesaid.

**SEC. 4.** *And be it enacted by the authority aforesaid*, That as soon as said forfeiture and all costs charged on as aforesaid, shall be satisfied and fully paid, the offender discharged on payment, the sheriff shall discharge such offender or offenders from imprisonment.

SEC. 5. *And be it further enacted,* That in case of a failure to pay or recover the said forfeiture and costs, in such case every person so convicted as aforesaid, shall be imprisoned in the public jail of the county for the term of three calendar months.

PASSED AT DOVER, }  
2 February, 1822. }

## CHAPTER CXI.

AN ACT to incorporate "*The Brandywine manufacturing company.*"

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a company shall be established for the purpose of carrying on manufactures of cotton upon the property held by "the mill seat company" on Brandywine creek in Brandywine hundred and Newcastle county; the capital stock of the said company shall not exceed two hundred and fifty thousand dollars, divided into two hundred and fifty shares, each of one thousand dollars.

SEC. 2. *And be it further enacted,* That James Canby, Edward Tatnal, Isaac Pennock, James Price and John Torbert shall be commissioners, and they or any two of them are authorized to receive subscriptions to the said capital stock, and to open books for that purpose, at such time and at such place in the borough of Wilmington, as they or any two of them may appoint, giving at least ten days notice thereof in the newspapers published in the said borough; and the said books shall continue open until the said commissioners shall deem it proper to close the same, or until the first election of directors hereinafter prescribed; any person, copartnership or corporation may subscribe for any number of shares of the said capital stock; subscriptions may be made by proxy as well as in

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capital, how  
payable;

post sec. 4

person; the commissioners receiving such subscriptions may, if a majority of the commissioners aforesaid shall so determine, require payment at the time of subscribing, of the rate of ten per cent. of the amount of each share subscribed for, and the balance of the shares, or the amount thereof, if no payment shall be required or made thereon respectively, at the time of subscribing, shall be paid to the president and directors upon calls as hereinafter provided.

Incorporation  
continuance  
and powers.

SEC. 3. *And be it further enacted*, That the subscribers to the capital stock aforesaid, their successors and assigns shall be, and they are hereby created a corporation by the name of "The Brandywine manufacturing company." and shall so continue until the first day of May, in the year of our Lord, one thousand eight hundred and forty, and by that name shall have power and capacity to sue and be sued, in courts of law or equity, to purchase, take, enjoy, sell and alien, lands, tenements, hereditaments, goods, chattels and effects, of every nature, kind and quality which may be connected with, or conducive to the purpose for which said company is established; to have a common seal, to ordain by laws for their own government, not repugnant to the constitution and laws of this State or of the United States; and to enjoy the franchises incident to a corporation: *Provided always*, That it shall not be lawful for the said corporation, and they shall not have power to loan money on interest, and that the said corporation shall not have nor exercise any banking powers whatever. The following shall be, and the same are hereby enacted fundamental articles of the constitution of said corporation:

restriction.

Fundamental  
articles.  
Directors;

First. The business and concerns of the said corporation shall be managed by five directors. The directors shall be elected by the stockholders. The first election shall be held as hereinafter appointed; and all elections of directors after the first, shall be held at the annual meeting of the stockholders. The directors shall continue in office until the an-

nual meeting next succeeding their election, and until successors to them shall be duly chosen; but whenever a vacancy in the office of director shall happen by death, resignation, inability to act, removal or otherwise, the remaining directors shall by a majority of a board choose a director to continue in office till the election in course. The directors must be stockholders, and the office of a director shall be vacated by his ceasing to be a stockholder. The directors shall choose one of their number to be president; they shall meet according to the by-laws of the corporation; any three of them shall form a board competent to transact business, and if the president shall be absent, a president may be appointed pro tem.

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president  
meeting and  
board.

Second. The directors shall have power to erect such buildings upon the property aforesaid, and to procure such machinery, as they shall from time to time deem requisite, to carry on such manufactures of cotton and execute such plans as they shall think most advantageous for the corporation; to appoint and remove at their pleasure, all such officers of the corporation as the by-laws shall require; to fix and pay the salaries of such officers, and if so directed by the by laws to take from said officers, respectively, or any of them bond with surety as the by-laws shall prescribe; and to employ workmen and labourers, and agree upon and pay their wages, to purchase materials, and make sales, and employ agents and factors, and to do all acts requisite to carry into effect the purpose for which the company is established, and to this end, to use and employ the capital stock and funds of the company under such regulations as the by-laws may prescribe, and to bind by their contracts, deeds or writings under the hand of the president and seal of the corporation all the property and estate, common stock and joint funds of the corporation aforesaid; but not the persons or separate property of themselves or any of the stockholders: and further the directors shall have power to make the by-laws for the government of the said corporation, and regu-

Powers of  
directors;

officers;

by-laws;

what by-laws  
must pre-  
scribe.

lating the management of the business and concerns thereof, and to revise, repeal and amend the same at pleasure. The by-laws among other things, shall prescribe the offices of the corporation, other than the president and directors, the bonds to be taken from any officers, the place or places of holding the meetings of the stockholders, the manner of calling occasional meetings, and the mode and regulations respecting the assigning of the shares of the capital stock.

Annual meet-  
ing of stock-  
holders.

Third. There shall be an annual meeting of the stockholders, on the first Monday of April in every year during the continuance of the corporation. If an election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved; but in such cases directors may be chosen at any occasional meeting regularly held. The first annual meeting shall be held on the first Monday in April, in the year of our Lord, one thousand eight hundred and twenty-three.

Manner of  
voting, &c.

Fourth. In all meetings of the stockholders regularly held, those assembled may proceed to business; all elections of directors shall be by ballot and shall be decided by plurality of votes given; and all other questions shall be determined by the majority of the votes given: in all elections of directors and upon every subject and question which shall come before the stockholders at their meetings, the stockholders respectively shall be entitled to as many votes as they shall respectively hold shares; one vote for every share; and the stockholders respectively, who may be absent from such meeting, shall be entitled to vote by proxy in all such elections and upon every such subject and question.

No emolu-  
ment to direc-  
tors unless &c.

Fifth. No director shall be entitled to any emolument except the same shall have been allowed by the stockholders in regular meeting.

Sixth. The shares of the capital stock shall be personal property and shall be assignable subject to the regulation of the by-laws, <sup>Shares as assignable;</sup>

Seventh. The directors shall make annual dividends of the clear profits of the business of the corporation, or of such part of the said clear profits as may be deemed advisable. The time of making the dividends shall be prescribed by the by-laws. The directors shall lay before the stockholders, <sup>annual accounts.</sup> every year at their annual meeting a general account of the stock, funds, debts, credits, profit and loss of said corporation.

SEC. 4. *And be it further enacted.* That in ten days after the books aforesaid shall be opened, if fifty thousand dollars of the said capital stock, shall <sup>First meeting how called;</sup> be then subscribed, or as soon thereafter as the said sum of fifty thousand dollars of the said capital stock shall be subscribed, the commissioners aforesaid or a majority of them shall call a meeting of the subscribers to the said capital stock to be held at a time and place by the said commissioners or a majority of them to be appointed, and shall give notice of such meeting and the time and place thereof by advertisements in the newspapers published in the borough of Wilmington aforesaid, and in at least one newspaper published in the city of Philadelphia, ten days at least before the time of such meeting; and the subscribers, who shall assemble in such meeting, and the proxies of such as shall be absent, shall elect five directors by ballot and plurality of the votes given, which said directors shall continue in office until the first Monday of April, in the year of our Lord, one thousand eight hundred and twenty-three, and until successors to them shall be duly chosen; and the said directors shall have the powers and be liable to the regulations herein before prescribed and set forth in relation to directors, and shall come within the purview and effect of all the articles herein contained touching directors to all intents and purposes; and as soon as the said directors shall have elected a president, the commissioners aforesaid shall imme-

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calls of sub-  
scriptions;for forfeiture  
for non pay-  
ment.

diately pay any sum of money, which they or any of them may have received upon the shares subscribed as aforesaid to the said president and directors; and the said president and directors, and their successors, president and directors of the said corporation, for the time being, shall have full power and authority, from time to time as money shall be wanted, to call upon the stockholders respectively, for such parts of the amount of the shares of the capital stock aforesaid by them respectively subscribed for or held, as to the said president and directors shall seem necessary, until the whole amount of each and every the said shares shall be paid; (any sum which may be paid to the commissioners aforesaid or any of them according to the provision aforesaid upon any share being deemed and allowed as a payment in part of the amount of such share:) *Provided always*, That the said president and directors shall not call more than one hundred dollars upon each share at any one time, and more than one call shall not be made in any one period of thirty days, and they shall give at least thirty days notice of each call by advertisements in the newspapers published in the borough of Wilmington aforesaid, or in a newspaper published in the city of Philadelphia; and if any stockholder or stockholders shall refuse or neglect to pay any part of the amount of any share or shares of the said capital stock by them respectively subscribed for or held, which shall be so called for, for the space of sixty days after the time appointed for the payment thereof in such call, such stockholder or stockholders shall forfeit and pay to the said president and directors the rate of ten per cent. upon the whole sum by such stockholder or stockholders previously paid, and in case such part with such forfeiture shall not be paid to the said president and directors within sixty days after incurring the same, forfeiture such stockholder or stockholders shall forfeit and pay to the said president and directors the further rate of ten per cent. upon the whole sum previously paid, and so a forfeiture of ten per cent. upon the whole sum previously paid shall be incurred by all and every the stockholders so refusing or neglecting

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to pay any part of the amount of their respective shares called for, with the forfeitures, at the expiration of every succeeding period of sixty days, during which such part and forfeitures shall be suffered to remain unpaid, until the forfeitures shall amount to the whole sum previously paid by such stockholder or stockholders respectively, and then the whole sum, which shall have been thus paid, shall be forfeited to the corporation and the share or shares, upon which the same shall have been paid, shall return to the corporation and may be by them disposed of at their will and pleasure: and no stockholder who shall refuse or neglect to comply with any call so made, shall during the time of such refusal or neglect be entitled to vote at any meeting of said stockholders; nor shall any stockholder during the time of such refusal or neglect, demand or receive any dividend.

SEC. 5. *And be it further enacted,* That if no payment shall be made upon a share at the time of subscribing, and if the part of the amount of such share first called by the president and directors shall not be paid within sixty days next after the time in said call appointed for the payment thereof, the said president and directors may either declare such share forfeited, in which case it may be disposed of at the pleasure of the corporation, or they may in the name of the corporation sue for and recover the part so called; and it shall be lawful for the president and directors, and they shall have full power and authority to dispose of all the shares of the capital stock aforesaid, which shall not be subscribed in the books to be opened by the commissioners aforesaid, and all the shares which may be forfeited as aforesaid, for the interest of the institution; and for that purpose to open books for receiving subscriptions or to adopt such other measures as may be deemed advisable, subject to such regulations as may be prescribed by the by-laws; and the persons who may become proprietors of such shares shall be members of the said corporation as fully and effectually as the original subscribers, under such restrictions as the by-laws may impose.

Shares not  
subscribed or  
forfeited how  
disposed of.

**SEC. 6.** *And be it further enacted,* That this act shall be and the same is hereby declared a public act to all intents and purposes and as such shall be taken notice of and received.

PASSED AT DOVER, }  
3 February, 1822. }

## CHAPTER CXII.

**AN ACT** to incorporate "*The Wilmington manufacturing company.*"

**SECTION 1.** BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a company shall be established for the purpose of carrying on manufactures of cotton upon the property held by "the mill seat company" on Brandywine creek in Christiana hundred and Newcastle county; the capital stock of the said company shall not exceed two hundred and fifty thousand dollars, divided into two hundred and fifty shares, each of one thousand dollars.

**SEC. 2.** *And be it further enacted,* That Allan Thompson, John Cummins, John R. Brinckle, Caleb Kirk and William Warner shall be commissioners, and they or any two of them are authorized to receive subscriptions to the said capital stock, and to open books for that purpose, at such time and at such place in the borough of Wilmington, as they or any two of them may appoint, giving at least ten days notice thereof in the newspapers published in the said borough; and the said books shall continue open until the said commissioners shall deem it proper to close the same, or until the first election of directors hereinafter prescribed; any person, copartnership or corporation may subscribe for any number of shares of the said capital stock; and subscriptions may be made by proxy as well as in person; the said commissioners receiving such sub-

scriptions may, if a majority of the aforementioned commissioners shall so determine, require payment at the time of subscribing, of the rate of ten per cent. of the amount of each share subscribed for, and the balance of the shares, or the amount thereof, if no payment shall be required or made thereon respectively, at the time of subscribing, shall be paid to the president and directors upon calls as hereinafter provided. <sup>capital, how payable;</sup> <sup>post sec. 4</sup>

SEC. 3. *And be it further enacted,* That the subscribers to the said capital stock, their successors and assigns shall be, and they are hereby created a corporation by the name of "The Wilmington manufacturing company," and shall so continue until the first day of May, in the year of our Lord, one thousand eight hundred and forty, and by that name shall have power and capacity to sue and be sued, in courts of law and equity, to purchase, take, enjoy, sell and alien, lands, tenements, hereditaments, goods, chattels and effects, of any kind, nature, and quality which may be connected with, or conducive to the purpose for which said company is established; to have a common seal, to ordain by laws for their own government, not repugnant to the constitution and laws of this State or of the United States; and to enjoy the franchises incident to a corporation: *Provided always,* That it shall not be lawful for the said corporation, and they shall not have power to loan money on interest, and that the said corporation shall not have nor exercise any banking powers whatever. The following articles shall be, and the same are hereby enacted fundamental articles of the constitution of said corporation: <sup>incorporation continuance and powers.</sup> <sup>restriction</sup>

First. The business and concerns of the said corporation shall be managed by five directors. The directors shall be elected by the stockholders. The first election shall be held as hereinafter appointed; and all elections of directors after the first, shall be held at the annual meeting of the stockholders. The directors shall continue in office until the annual meeting next succeeding their election, and <sup>Fundamental articles Directors</sup>

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president,  
meeting and  
board.

until successors to them shall be duly chosen; but whenever a vacancy in the office of director shall happen by death, resignation, inability to act, removal or otherwise, the remaining directors shall by a majority of a board choose a director to continue in office till the election in course; the directors must be stockholders and the office of a director shall be vacated by his ceasing to be a stockholder; the directors shall choose one of the number to be president; they shall meet according to the by-laws of the corporation; any three of them shall form a board competent to transact business, and if the president shall be absent, a president may be appointed *pro tem*.

Powers of  
directors;

officers;

by laws;

Second. The directors shall have power to erect such buildings upon the property aforesaid, and to procure such machinery as they shall from time to time deem requisite; and to carry on such manufactures of cotton, and execute such plans as they shall think most advantageous for the corporation; to appoint and remove at their pleasure all such officers of the corporation as the by-laws shall require; to fix and pay the salaries and compensation of such officers, and if so directed by the by-laws to take from said officers respectively or any of them bond with surety as the by laws shall prescribe, and to employ workmen and labourers, and agree upon and pay their wages; to purchase materials, and make sales and employ agents and factors, and to do all acts requisite to carry into effect the purpose for which said company is established; and to this end to use and employ the capital stock and funds of the said corporation under such regulations as the by-laws may prescribe, and to bind by their contracts, deeds and writings under the hand of the president and the common seal of the corporation; all the property and estate, and common stock and joint funds of the said corporation; but not the persons or separate property of themselves or any of the stockholders; and further, the directors shall have power to make the by-laws for the government of said corporation and regulating the management of the business and concerns

thereof, and to revise, repeal and amend the same at pleasure. The by-laws among other things, shall prescribe the offices of the corporation, other than the president and directors, the bonds to be taken from any officers, the place or places of holding the meetings of the stockholders, the manner of calling occasional meetings, and the mode and regulations respecting the assigning the shares of the capital stock.

Third. There shall be an annual meeting of the stockholders, on the first Monday of April in every year during the continuance of the said corporation. If an election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved; but in such cases directors may be chosen at any occasional meeting regularly held. The first annual meeting shall be held on the first Monday of April, in the year of our Lord, one thousand eight hundred and twenty-three.

Annual meet-  
ing of stock-  
holders.

Fourth. In all meetings of the stockholders regularly held, those assembled may proceed to business; all elections of directors shall be by ballot and shall be decided by plurality of votes given; and all other questions which shall come before the stockholders shall be determined by the majority of votes given: in all elections of directors and upon every subject and question which shall come before the stockholders at their meetings, the stockholders respectively shall be entitled to as many votes as they respectively shall hold shares; one vote for every share; and the stockholders respectively, who may be absent from such meeting, shall be entitled to vote by proxy in all such elections and upon every such subject and question.

Manner of  
voting, &c.

Fifth. No director shall be entitled to any emolument except the same shall have been allowed by the stockholders in regular meeting.

No emolu-  
ment to direc-  
tors unless &c.

annual ac-  
counts.

Sixth. The directors shall make annual dividends of the clear profits of the business of the corporation, or of such parts of said clear profits as may be deemed advisable. The time of making the dividends shall be appointed by the by-laws. The directors shall lay before the stockholders, at the annual meeting a general account of the stock, funds, debts, credits, profit and loss of said corporation.

Shares as  
assignable

Seventh. The shares of the capital stock shall be personal property and shall be assignable subject to the regulation of the by-laws.

First meet-  
ing how cal-  
led;

SEC. 4. *And be it further enacted.* That in ten days after the books aforesaid shall be opened, if fifty thousand dollars of the said capital stock, shall be then subscribed, or as soon thereafter as the said sum of fifty thousand dollars of said stock shall be subscribed, the commissioners aforesaid or a majority of them shall call a meeting of the subscribers to the said capital stock to be held at a time and place by the said commissioners or a majority of them to be appointed, and shall give notice of such meeting and time and place thereof by advertisements in the newspapers published in the borough of Wilmington aforesaid, and in at least one newspaper published in the city of Philadelphia, ten days at least before the time of such meeting; and the subscribers, who shall assemble in such meeting, and the proxies of such as shall be absent, shall elect by ballot and plurality of votes given, five directors to continue in office until the first Monday of April, in the year of our Lord, one thousand eight hundred and twenty-three, and until successors to them shall be duly chosen; and the said directors shall have the powers and be liable to the regulations herein before prescribed and set forth in relation to directors, and shall come within the purview and effect of all the articles herein contained touching the directors to all intents and purposes; and as soon as said directors shall have elected a president, the commissioners aforesaid shall imme-

diately pay any sum of money, which they or any of them may have received upon the shares subscribed as aforesaid to the president and directors; and the said president and directors, and their successors, president and directors for the time being, of the corporation aforesaid, shall have full power and authority, from time to time as money shall be wanted, to call upon the stockholders respectively, for such parts of the amount of the shares of the capital stock aforesaid by them respectively subscribed for or held, as to the said president and directors shall seem necessary, until the whole amount of each and every the said shares shall be paid; (any sum which may have been paid to the commissioners, or any of them, according to the provision aforesaid, upon any share being deemed and allowed as a payment in part of the amount of such share:) *Provided always*, That the said president and directors shall not call more than one hundred dollars upon each share at any one time, and more than one call shall not be made in any one period of thirty days, and they shall give at least thirty days notice of each call by advertisements in the newspapers published in the borough of Wilmington aforesaid, and in one newspaper published in the city of Philadelphia; and if any stockholder or stockholders shall refuse or neglect to pay any part of the amount of any share or shares of said capital stock by them respectively subscribed for or held, which shall be so called for, for the space of sixty days after the time appointed for the payment thereof in such call, such stockholder or stockholders shall forfeit and pay to the said president and directors the rate of ten per cent. upon the whole sum by such stockholder or stockholders previously paid, and in case such part with such forfeiture shall not be paid to the said president and directors within sixty days after incurring said forfeiture such stockholder or stockholders shall forfeit and pay to the said president and directors the further rate of ten per cent. upon the whole sum previously paid, and so a forfeiture of ten per cent. upon the whole sum previously paid shall be incurred by all and every the stockholders so refusing or neglecting

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calls of sub-  
scriptions;for forfeiture  
for non pay-  
ment,

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to pay any part of the amount of their respective shares called for, with the forfeitures, at the expiration of every succeeding period of sixty days, during which such part and forfeitures shall be suffered to remain unpaid, until the forfeitures shall amount to the whole sum previously paid by such stockholder or stockholders respectively, and then the whole sum, which shall have been thus paid, shall be forfeited to the corporation and the share or shares, upon which the same shall have been thus paid, shall return to the corporation and may be disposed of at their will and pleasure: and no stockholder who shall refuse or neglect to comply with any call so made, shall during such refusal or neglect, be entitled to vote at any meeting of the stockholders; or to demand or receive any dividend.

*SEC. 5. And be it further enacted, That if no*

Shares not  
subscribed or  
forfeited how  
disposed of.

payment shall be made upon a share at the time of subscribing, and if the part of the amount of such share first called by the president and directors shall not be paid within sixty days after the time appointed in the call for payment thereof, the said president and directors may declare the share forfeited, and in that case the same may be disposed at the pleasure of the corporation; or they may in the name of the corporation sue for and recover the part so called for; and it shall be lawful for the president and directors, and they shall have full power and authority to dispose of all the shares of the capital stock aforesaid, which shall not be subscribed for in the books to be opened as aforesaid, and all the shares which may be forfeited as aforesaid, for the interest of the institution; and for that purpose to open books for receiving subscriptions or adopt such other measures as may be deemed advisable, subject to such regulations as may be prescribed by the by-laws; and the persons who shall become proprietors of said shares shall be members of said corporation as fully and effectually as the original subscribers, under such restrictions as the by-laws may impose.

SEC. 6. *And be it further enacted,* That this act shall be and the same is hereby declared to be a public act and as such shall be taken notice of and received to all intents and purposes.

Public act.

## CHAPTER CXIII.

*AN ACT to incorporate the Kent cotton manufacturing company.*

SECTION 1. *BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That a company shall be established for the purpose of carrying on manufactures of cotton in Kent county; the capital stock of said company shall not exceed one hundred thousand dollars divided into a thousand shares, at one hundred dollars each.

Company established;

location;

capital and No. of shares

SEC. 2. *And be it further enacted,* That Benjamin Coombe, John M. Clayton, William W. Morris, Joseph G. Rowland, Dr. John Burton, Spencer Williams and Ezekiel Cowgill, shall be commissioners, and they or any two of them are authorized to receive subscriptions to the said capital stock, and to open books for that purpose, at such time and at such place in the town of Dover, as they or any two of them may appoint, giving at least ten days notice thereof in the newspapers published in the borough of Wilmington; and the said books shall continue open until the said commissioners shall deem proper to close the same, or until the first election of directors hereinafter prescribed; any person, copartnership or corporation may subscribe for any number of shares of the said capital stock; and subscriptions may be made by proxy as well as in person; the said commissioners receiving such subscriptions may, if a majority of the aforementioned commissioners shall so determine, require payment at the time of subscribing, at the rate of ten per cent. of the amount of each share subscribed for, and the balance of the shares, or the amount thereof,

Subscriptions

capital, how payable;

post sec. 4 if no payment shall be required or made thereon respectively, at the time of subscribing, shall be paid to the president and directors upon calls as hereinafter provided.

Incorporation  
continuance  
and powers.

restriction.

SEC. 3. *And be it further enacted,* That the subscribers to the said capital stock, their successors and assigns shall be, and they are hereby created a corporation by the name of "The Kent cotton manufacturing company," and shall continue so until the first day of May, in the year of our Lord, one thousand eight hundred and fifty, and by that name shall have power and capacity to sue and be sued, in courts of law or equity, to purchase, take, enjoy, sell and alien, lands, tenements, hereditaments, goods, chattels and effects, of any kind, nature, and quality which may be connected with, or conducive to the purpose for which said company is established; to have a common seal, to ordain by-laws for their own government, not repugnant to the constitution and laws of this State or of the United States; and to enjoy the franchises incident to a corporation: *Provided always,* That it shall not be lawful for the said corporation, and they not have power to loan money upon interest, and that the said corporation shall not have nor exercise any banking powers whatever. The following articles shall be, and the same are hereby enacted fundamental articles of the constitution of said corporation:

Fundamental  
articles  
Directors:

First. The business and concerns of the said corporation shall be managed by five directors. The directors shall be elected by the stockholders. The first election shall be held as hereinafter appointed; and all elections of directors after the first, shall be held at the annual meeting of the stockholders. The directors shall continue in office until the annual meeting next succeeding their election, and until successors to them shall be duly chosen; but whenever a vacancy in the office of director shall happen by death, resignation, inability to act, removal or otherwise, the remaining directors shall by a majority of a board choose a director to con-

finue in office till the election in course; the directors must be stockholders and the office of a director shall be vacated by his ceasing to be a stockholder; the directors shall choose one of their number to be president; they shall meet according to the by-laws of the corporation; any three of them shall form a board competent to transact business, and if the president shall be absent, a president may be appointed *pro tem*.

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president,  
meeting and  
board.

Second. The directors shall have power to purchase such lands and water rights, and erect such buildings in Kent county aforesaid, and to procure such machinery as they shall from time to time deem requisite; and to carry on such manufactures of cotton, and execute such plans as they shall think most advantageous for the corporation; to appoint and remove at their pleasure all such officers of the corporation as the by-laws shall require; to fix and pay the salaries and compensation of such officers, and if so directed by the by-laws to take from said officers respectively, or any of them bond with surety as the by-laws shall prescribe, and to employ workmen and labourers, and agree upon and pay their wages; to purchase materials, and make sales and employ agents and factors, and to do all acts requisite to carry into effect the purpose for which said company is established; and to this end to use and employ the capital stock and funds of the said corporation under such regulations as the by-laws may prescribe; and to bind by their contracts, deeds and writings under the hand of the president and the common seal of the corporation. all the property and estate, and common stock and joint funds of the said corporation; but not the persons or separate property of themselves or any of the stockholders; and further, the directors shall have power to make the by-laws for the government of the said corporation and regulating the management of business and concerns thereof, and to revise, repeal and amend the same at pleasure: the by laws among other things shall prescribe the offices of the corporation, other than the president and directors; the bonds to be taken

Powers of  
directors;

officers;

by laws;

what by-laws  
must pre-  
scribe;

from any officers the place or places of holding the meetings of the stockholders; the manner of calling occasional meetings, and the mode and regulations respecting the assigning the shares of the capital stock.

Annual mee-  
ting of stock-  
holders.

Third. There shall be an annual meeting of the stockholders, on the first Monday of April, in every year during the continuance of said corporation; if an election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not on that cause be dissolved; but in such cases directors may be chosen at any occasional meeting regularly held; the first annual meeting shall be holden the first Monday of April, one thousand eight hundred and twenty-three.

Manner of  
voting, &c.

Fourth. In all meetings of the stockholders regularly held, those assembled may proceed to business; all elections of directors shall be by ballot, and shall be decided by plurality of votes given; and all other questions which shall come before the stockholders shall be determined by the majority of votes given; in all elections of directors and upon every subject and question which shall come before the stockholders at their meetings, the stockholders respectively, shall be entitled to as many votes as they respectively, shall hold shares, one vote for every share; and the stockholders respectively, who may be absent from such meetings shall be entitled to vote by proxy, in all such elections, and upon every such subject and question.

No emola-  
ment to direc-  
tors, unless &c.

Fifth. No director shall be entitled to any emolument except the same shall have been allowed by the stockholders in regular meeting.

Shares as-  
signable.

Sixth. The directors shall make annual dividends of the clear profits of the business of the corporation, or of such part of said clear profits as may be deemed advisable: the time of making the dividends shall be appointed by the by-laws: the directors shall lay before the stockholders, at the

annual meeting a general account of the stock, funds, debts, credits, profit and loss of the said corporation.

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Seventh. The shares of the capital stock shall be personal property and shall be assignable subject to the regulation of the by-laws. Shares 29.

SEC. 4. *And be it further enacted,* That in ten days after the books aforesaid shall be opened, if twenty-five thousand dollars of the said capital stock shall be then subscribed, or as soon thereafter as the said sum of twenty five thousand dollars of said stock shall be subscribed, the commissioners aforesaid or a majority of them shall call a meeting of the subscribers to the said capital stock to be held at a time and place by the said commissioners or a majority of them to be appointed, and shall give notice of such meeting and the time and place thereof by advertisements in the newspaper published in the borough of Wilmington aforesaid, and in at least one newspaper in the city of Philadelphia, ten days at least before the time of such meeting; and the subscribers, who shall assemble in such meeting, and the proxies of such as shall be absent, shall elect by ballot and plurality of votes given, five directors to continue in office until the first Monday of April, one thousand eight hundred and twenty-three, and until successors to them shall be duly chosen; and the said directors shall have the powers and be liable to the regulations herein before prescribed and set forth in relation to directors, and shall come within the purview and effect of all the articles herein contained touching directors to all intents and purposes; and as soon as said directors shall have elected a president, the commissioners aforesaid shall immediately pay any sum of money, which they or any of them may have received upon the shares subscribed as aforesaid to the said president and directors; and the said president and directors, and their successors, president and directors for the time being, of the corporation aforesaid, shall have full power and

calls of sub-  
scriptions;

forfeiture  
for non pay-  
ment.

authority, from time to time as money shall be wanted, to call upon the stockholders respectively, for such parts of the amount of the shares of the capital stock aforesaid by them respectively subscribed for or held, as to the said president and directors shall seem necessary, until the whole amount of each and every the said shares shall be paid; (any sum which may have been paid to the commissioners, or any of them, according to the provision aforesaid, upon any share being deemed and allowed as a payment in part of the amount of such share:) *Provided always*, That the said president and directors shall not call more than twenty dollars upon each share at any one time, and more than one call shall not be made in any one period of thirty days, and they shall give at least thirty days notice of each call by advertisements in the newspapers published in the borough of Wilmington aforesaid, and one newspaper published in the city of Philadelphia; and if any stockholder or stockholders shall refuse or neglect to pay any part of the amount of any share or shares of said capital stock by them respectively subscribed for or held, which shall be so called for, for the space of sixty days after the time appointed for the payment thereof in such call, such stockholder or stockholders shall forfeit and pay to the said president and directors the rate of ten per cent. upon the whole sum by such stockholder or stockholders previously paid, and in case such part with such forfeiture shall not be paid to the said president and directors within sixty days after incurring said forfeiture such stockholder or stockholders shall forfeit and pay to the said president and directors the further rate of ten per cent. upon the whole sum previously paid, and so a forfeiture of ten per cent. upon the whole sum previously paid shall be incurred by all and every the stockholders so refusing or neglecting to pay any part of the amount of their respective shares called for, with the forfeiture, at the expiration of every succeeding period of sixty days, during which such part and forfeitures shall be suffered to remain unpaid, until the forfeitures shall amount to the whole sum previously paid by such

stockholder or stockholders respectively, and then the whole sum, which shall have been thus paid, shall be forfeited to the corporation and the share or shares, upon which the same shall have been thus paid, shall return to the corporation and may be disposed of at their will and pleasure: and no stockholder who shall refuse or neglect to comply with any call so made, shall during such refusal or neglect, be entitled to vote at any meeting of the stockholders; or to demand or receive any dividend,

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SEC. 5. *And be it further enacted,* That if no payment shall be made upon a share at the time of subscribing, and if the part of the amount of such share first called by the president and directors shall not be paid within sixty days after the time appointed in the call for payment thereof, the said president and directors may declare the share forfeited, and in that case the same may be disposed of at the pleasure of the corporation; or they may in the name of the corporation sue for and recover the part so called for; and it shall be lawful for the president and directors, and they shall have full power and authority to dispose of all the shares of the capital stock aforesaid, which shall not be subscribed for in the books to be opened as aforesaid, and all the shares which may be forfeited as aforesaid, for the interest of the institution; and for that purpose to open books for receiving subscriptions or adopt such other measures as may be deemed advisable, subject to such regulations as may be prescribed by the by laws; and the persons who shall become proprietors of said shares shall be members of said corporation as fully and effectually as the original subscribers, under such restrictions as the by-laws may impose.

Shares not  
subscribed or  
forfeited how  
disposed of.

SEC. 6. *And be it further enacted,* That this act shall be and the same is hereby declared to be a public act and as such shall be taken notice of and received to all intents and purposes.

Public act.

PASSED AT DOVER, }  
6 February, 1822. }

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## CHAPTER CXIV.

1822.

AN ACT *declaratory of the law respecting slaves in certain cases.*

BE IT ENACTED AND DECLARED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That any person who shall occupy a farm or tract of land through which the line of this State may pass, such person of right may cause his or her slave to labour on the said farm or tract of land on either side of the said State line, without incurring any forfeiture; nor doth such slave by reason thereof become entitled to his or her freedom.

Occupiers of lands through which State line runs—  
may work their slaves on the same on either side the line.

PASSED AT DOVER, }  
4 February, 1822. }

## CHAPTER CXV.

AN ACT *provisionally to vacate the road leading from the Newport and Gap turnpike road to Phillips' factory.*

SECTION 1. 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, such part of the road leading from Milltown to Wilmington as lies between the Newport and Gap turnpike road and Phillips' factory and passing by the dwelling-house of David Justice, in Millcreek hundred, and falling into the road leading from the said turnpike to the said factory, be and the same is hereby vacated.

Road vacated.

Proviso. SEC. 2. *Provided nevertheless*, If at any time the managers and company of the said Gap and Newport turnpike company should erect a toll gate on the said turnpike road between the junction of the said vacated road and the road leading

from the turnpike to the aforesaid Philips' factory; or in any other way stop the free passing and re-passing of travellers on the said turnpike, then the first section of this act shall be null and void, any thing to the contrary notwithstanding: *And provided further*, that the commissioners of roads in and for Mill-creek hundred, for the time being, or a majority of them, shall approve of and allow, the said road to be vacated as aforesaid, otherwise this act to be void and of no effect.

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PASSED AT DOVER, }  
February 4, 1822. }

## CHAPTER CXVI.

A SUPPLEMENT to the act entitled "*An act to incorporate a number of the physicians of the Delaware State, and for other purposes therein mentioned.*" See Appendix post.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That "The President and Fellows of the Medical Society of Delaware," at their annual stated meeting to be held in pursuance of the act to which this is a supplement, shall have full power and authority, by a majority of those assembled, to appoint a medical board of examiners for the State of Delaware; the said board shall be composed of so many members as the said society shall from time to time determine; the said members shall be elected by ballot and by a majority of the Fellows of said Medical Society assembled at such annual stated meeting; in case of an equal division of votes the officer in the chair at the time shall have the casting vote; the said members shall continue in office until the annual stated meeting of the said President and Fellows of said Medical Society next ensuing their election and afterward until successors to them respectively shall be duly elected.

**SEC. 2.** *And be it further enacted,* That the said *Powers of the* medical board of examiners shall appoint a president and a secretary of the said board, and shall *board of examiners to* grant licenses to be signed by the president and countersigned by the secretary, for the practice of medicine and surgery in this State; and they are required to grant such license to any person applying therefor, who shall produce a diploma from a respectable medical college, or shall, upon full and impartial examination, be found qualified for the practice of medicine and surgery.

**SEC. 3.** *And be it further enacted,* That "The President and Fellows of the Medical Society of Delaware" shall have power by a majority of those assembled at an annual stated meeting, or at any *Powers of the* occasional meeting legally held, to appoint the time or times and place or places of meeting of the said medical board of examiners, and to determine the number of members necessary to constitute a board for the transaction of business; and to make and ordain rules and ordinances for the government of the said medical board of examiners: *medical society in relation* *to the board of examiners.* *Provided* the same be not repugnant to the laws and constitution of this State or of the United States: *And provided also,* That a majority of a board of examiners duly constituted shall have power to grant licenses.

**SEC. 4.** *And be it further enacted,* That for each license to be granted by the said board, the person obtaining the same shall pay to the secretary the sum of ten dollars, to be by him paid to the treasurer of the said Medical Society. *Fees for licenses;*

**SEC. 5.** *And be it further enacted,* That any three members of the said board of examiners may give to a person soliciting permission to commence the practice of medicine and surgery in this State, a certificate containing such permission to continue in force until the next regular meeting of said board and no longer: *certificates in certain cases;* *Provided,* That such three members shall by examination of the person soliciting permission, or by diploma from a respectable medical college, be satisfied with his qualifications; and *how long in force.*

a second certificate shall not be granted to the same person.

SEC. 6. *And be it further enacted*, That no person, who is not at the time of passing this act, a practitioner of medicine and surgery in this State, or who is not residing in and regularly admitted to practice medicine and surgery in some other State, shall hereafter practise medicine or surgery, and receive or demand any fee or reward therefor, in this State, without having first obtained from the aforesaid medical board of examiners a license for that purpose, or without having at the time of such practice, permission by certificate given as aforesaid and then in force; and every person who shall offend against this section and shall thereof be convicted upon indictment in the court of general quarter sessions of the peace and jail delivery within the county where such offence or offences shall be committed, shall, for every such offence, be fined in a sum not less than fifty dollars, nor more than one thousand dollars, according the discretion of the court, and be adjudged to pay the costs of prosecution. <sup>Prohibition against practising medicine, &c without license or certificate;</sup> <sup>and fine therefor.</sup>

SEC. 7. *And be it further enacted*, That all the physicians named in the first section of the act of the General Assembly of this State, entitled "An act to regulate the practice of medicine and surgery in this State," passed at Dover, 29 January, 1819, who are now living and not members of the society aforesaid, shall immediately upon the acceptance of this act by "The President and Fellows of the Medical Society of Delaware" become and be in virtue of such acceptance, members of the said corporation, and be vested with all the rights, immunities and privileges of such members to all intents and purposes whatsoever. <sup>Vol. 5, p. 381, sec. 1. Physicians, who shall in virtue of acceptance of this act be member of the medical society.</sup>

SEC. 8. *And be it further enacted*, That if "The President and Fellows of the Medical Society of Delaware," shall at their next annual stated meeting or some other regular meeting, by a majority of those assembled, accept the seven foregoing sections <sup>Acceptance of this act, how made & signified;</sup>

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if accepted to  
become part  
of charter.

of this act as part of their charter of incorporation and shall signify such acceptance to the Governor by writing, under the hands of their president and secretary, within three months hereafter, to be by the Governor communicated to the General Assembly, then the said seven sections of this act shall become and be a part of the charter of incorporation of the said President and Fellows of the Medical society of Delaware as fully and effectually to all intents and purposes as if the same had been contained in the act to which this is a supplement.

Copy of original act, in the book of records of the medical society, evidence;

how exemplified;

and published  
—see appendix post.

SEC. 9. *And be it further enacted*, That the copy of the act to which this is a supplement, contained in the book of the records, of the said President and Fellows of the Medical Society of Delaware, shall be competent and sufficient evidence of the said act for all purposes; and the secretary of the said Medical Society is required to make a true exemplification of the said copy of said act contained in the said book of records, and to produce the said book to the secretary of State, who shall collate said exemplification therewith; and the said exemplification being certified by the secretary of State, shall be filed with the roll of this act, and shall be evidence in like manner as an original roll: and the same shall be published in the edition of the laws of this session, and the printed copy shall be evidence in like manner as other printed laws.

Repeal, chap. cexi, vol. 5, p. 380.

SEC. 10. *And be it further enacted*, That the act entitled, "An act to regulate the Practice of Medicine and Surgery in this State," passed at Dover, 29 January, 1819, be and is hereby repealed.

If acceptance not signified the act to cease.

evidence of acceptance.

SEC. 11. *And be it further enacted*, That if the said President and Fellows of the Medical Society of Delaware shall not signify to the Governor their acceptance of this act within nine months from the passing thereof, it shall cease; and that the printed journal of the Senate or the printed journal of the House of Representatives, containing the message of the Governor, communicating to the General Assembly the fact that the acceptance of this

act has been signified to him, shall be conclusive evidence to prove that this act has been accepted by the said President and Fellows of the Medical Society of Delaware, and that such acceptance has been signified to the Governor, and every fact stated in said message upon the subject.

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1822.

PASSED AT DOVER, }  
February 4, 1822. }

## CHAPTER CXVII.

A SUPPLEMENT to the act entitled, "*An act to incorporate a company for cutting and opening two canals to facilitate the navigation of Christiana creek.*" Ante 45, chap. xliii.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That when and as soon as the "Christiana canal company" shall have opened and completed the first two canals mentioned and described as being forty-six perches in length in the fifth section of the act to which this is a supplement, and shall have rendered the navigation of the same easy and convenient, according to the true intent and meaning of the said act, it shall and may be lawful for the said company by their officers or agents appointed for that purpose to demand and receive for the passage of shallops, two-thirds of the rate of toll, and for scows and rafts the rates of toll mentioned in the original act to which this is a supplement: *Provided however,* When the company may demand tolls, *provises* that nothing in this act contained shall be deemed or construed to prevent the Christiana canal company from demanding and receiving the whole rates of tolls from shallops mentioned in the act to which this is a supplement, as soon as the said company shall have made and completed the two canals therein mentioned.

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CXVII.

1822.

Power to en-  
ter upon lands  
of Samuel  
Johnston;

proviso.

SEC. 2. *And be it further enacted by the authority aforesaid,* That when the "Christiana canal company" shall deem it expedient to open the lower canal through the lands of Samuel Johnston, mentioned and described in the fifth section of the act to which this is a supplement, they shall have power and they are hereby authorized with their engineers and workmen to enter upon as well the improved as the unimproved marsh and low grounds of Samuel Johnston, adjacent to the said canal, with full and free ingress, egress and regress, to, upon, over and through the same, whilst employed in surveying, laying out and opening the said canal: *Provided however,* that any damages which the said Samuel Johnston may alledge he has sustained, by reason of said canal passing through his improved, as well as his unimproved marsh or low grounds, shall be ascertained and paid as directed by the tenth section of the act to which this is a supplement.

Relief for Je-  
remiah Lew-  
den;

SEC. 3. *And whereas,* It has been represented to this General Assembly, that Jeremiah Lewden has been aggrieved by the report of referees appointed under and by virtue of the tenth section of the act to which this is a supplement: *And whereas,* the said Jeremiah is by the provisions of said act without remedy, *Therefore be it enacted by the authority aforesaid,* That any judge or judges of the supreme court of this State, shall on application to him or them made by the said Jeremiah or his executors or administrators, either in vacation or during a term of said court, appoint three good and sufficient freeholders, who, after being sworn or affirmed, well and truly to ascertain and fix the damages sustained by the said Jeremiah, by reason of cutting and opening any canal or canals authorized to be cut by the act to which this is a supplement, through the marshes or lands of the said Jeremiah, shall proceed to ascertain and determine and assess the damages sustained by the said Jeremiah, by reason of the said canal or canals *ex parte*, on five days notice to be given to the president or any manager of the company in-

incorporated by said act to which this is a supplement, and the said Jeremiah, respectively, of the time and place of meeting of the said referees, who, or a majority of them shall make their report in writing, affixing their hands and seals thereto, and shall return the same to the said supreme court at the next term after making, signing and sealing the said report; which report so returned, shall be final and conclusive, and judgment shall be entered thereon, and any property whatsoever belonging to the said company may be taken in execution and sold in satisfaction thereof unless the damages assessed by the referees hereby directed to be appointed as aforesaid be paid to the said Jeremiah, any thing in the act to which this is a supplement or in any other act of assembly of this State to the contrary notwithstanding; and unless the damages to be assessed as aforesaid be paid to the said Jeremiah within one month from the return of said report, the first and second sections of this act shall cease and be of no effect.

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the 1 & 2 sec.  
to cease un-  
less, &c.

SEC. 4. *And be it enacted*, That it shall and may be lawful for Samuel Johnston, his heirs or assigns if they shall think themselves aggrieved by the report of the freeholders for ascertaining what damages may have been sustained by cutting said canal, to apply to the supreme court or court of common pleas, who are hereby authorized and required to appoint five freeholders to go upon, view and examine the damages that may be sustained; and the said freeholders, after being sworn or affirmed, are hereby authorized and empowered to go upon, view and make a just estimate of the damage sustained and make report thereof to the court which said report shall be final and conclusive.

Remedy for  
Samuel John-  
ston.

PASSED AT DOVER, }  
4 February, 1822. }

CHAP.  
CXVIII.

## CHAPTER CXVIII.

1822.

AN ACT for the relief of *Hugh Jones of Newcastle county in this State.*PASSED AT DOVER, }  
4 February, 1822. }

PRIVATE ACT.

## CHAPTER CXIX.

5 vol. 320 ch.  
clxxix, 431,  
ch. cccxxxix.  
ante 77, chap.  
lvi.A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "*An act for the more easy and speedy recovery of small debts.*"

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That hereafter no justice of the peace shall issue any warrant for an injury done to real or personal property until the person applying for the same shall file with him a statement in writing, specifying the nature of the injury complained of, which statement so filed shall form a part of the record; and if it shall so happen that any justice of the peace shall issue a warrant in any case in which he has not jurisdiction he shall pay all the costs of the action if the court shall for that cause reverse the judgment on a *certiorari* or an appeal.

*In case of trespass before a justice.*

[4 vol 310, chap. cx ] Statement specifying the injury to be filed;

and the justice to pay the costs if he have not jurisdiction of the case.

SEC. 2. And be it further enacted, That hereafter no justice of the peace shall issue any warrant of attachment or *fieri facias* attachment other than against non-residents or persons absconded; and to obtain such attachment the person requesting the same, or some other credible person for him shall upon oath or affirmation declare that the defendant is justly indebted to the plaintiff in some certain sum of money, and as the case may be, is a non-resident or has absconded from the place of his or her usual abode, or is gone out of this State with an intent to deceive and defraud his or her creditors,

No attachment to be issued by a justice, except against non-residents or persons absconded, nor without Affidavit;

as it is believed, which said affidavit or affirmation shall be filed of record by the said justice issuing the said attachment, any law, usage or custom to the contrary notwithstanding.

SEC. 3. *And be it enacted,* That when any garnishee or garnishees shall be summoned under any warrant of attachment or *fieri facias* attachment issued in pursuance of the act to which this is an additional supplement, or of the act supplementary thereto, and the said garnishee or garnishees shall be put to plead, he, she or they, or the plaintiff or plaintiffs may demand a trial by freeholders as in other cases, and the said freeholders shall be sworn or affirmed, that they will honestly and impartially determine and report according to the evidence, whether the said garnishee or garnishees at the time of the attachment laid, or at any time after, had any money, goods, chattels, rights, credits or effects of the defendant or defendants in his, her or their hands, custody or possession liable to said attachment, or was indebted to the said defendant or defendants and the amount or value thereof if any, and if upon the report of the said freeholders the debt and damages shall amount to fifteen dollars and upwards the said garnishee and garnishees, plaintiff or plaintiffs shall be entitled to an appeal as is prescribed in other cases by the said act to which this is an additional supplement, or to a new trial as is prescribed in the first section of the act entitled "A supplement to the act entitled An act for the more easy and speedy recovery of small debts," which passed on the tenth day February, eighteen hundred and nineteen.

Proceedings against garnishees, on attachments, 5 vol. 332, sec. 28, 435, sec. 9;

5 vol. 326, sec. 12, appeal

431, 432, new trial.

SEC. 4. *And be it further enacted,* That whenever judgment shall be rendered by a justice of the peace against any garnishee or garnishees upon the report of freeholders or otherwise and the said garnishee or garnishees be a freeholder or freeholders, there shall be the same stay of execution as is directed in other cases by the act to which this is a further additional supplement, and in case the said garnishee or garnishees be not freeholders, then up-

Stay of execution—5 vol. 324, sec. 9.

CHAP.  
CXIX.

1822.

on giving security, he, she or they shall be entitled to the same stay of execution as is directed by the said act in other cases.

PASSED AT DOVER, }  
February 5, 1822. }

## CHAPTER CXX.

AN ACT *authorizing the sale and conveyance of certain lands of Jonathan Hunn, formerly of Kent county, deceased.*

PASSED AT DOVER, }  
February 5, 1822. }

PRIVATE ACT.

## CHAPTER CXXI.

AN ACT *to enable William Roberts to complete his title to certain vacant lands situate in Appoquinimink hundred and county of Newcastle,*

PASSED AT DOVER, }  
5 February, 1822. }

PRIVATE ACT.

## CHAPTER CXXII.

Ante 84, ch. lxiv. AN ACT *to repeal the act entitled "An act enjoining certain duties on collectors, and varying their compensation."*

Repeal of ch. 64, ante; SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the act entitled "An act enjoining certain duties on collectors, and varying their compensation," passed on the second day of February, in the year of our Lord, one thousand eight hundred and twenty-one, be and the same is hereby repealed made null and void: *Pro-*

*vided nevertheless*, that the repeal of the said act <sup>proviso.</sup> shall not in any manner be deemed, construed or taken to prevent the collection of any portion of the taxes laid for the year one thousand eight hundred and twenty-one, and which were to be collected under and by virtue of the said act, and which have not yet been collected; or to deprive the collectors of any rights, privileges or forfeitures arising under the said act: but the said act and the provisions thereof shall extend to the collection of all taxes now in arrear for the aforesaid year one thousand eight hundred and twenty-one, and which have been put into the hands of collectors for collection thereof; and the compensation of the collectors for collecting the said taxes now in arrear as aforesaid shall be as in the said act is provided.

SEC. 2. *And be it further enacted by the authority aforesaid*, That the compensation and fees <sup>Fees of collectors settled</sup> to the several and respective collectors of this State, for collecting and paying over the State, county, road and poor taxes, and all other public taxes hereafter to be laid, assessed and levied in this State, shall be ascertained, settled and fixed with the several collectors by the State treasurer for collecting and paying over the State taxes; and by the <sup>as to State tax, by State treasurer;</sup> commissioners of roads in the several hundreds in <sup>as to road tax in Newcastle county by commissioners;</sup> Newcastle county, for collecting and paying over the road taxes in the several hundreds in that county; and by the levy court of Newcastle county, for collecting and paying over the poor and county taxes in that county; and by the levy courts of Kent and Sussex counties, respectively, for collecting and paying over the road, poor and county taxes in the said two last mentioned counties respectively: <sup>levy-court;</sup> *Provided nevertheless*, that the said compensation and fees to the said collectors, for collecting and paying over the said State, road, poor and county taxes, or any of them, or any portion thereof shall never exceed the rate of eight per centum, except in the hundreds of Newcastle and Christiana, in <sup>excess of allowance.</sup> Newcastle county, in which hundreds the said compensation shall not exceed the rate of six per centum.

Justices not to  
issue warrants  
for taxes;

exceptions.

SEC. 3. *And be it enacted,* That it shall not be lawful for any justice of the peace to issue any warrant in favour of any collector for the recovery of any tax or taxes hereafter to become due, excepting for the recovery of taxes against persons who may have removed out of the hundred, or against the estates of deceased persons: *And provided nevertheless,* that any collector, his executors or administrators may proceed to collect such tax or taxes by distress, and according to law, at any time after the same becomes due.

Collectors of  
Cedar creek  
and Baltimore  
hundreds to  
collect the  
taxes for 1821

SEC. 4. *And be it enacted by the authority afore-* said, That the collectors of Cedar creek, Little creek and Baltimore hundreds, in Sussex county, hereafter to be appointed, be and they are hereby authorized and required to collect, receive and pay over to the county treasurer and treasurer of the poor of said county, the several taxes laid for collection in their hundreds respectively for the year eighteen hundred and twenty-one, for which they shall have the same fees and commissions as shall be allowed under the second section of this act.

PASSED AT DOVER, }  
February 5, 1822. }

## CHAPTER CXXIII.

A SUPPLEMENT to the act entitled "*An act for the relief of Samuel L. Eccles and Joseph Eccles, of Newcastle county in this State.*"

PASSED AT DOVER, }  
February 5, 1822. }

PRIVATE ACT.

## CHAPTER CXXIV.

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CXXIV.

1822.

AN ACT *to extend the time of making the valuations of real and personal property within the county of Kent.*

WHEREAS the valuation of the real and personal property in some of the hundreds in the county of Kent, for the year one thousand eight hundred and twenty-two, has not been made and completed by the assessors of those hundreds respectively, within the times prescribed, and directed by an act of assembly of this State, entitled "An additional supplement to the act entitled An act for the valuation of real and personal property within this State."

Preamble,

3 vol. 361.

SECTION 1. *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 the valuations of the real and personal property within the hundreds of the said county of Kent, in which such valuations have not been made and completed as aforesaid, be and is hereby extended to the second Tuesday of February, in the year aforesaid, at which time the commissioners of the levy court and court of appeals of the said county, shall meet at the Court-house in the said county, and the said assessors shall also then and there attend before the said commissioners and return to them their several valuations of the real and personal property within their hundreds respectively; and the said commissioners shall then arrange the said valuations, and do and perform every act, matter and thing required of them to be done and performed, in as full and ample manner, as they might or could have done if the said valuations had been made, completed and returned within the time prescribed by law.

Time of making valuation in Kent, extended to 2 Tuesday of February;

Meeting of levy court.

SEC. 2. *And be it enacted,* That in case the said Commissioners or any of them shall not have completed and returned their valuations respectively, by the jour-  
ners of levy court may adjourn for pur-

posse of receiving returns. second Tuesday of February aforesaid, the said commissioners shall and may adjourn their meeting from time to time for the purpose of receiving the said valuations, until the said assessors shall have made and returned the same: *Provided* that such adjourned meetings shall not be extended beyond nor held after the last Tuesday of February aforesaid.

SEC. 3. *And be it enacted*, That within ten days after the assessments and valuations of the real and personal property in the said county shall have been arranged as aforesaid, the clerk of the peace of the said county shall set up or cause to be set up and published alphabetical lists in the manner prescribed, and in every respect according to the directions of the said act entitled "An additional supplement to the act entitled An act for the valuation of real and personal property in this State;" and that the said commissioners shall at any time not less than fifteen, nor more than twenty days after the said lists shall have been made out and hung up as aforesaid, meet at the Court house in the said county, for the purpose of hearing and remedying the complaints of all and every person and persons who may consider him, her or themselves unequally assessed or over rated, according to the directions of an act entitled "An act for raising county rates and levies;" and the assessors and each and every of them in the said county, shall at such time give daily attendance at the court of appeal aforesaid, under the penalty of twenty dollars for every neglect or refusal, to be recovered by indictment in the court of general quarter sessions of the peace to be applied to the use of the county.

Duty of the clerk of the peace.  
3 vol. 361, chap. clxiii.  
appeals,  
3 vol. 257.  
attendance of assessors and penalty for neglect.

SEC. 4. *And be it enacted*, That all and every officer and officers, and other persons required by law to appear before and attend on the said commissioners, shall appear before and attend on the said commissioners at the places and times required by this act; and shall then and there do and perform every act, matter and thing required of him or them in the same manner and under the like penalties,

Attendance of officers;

and to be recovered as is prescribed in the said act entitled "An act for the valuation of real and personal property in this State." per-2 vol. 1247.

SEC. 5. *And be it enacted*, That the clerk of the peace of the said county shall annex to or endorse upon each of the said alphabetical lists mentioned in the third section of this act, a notice under his hand and the seal of his office, stating the time and place of holding the said court of appeal. Clerk of the peace to endorse notice of holding court of appeals.

PASSED AT DOVER, }  
February 5, 1822. }

## CHAPTER CXXV.

AN ACT to enable "*The president, directors and company of the Commercial Bank of Delaware*" to close the concerns of that bank. Commercial Bank.

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the corporation and body politic made and created by the name and style of "The president, directors and company of the Commercial Bank of Delaware", by the act of the General Assembly of this State entitled, "*An act to establish a bank and incorporate a company under the name of the Commercial Bank of Delaware*," passed at Dover, February 9, 1812, shall be and the same hereby is continued and extended by and under the same name and style, for the purpose of closing the concerns of said corporation, but for no other intent or purpose whatever until the first day of March, in the year of our Lord, one thousand, eight hundred and twenty-four, and no longer; and the powers and privileges by the said act granted to said corporation are hereby continued and extended to the said corporation until the said day and year last mentioned, nevertheless to be used for the purpose aforesaid, and not otherwise, and subject to the modifications, limitations and conditions hereinafter enacted. 4 vol. 584, extended till March 1, 1824

prohibited fr.  
doing new bu-  
siness after  
Sept. 1, 1822.

**SEC. 2.** *And be it further enacted,* That it shall not be lawful for the said corporation and the same shall not have power to make any new loan after the first day of September next, nor to make any bills obligatory or of credit, nor to issue any bills or notes of the said corporation after the said last mentioned day.

Power to a-  
bolish the  
board of di-  
rectors—and  
establish one  
in lieu thereof

**SEC. 3.** *And be it further enacted,* That it shall be lawful for the stockholders of the Commercial Bank aforesaid, at their annual meeting on the first Thursday of May next, to abolish the boards of directors provided by the aforesaid act; and if the said stockholders shall by vote at the said annual meeting determine to abolish the said boards of directors, then from the time of such determination the provisions of the said act prescribing the number of directors, requiring an election of directors, and defining the powers of directors shall cease, and from and after such determination be repealed; and if the said stockholders at said meeting shall not determine to abolish the said boards of directors, then and in such case the said boards from and after the first day of September next, shall be discontinued, and the said provisions of said act prescribing the number of directors, requiring an election of directors, and defining the powers of directors shall cease and be repealed on and after the said first day of September next, and in lieu of the boards of directors so abolished, the conducting and closing the business and concerns of said corporation shall be committed to one board of directors, which shall consist of such number as the stockholders shall at the time of election prescribe; the said directors shall be chosen by the stockholders at the annual meeting on the first Thursday of May; they shall continue in office until the annual meeting of the stockholders next succeeding their election, and afterward until successors to them respectively, in office shall be chosen; the first board of directors under this act shall be chosen at the annual meeting on the first Thursday of May next; and their power shall commence immediately upon their election, if the boards aforesaid shall

be abolished by the stockholders, but if not, then upon the first day of September next; they shall choose one of their number to be president, and appoint cashiers, clerks and agents, one or more, as may be deemed expedient; the cashiers and clerks shall give bond with sureties as required by the act aforesaid; and the president, directors, cashiers and clerks shall take oath or affirmation as required by said act, the directors shall fix the compensation of the cashiers, clerks and agents.

SEC. 4. *And be it further enacted,* That the stockholders of the bank aforesaid shall meet annually at Smyrna, on the first Thursday of May, and may adjourn to such time and place, and from time to time as they may deem proper; and the said stockholders at such annual or adjourned meetings shall prescribe the times and place or places for the meeting of the directors, the number which shall be necessary to form a board, the compensation of the directors; and further, may make and ordain orders, regulations and ordinances, for the government of the directors, cashiers, clerks and agents in closing the concerns of said bank; provided the same shall not be repugnant to this act or the constitution and laws of this State or of the United States.

SEC. 5. *And be it further enacted,* That the directors shall make semi-annual dividends of the funds of said bank as the same shall be liquidated, collected and received: *Provided.* that a fund to meet the outstanding debts due from the bank, and all deposits shall always be reserved.

SEC. 6. *And be it further enacted,* That in all elections and upon every question which shall come before the said stockholders at their annual or adjourned meetings, the manner of voting shall be regulated by the first article of the eleventh section of the act aforesaid; and the stockholders may vote either in person or by proxy; the stockholders present at such meetings may always act; and every

power of the board.

Meeting of stockholders and their powers.

Dividends.

Manner of voting and proxies;

4 vol. 553.

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CXXV.

question shall be determined by the majority of votes voted.

1822.

Repeal of the  
tax.

SEC. 7. *And be it further enacted,* That the said corporation be and is hereby released from all further payments of tax upon the capital stock thereof, and the twentieth section of the act aforesaid is repealed.

Accounts and  
statements to  
be exhibited  
to stockhold-  
ers;

SEC. 8. *And be it further enacted,* That the present directors of the Commercial Bank aforesaid, shall at the meeting of the stockholders on the first Thursday of May next, lay before the stockholders a full and true account of all the business and concerns of said bank, shewing all the credits, funds and effects of the said bank, and all the debts and demands of every nature outstanding against them, and also a statement of all the name or names of the drawers and endorsers in bills or notes held by said bank, and all the obligors and defendants in bonds and judgments held by said bank, which said statement shall be verified by the oath or affirmation of the cashier with the amount due by all such bills, notes, bonds and judgments, and that the directors for the time being, hereafter shall at the meeting of the stockholders on the first Thursday of May, in each year, lay before the stockholders a similar account and statement, and that if the said corporation shall find it necessary to apply to the General Assembly for a further extension of their charter, they shall with their petition or application for that purpose exhibit a true copy of the account and statement, which shall have been laid before the said stockholders on the first Thursday of May, next preceding such application.

and to Gene-  
ral Assembly,  
if further ex-  
tension of  
charter appli-  
ed for.

PASSED AT DOVER, }  
6 February, 1822. }

## CHAPTER CXXVI.

CHAP.  
CXXVI.

1822.

A 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 Redlion and St. George's hundreds and county of Newcastle, and for keeping the dykes and dams belonging to the same in good order and repair.*"

PASSED AT DOVER, }  
6 February, 1822. }

PRIVATE ACT.

## CHAPTER CXXVII.

AN ADDITIONAL SUPPLEMENT to the act entitled, "*An act to incorporate a bank in the borough of Wilmington in this State.*" <sup>2 vol. 1256—</sup>  
<sup>4 vol. 524.</sup>

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act of the General Assembly of this State entitled, "*An act to incorporate a bank in the borough of Wilmington in this State,*" passed February 9, 1796, and the supplement to the said act passed at Dover, February 4, 1812, and every clause of the said act and supplement, except so far as the same shall be repealed or altered by the provisions of this act, shall continue and be in full force, and the same are hereby extended until the first day of September in the year of our Lord, one thousand, eight hundred and fifty-two, any thing in the said act and supplement contained to the contrary notwithstanding.

Charter continued till  
Sept. 1, 1852.

SEC. 2. And be it further enacted, That so much of the act aforesaid and of the aforesaid supplement thereto as limits the continuance of the said act or supplement to a shorter period than the <sup>Repeal—</sup>

chap. xcvi c  
sec. 13. 2 vol.  
1239

chap cxcvi,  
sec. 1. vol. 4,  
524.

4 vol. 527;  
ante 21, 23.

said first day of September, in the year of our Lord, one thousand, eight hundred and fifty-two, be repealed, and also that the seventh section of the said supplement passed as aforesaid, at Dover, February 4, 1812, and so much of the ninth section of the said supplement as relates to the said seventh section, and so much of the first and fourth sections of the act of the General Assembly of this State entitled, "An act for the continuance of certain banks therein mentioned. and for securing payments in specie, by the said banks to persons holding their notes", passed at Dover, 11 February, 1820, as relates to, or in any manner concerns "The president, directors and company of the Bank of Delaware", be and the same hereby are repealed and made null and void.

Chap. xxiv;  
ante 21.

SEC. 3. *And be it further enacted*, That so much of every other section of the said act of the General Assembly of this State entitled, "An act for the continuance of certain Banks therein mentioned and for securing payments in specie by the said Banks to persons holding their notes," as relates or in any manner concerns the said "President, directors and company of the Bank of Delaware," excepting always the said first and fourth sections of the said act. shall continue and be in force, and the same is hereby confirmed and extended until the said first day of September. in the year of our Lord, one thousand, eight hundred and fifty-two.

Tax.

SEC. 4. *And be it further enacted*, That as a condition of the passing of this act, the president, directors and company of the Bank of Delaware, shall from and after the passing of this act, semi-annually pay to the treasurer of this State, for the use of the State, at the rate of one fourth of one per centum per annum, on the whole capital stock of the said bank actually paid in, for and during the continuance of the charter of the said bank hereby granted.

SEC. 5. *And be it further enacted*, That the said president, directors and company of the Bank of Delaware shall certify to the Governor of this State by certificate under the hand of the president and the seal of the bank, their acceptance of this act, within nine months from the passing hereof, and this act shall from the time when the said president, directors and company of the Bank of Delaware, shall so certify their acceptance thereof to the Governor, become and be a part of their charter of incorporation, as fully and effectually to all intents and purposes as if the same had been a part of the act to which this is a supplement; the tenor of which certificate the Governor shall communicate to the General Assembly by message; and the printed journal of the Senate or the printed journal of the House of Representatives shall be good and conclusive evidence of such message, and of such acceptance being so certified, and of every fact in said message stated, to all intents and purposes; but if such acceptance shall not be certified, this act shall be void.

Acceptance of this act to be certified to the Governor;  
what evidence thereof;

PASSED AT DOVER, }  
7 February, 1822. }

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## CHAPTER CXXVIII.

AN ACT to repeal certain parts of the act to establish a college in the village of Newark or its vicinity, in Newcastle county and State of Delaware and for other purposes.

Ante chap. xlix, pa. 61.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh sections of the act entitled, "An act to establish a college in the village of Newark or its vicinity, in Newcastle county, in the State of Delaware and for other purposes," passed at a session of the Ge-

Repeal 66--70.

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neral Assembly of this State, begun and holden at Dover, on Tuesday the second day of January, in the year of our Lord, one thousand, eight hundred and twenty-one, be and the same are hereby repealed, made null and void: *Provided nevertheless*, that all taxes, duties, fines and forfeitures which have accrued or which have been incurred under the said act, and which have not been paid shall be paid and recovered as if this act had not been passed.

PASSED AT DOVER, }  
7 February, 1822. }

## CHAPTER CXXIX.

AN ACT to enable William West, of Sussex county, to bring into this State a certain negro girl from the State of Maryland.

PASSED AT DOVER, }  
7 February, 1822. }

PRIVATE ACT.

## CHAPTER CXXX.

AN ACT to enable the owners and possessors of the marsh, cripple and low grounds, lying upon Black bird creek in Newcastle county, to bank and drain the same.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the owners and possessors of the marsh, cripple and low grounds, lying in Appoquinimink hundred, Newcastle county and State of Delaware, lying upon both sides of Black-bird-creek below Matthews' landing, and extending to the river Delaware, shall compose a company to be called "The Black-bird creek marsh company," and shall have full power and authority to bank the same by making and constructing a suitable bank or banks, dam or dams,

Description  
of the marsh;Name of the  
company;

with the requisite trunks and sluices, extending <sup>general pow-</sup> from such place, upon the point of upland of <sup>ers.</sup> Rock Farm, late of Cantwell Jones now of John Sites, &c. of J. Milligan, to such place upon the upland, on the <sup>banks.</sup> southerly side of said creek at or below the tide-mill-point, across the said creek, as shall be deemed most suitable for those purposes, in such site, sites and directions, and of such form and dimensions as shall be deemed most proper for said purposes; and to keep and maintain the said banks, dams, trunks and sluices amended and in good order and repair; and to make such additions to or alterations either in form or dimensions of said banks or dams, trunks or sluices as may be deemed expedient.

SEC. 2. *And be it further enacted,* That there shall be an annual meeting of the owners and pos- <sup>Annual meet-</sup> sessors of the aforesaid marsh, cripple and low <sup>ings;</sup> grounds, on the first Monday of March, in every year hereafter, at Taylor's bridge; of which meeting and the house where the same will be held, the managers for the time being or a majority of <sup>notified;</sup> them shall give ten days notice by advertisements posted, at said bridge, and in two other of the most public places of Appoquinimink hundred aforesaid; at which meeting the said owners and possessors shall choose by ballot, and a majority of the votes, one treasurer and three managers for the <sup>officers chosen</sup> year ensuing such meeting; and shall do and determine upon all such matters and things as shall be deemed requisite; and the managers for the time being or a majority of them may call occasional meet- <sup>occasional</sup> ings of the said owners and possessors to be hel- <sup>meetings how</sup> at Taylor's bridge aforesaid, by giving ten days <sup>called and no-</sup> notice of the time and place of such meetings by <sup>tified;</sup> advertisements posted in three or more of the most public places in the hundred aforesaid, and five days personal notice to all the said owners and possessors residing in Newcastle county aforesaid, if known to said managers; at which occasional meetings like acts may be done as at the annual meetings, and in all meetings of said company a guardian of any minor owner or possessor shall be en-

proxies;

restriction of  
power of  
meetings.

titled to vote, and any owner residing out of the State or unable to attend, may vote by proxy, duly constituted in writing under hand and seal, and before two witnesses; and at all such meetings all questions shall be determined by a majority of the votes actually and legally voted, and the determinations shall be binding upon the whole company: *Provided always*, That none of the provisions of this act shall be interfered with or liable to be defeated by any act or determination of any such meeting; but any act or determination of that nature shall be absolutely void.

SEC. 3. *And be it further enacted*, That the first annual meeting of the said company, for the choice of officers shall be held on the first Monday of March, in the year of our Lord, one thousand, eight hundred and twenty-three; but meetings may be held to fill vacancies or other matters, according to the preceding section.

Present man-  
agers;present treas-  
urer;continuance  
in office—fail-  
ure to elect;

vacancies.

SEC. 4. *And be it further enacted*, That Arnold S. Naudain, John Collins and Robert Johnson, be and they are hereby appointed managers of the company aforesaid, to continue in office until the first Monday of March, in the year of our Lord, one thousand, eight hundred and twenty-three, and afterwards until successors to them respectively shall be duly chosen; and that Peter Staats, be and he is hereby appointed treasurer of said company to continue in office until the said first Monday of March, in the year of our Lord, one thousand, eight hundred and twenty-three, and afterward until a successor to him shall be duly chosen; and every manager and treasurer hereafter to be chosen shall continue in office until the first Monday of March next, after such choice, and afterward until a successor to them respectively shall be duly chosen; and if said officers or either of them shall not be chosen at the annual meeting or in case of a vacancy in either of said offices by death, resignation, removal from the county, or refusal to serve, the choice may be made or the vacancy filled at any occasional meeting duly called.

SEC. 5. *And be it further enacted,* That the treasurer aforesaid shall on or before the twentieth day of March next, and every treasurer hereafter to be chosen shall within twenty days next ensuing such choice, enter into an obligation, with at least one sufficient surety, to be approved by the managers, or a majority of them, for the time being, to the company aforesaid, in the penal sum of two thousand dollars, conditioned that he will use due diligence in collecting all monies which as such treasurer he shall be authorized to receive; that he will on sight, pay all orders drawn upon him by the managers of the aforesaid company or a majority of them, so far as he shall have in hand money for that purpose; and that he will, from time to time, account with the said managers for all monies that shall come to his hands, as may be reasonably required; and that he will pay any balance in his hands to his successor in office or to such other person as the said company may at any annual or occasional meeting under this act direct; that he will deliver to his successor all books of account and papers touching said office; and that he will in all things faithfully discharge the trust reposed in him; and lay before the company, when required, a full and true account of his receipts and disbursements; which said obligation may be sued and proceeded on to judgment and execution in the name of said company; the commissions of the treasurer on all monies which he shall collect shall be five per cent. <sup>Treasurer to give bond.</sup>

SEC. 6. *And be it further enacted,* That it shall be the duty of the managers aforesaid, and of the managers hereafter to be chosen in pursuance of this act to enter upon the aforesaid marsh, cripple and low grounds, and cause and procure the same to be well and effectually banked and drained at the proper costs and charges of the company aforesaid; and to that end the managers aforesaid and the managers who shall hereafter be chosen, are empowered and enjoined to make and construct a good and sufficient dam across the aforesaid Black-bird-creek, at such place as they or a majority of <sup>Powers & duties of managers,</sup>

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them shall find to be most suitable for the purpose; and to make and construct good and sufficient banks from such point of the upland of Rock Farm aforesaid, to such point of the upland on the southerly side of said creek, at or below the tide-mill-point as shall be deemed by the said managers, or a majority of them, most suitable, and in such sites and directions, and of such form and dimensions as the said managers, or a majority of them, shall think proper for those purposes, and to make and construct all such trunks and sluices as the said managers or a majority of them shall deem requisite; and when the said dam and banks shall be completed, it shall be the duty of the managers, for the time being, to cause and procure the said dam, banks, trunks and sluices to be kept and maintained, amended and in good and sufficient order and condition, and such additions or alterations to be made to or of said dams, banks, trunks and sluices as may be deemed expedient, also at the proper costs and charges of said company; and for the purpose of making, constructing, amending, adding to, or altering the said dam, banks, trunks and sluices the managers aforementioned, and all managers hereafter to be chosen in pursuance of this act, for the time being, or a majority of them, shall have full power and authority, and they are enjoined and required to employ all such workmen and labourers, and to procure and purchase all such materials as they may think fit; and further shall have full power and authority to dig, take and carry away mud, wherever it may be convenient, without any expense or charge for such mud; and they are hereby enjoined from time to time, to enter upon, inspect and carefully examine the said dam, banks, trunks and sluices, and to keep the said dam and banks at least three feet above common tides, and of a proportionable width; and further the managers, for the time being, or a majority of them shall cause such canals and drains to be dug and cut as the said managers or a majority of them shall deem expedient and necessary, & the company in regular meeting shall approve; which canals or drains shall be deemed public canals of said com-

pany; and be kept, scoured and opened by the managers, also at the proper costs and charges of said company.

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SEC. 7. *And be it further enacted,* That the managers aforesaid, and the managers hereafter to be chosen in pursuance of this act for the time being, shall pay the wages of all workmen and labourers by them employed, and all charges and expenses by them incurred, by orders drawn by them or a majority of them upon the treasurer for the time being, which orders it shall be the duty of the treasurer to pay on sight, if he have in hand money for that purpose, or if he have not, as soon as he can collect a sufficient sum; and the said managers shall keep just and true accounts of all such orders, and of all wages, charges and expenses which they shall pay, and the object and purposes thereof, and shall lay the same before the said company at their annual meeting, or at any other meeting, if required.

Wages of  
workmen, &c

accounts.

SEC. 8. *And be it further enacted,* That Samuel Thomas, George Clarke and Alexander McFarland, be and they are hereby appointed commissioners to go upon, view and examine all the aforesaid marsh, cripple and low grounds, and make and establish a valuation or rate of assessment to be observed in assessing and laying all taxes under this act; and for which purpose the said Samuel Thomas, George Clarke and Alexander McFarland being first sworn or affirmed before some judge of the State, or some justice of the peace in and for Newcastle county aforesaid, to execute the duties required of them by this act, faithfully and impartially, according to the best of their skill and judgment, shall go upon the said marsh, cripple and low grounds, and they or a majority of them shall ascertain and determine all the owners of all the said marsh, cripple and low grounds, which in the opinion of them, or a majority of them will be benefited and improved by the banking thereof as aforesaid; and the quantity thereof held by each and every of the said owners, or if

Commissioners—and their powers and duties;

their oath or affirmation;

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certificate of  
their proceed-  
ings,to be recor-  
ded,and copy of  
record evi-  
dence.Oath &c of  
surveyor;

any shall be held undivided, the quantity held by the joint owners; for which purpose they shall have power to hear evidence, examine title papers, and procure surveys to be made; and after the commissioners shall have ascertained the said owners and the quantity held by them respectively as aforesaid, the said commissioners or a majority of them, shall appraise and value the said respective quantities or parcels of said marsh, cripple and low grounds, which will in the opinion of them or a majority of them, be benefited and improved by banking thereof as aforesaid, by fixing the true value thereof per acre, according to the quality, situation and circumstances of each quantity or parcel, and in such manner as to do equal and exact justice to all parties; which said appraisement or valuation shall be the rate of assessment, and shall be observed as the rule of taxation in assessing and laying all taxes under this act; and the said commissioners or a majority of them, shall make a certificate under their hands or the hands of a majority of them, of the owners so as aforesaid to be ascertained, of the quantities or parcels so held by said owners respectively as aforesaid, and of the appraisement and valuation of the said parcels or quantities so to be made as aforesaid, and generally of their proceedings in the premises; and shall deliver the same into the office for recording of deeds, in and for Newcastle county aforesaid, there to be recorded by the recorder of deeds; which certificate shall be final and conclusive upon all parties, and a copy of the record thereof duly certified under the hand and seal of the said recorder of deeds, in and for Newcastle county, shall be good and sufficient evidence.

SEC. 9. *And be it further enacted,* That any surveyor whom the commissioners aforesaid or a majority of them shall employ, shall before acting, be sworn or affirmed before one of said commissioners, who is authorized to administer such oath or affirmation, or before a justice of the peace in and for Newcastle county aforesaid, to make a fair and just survey, and accurate computation of

the marsh, cripple or low grounds, which he shall be requested to survey; and the expenses of making any survey shall be paid by the owner or owners of the quantities or parcels respectively surveyed; each owner paying for the surveying of his own marsh, cripple or low grounds; and the said expenses may be recovered by the surveyor from such owners in the same manner as other debts of the same amount are recoverable, and a certificate of the surveyor's bill by the said commissioners or a majority of them, shall be conclusive evidence of the debt; or if it shall be so elected, the commissioners aforesaid, or a majority of them may certify the bill of the surveyor to the treasurer, and he shall have power to collect the same, with ten per cent. addition for his trouble, and for that purpose to use all the powers which are given to him by this act for the collection of the taxes imposed under it, and the amount of the bill when collected shall be paid to the surveyor.

SEC. 10. *And be it enacted*, That if any of the commissioners aforesaid shall die, resign, remove from Newcastle county aforesaid, or refuse to act, the owners and possessors of the aforesaid marsh, cripple and low grounds at an annual or occasional meeting, held in pursuance of this act, may choose other commissioner or commissioners to fill the vacancy or vacancies; and the said owners and possessors at such meeting may choose a commissioner or commissioners in the place of any one or more so dying, resigning, refusing to act or removing, *toties quoties*, until all the duties assigned to such commissioners shall be performed; and the commissioner or commissioners to be chosen, shall have the same powers and be liable to the same duties, as he or they in whose place such commissioner or commissioners shall be so chosen, and a majority shall in like manner be capable of doing all acts required.

SEC. 11. *And be it further enacted*, That the commissioners aforesaid shall not cause any marsh, <sup>When surveys not procured.</sup>

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cripple or low grounds to be surveyed, of which they can satisfactorily ascertain the quantity otherwise than by survey; and if the owners shall cause surveys to be made, or if surveys have been made with which the commissioners aforesaid shall be satisfied, they may proceed upon such surveys, and their determination shall be as valid and effectual as if a survey had been made according to this act.

Assessing of  
taxes;manner of  
laying;Lists—what to  
contain;

SEC. 12. *And be it further enacted,* That after the appraisement and valuation aforesaid shall be made, and the certificate thereof made and recorded as before prescribed, the managers aforesaid, or a majority of them shall have full power, and they are hereby authorized and required to lay and assess upon the value of the said marsh, cripple and low grounds mentioned in said certificate, such sum of money or tax as they or a majority of them may determine upon; and the said managers or a majority of them, and the managers who shall be hereafter chosen pursuant to this act, for the time being, or a majority of them shall have full power and authority, and they or a majority of them are hereby authorized from time to time to lay and assess upon the said value of said marsh, cripple and low grounds, which shall be mentioned in said certificate all such sum and sums of money or taxes, as they or a majority of them may determine ought from time to time to be levied and raised; that is to say, the said managers for the time being or a majority of them having determined upon the sum of money necessary to be levied and raised, shall apportion and assess the same among the several owners of the said marsh, cripple and low grounds, which shall be mentioned in said certificate, according to and upon the value of the respective quantities or parcels of said marsh, cripple and low grounds held by him, her or them or any of them, at and according to a certain rate upon and for each and every dollar of said value, and so *pro rata*; and the said managers for the time being or a majority of them, shall make out under their hands, duplicate lists, which shall contain the sum of money to be levied, the names of all the owners of the said

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marsh, cripple and low grounds, and of the persons in the possession thereof, so far as the same shall be known, the quantity belonging to each owner, or to any two or more of them, if held undivided, the value per acre, and the total value of each quantity or parcel, according to the aforesaid valuation, the rate per dollar, and the total sum assessed upon each quantity; and in case of any changes in the ownership of the said marsh, cripple and low grounds, or any part thereof, in consequence of death and intestacy, devises, alienations or otherwise, the said managers or a majority of them, in such lists shall note such changes and insert the names of the owners for the time being if known, with the quantity held by them respectively, which may be ascertained by actual survey if necessary, the expenses of which surveys shall be paid by the respective owners, and assessed upon and recovered from them respectively, in like manner and by like means as provided in case of surveys directed by the commissioners aforesaid; and the managers or a majority of them making out said lists shall in writing in or upon said lists, or annexed thereto, direct the sums of money or taxes so assessed and in said lists set forth, to be paid either entire or by instalments, and shall appoint the time or times of such payments, and shall order the treasurer of said company by the name of his office to collect, levy and make all and every the said sums of money or taxes, and the said assessments and lists shall be final and conclusive upon all parties concerned; and the managers or a majority of them, making out the same shall deliver or cause to be delivered to the treasurer of the said company for the time being, one of the said lists, and the other shall be kept by said managers; and the said list so delivered to the said treasurer, with the order aforesaid, shall be a sufficient warrant and authority for collecting, levying and making all and every the sums of money or taxes in said list mentioned according to the form, effect and appointment of the said list; and in case of the death, resignation, refusal to act, or removal, of any treasurer to whom any such list

one list to be  
delivered to  
treasurer,

shall have been delivered, before all the sums of money or taxes contained in such list shall have been paid, his successor in office or any succeeding treasurer of said company for the time being, shall have the same power and authority to collect, levy and make all and every the sums of money or taxes contained in such list and remaining unpaid, or any unpaid part thereof, as fully and amply to all intents and purposes as the treasurer to whom said list shall have been delivered, had or could have.

Owners en-  
joined to pay  
the taxes as-  
sessed;

forfeiture for  
neglect;

SEC. 13. *And be it further enacted,* That it shall be the duty of the owners and possessors of the said marsh, cripple and low grounds, which shall be mentioned and included in the certificate aforesaid of the commissioners aforesaid, respectively, and the said owners and possessors respectively, are required and enjoined to pay to the treasurer of the company aforesaid, for the time being, all and every the sum and sums of money or taxes which the said owners, respectively, shall according to the lists aforesaid, be chargeable or charged with according to the form, effect and appointment of the said lists, and in case of refusal or neglect so to do the owner or owners so neglecting, shall forfeit and pay the rate of fifteen per centum per annum upon every sum remaining unpaid, computing from the time when the same ought to have been paid; which forfeiture shall be added to and collected with the sum whereon the same shall be so computed, as part thereof, and accounted for therewith, and the treasurer to whom any list shall as aforesaid be delivered, or his successor in office, or any succeeding treasurer, for the time being, shall have full power and authority to collect, levy and make all and every the sums of money or taxes which shall be, from time to time, so as aforesaid assessed, laid and apportioned, and shall be specified and contained in such lists as aforesaid from all and every the person and persons, who according to such lists shall be chargeable and charged therewith, with all forfeitures for non-payment; and in case any such sum or tax, or any part there-

of shall remain unpaid for the space of ten days after the time appointed for payment thereof, the said treasurer, or his successor in office, or any succeeding treasurer, for the time being, may and shall proceed to levy and make all such sums or taxes which shall so remain unpaid, or the part thereof which shall be payable in the same manner and by the same means and proceedings as are provided by the act of the General Assembly of this State, entitled, "An act for raising county rates and levies," and by the twenty-fifth and twenty-sixth sections of the act of the General Assembly of this State, entitled, "An act for the valuation of real and personal property within this State," for levying and recovering the rates and taxes in said acts mentioned; and full power is granted to such treasurer for that purpose; and further, all and every the sums of money or taxes, which shall, from time to time, be assessed and laid by virtue of this act, shall be liens upon the respective quantities or parcels of the said marsh, cripple and low grounds, upon the value of which the same shall be laid and assessed; and so much of the said quantities or parcels respectively, as may be necessary to pay the said respective sums or taxes, so assessed and laid, with all forfeitures for non-payment and costs, may be sold for that purpose by the treasurer aforementioned, or the treasurer hereafter to be chosen by virtue of this act for the time being.

powers for  
levying.

1 vol. 263, ch.  
102 a sec. 9,  
2 vol. 1259—  
1260.

Taxes liens  
on the marsh  
and the same  
liable to be  
sold therefor.

SEC. 14. *And be it further enacted.* That proceedings for the sale and conveyance of any part or parts of the aforesaid marsh, cripple and low grounds, for the payment of the sums of money or taxes thereon assessed, shall be as follows, to wit: if any sum or tax, which shall, from time to time, be assessed and laid by virtue of this act, or any part thereof, or of the forfeiture for non-payment, shall remain in arrear and unpaid for the space of sixty days after the time appointed for the payment of such sum or such part thereof, the treasurer aforementioned or the treasurer hereafter to be chosen by virtue of this act, for the time being, shall and may seize the quantity or parcel of marsh, cripple

Manner of  
proceeding in  
case of sale.

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Sales to be  
certified to  
court of com-  
mon pleas of  
Newcastle.

or low grounds, upon or in respect to which such sum or tax shall have been assessed or laid, and appoint a time and place for the sale of so much of the said quantity or parcel so seized as shall be necessary to pay the said sum or tax or such part thereof as shall be payable at the time of such sale; and shall give public notice of such sale and the time and place thereof, at least twenty days before the day of sale, by advertisements posted in at least three of the most public places of Appoquinimink hundred aforesaid, and in at least one of the most public places of every other hundred of Newcastle county aforesaid; and shall also give notice in writing of such sale, and the time and place thereof, at least twenty days before the day of sale, to the person in possession of such marsh, cripple and low grounds so seized, if any person be known to be in possession thereof; and also to the owner or owners thereof, if residing in Newcastle county aforesaid, or the guardian of any minor owner or owners, if such guardian there be residing in said county; and if the sum or tax, or part thereof payable, shall not together with the forfeiture and costs be paid before the time of sale, the treasurer may and shall at the time and place appointed sell by way of public vendue, to the highest and best bidder or bidders for the same, so much of the quantity or parcel of marsh, cripple or low grounds so seized, as shall be necessary and sufficient to pay the said sum or tax so assessed thereon as aforesaid, or such part thereof as shall be payable on the day of such sale, together with the forfeitures and costs; which sale shall be certified to the court of common pleas to be held at Newcastle in and for the county of Newcastle next after making the same; and the said court shall inquire into the premises, and if the said sale shall be found to have been made conformably to the provisions of this act, the said court shall approve thereof and order the treasurer, for the time being, upon payment of the consideration money, to make a deed to the purchaser or purchasers for the marsh, cripple or low grounds, which shall have been so sold to him, her or them; which deed so made shall con-

vey a good title to the purchaser or purchasers; and the costs of making such sale shall be the sum of two dollars, with two per cent. on the principal sum levied: *Provided nevertheless*, that such sale shall not be confirmed in case the money due shall be paid by or before the return to be made as aforesaid.

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1822.

SEC. 15. *And be it further enacted*, That if any treasurer, who shall make any such sale, shall die, resign, remove or refuse to act, before such sale shall be certified, or a deed made, his successor in office, or any succeeding treasurer, for the time being, may certify such sale, and make such deed and such certificate of sale, and such deed, and all acts made or done by a succeeding treasurer of said company, for the time being, for levying and making any sum or tax assessed and laid as aforesaid, or any part thereof, or for selling or conveying any marsh, cripple or low grounds shall be as available, good and sufficient, as if made or done by the treasurer to whom the list containing such tax or sum was first delivered.

In case of  
death, &c. of  
treasurer—  
power of suc-  
cessor.

SEC. 16. *And be it further enacted*, That all managers acting under this act, shall each be entitled to one dollar for every day's service in performing the duties of their offices, and that each commissioner acting under this act shall be entitled to one dollar for every day's attendance in performing the duties of his office; which sums shall be paid by the treasurer, and the receipts of the manager or commissioner shall be a good voucher.

Allowance  
to managers  
and commis-  
sioners.

SEC. 17. *And be it further enacted*, That all discharges given by any annual meeting of said company, to a treasurer, signed by the chairman and countersigned by the secretary shall be valid.

Discharged  
to treasurer.

SEC. 18. *And be it further enacted*. That the owners and possessors of the aforesaid marsh cripple and low grounds shall respectively be suffered to discharge the waters from their grounds, either

Drains for  
discharging  
waters.

by the natural channels or by drains to be cut through the grounds of any other owners or possessors in such places and directions, and of such dimensions as the managers for the time being, or a majority of them shall prescribe: if the cutting such drain will be advantageous to the grounds of the other owners or possessors through which the same shall be cut, such other owners shall contribute such proportion of the expense as the said managers or a majority of them shall direct; if such cutting will injure the grounds through which the same drain shall run, the managers or a majority of them shall assess the damages, and the cutting shall not be commenced until the damages shall be paid or tendered.

Destroying,  
injuring, &c.  
the bank, &c.  
or hindering  
or molesting  
managers, &c.  
an indictable  
offence;

SEC. 19. *And be it further enacted,* That if any person or persons shall destroy, break, or in any manner injure any of the dams, banks, trunks or sluices, which may be made and constructed in pursuance of this act, or any part thereof, or shall hinder, molest or disturb the managers aforesaid, or their workmen and labourers, or any of them while employed in making or constructing the aforesaid dam, banks, trunks or sluices, or any part thereof, or shall counsel, aid or abet the destroying, breaking or injuring of said dam, banks, trunks or sluices, or any part thereof, or shall wilfully fill up or obstruct any of the canals or drains which shall be cut in pursuance of this act, or any part thereof, such person shall be liable to indictment in the court of general quarter sessions of the peace and jail delivery within Newcastle county; and every such person so offending shall, upon conviction of such offence upon such indictment, be fined for every such offence in any sum not exceeding two thousand dollars, at the discretion of said court; one half of which said fine shall be paid to the treasurer of said company, for the time being, for the use of the company, and the other half of the fines to clearing out the scow navigation.

fine,

SEC. 20. *And be it further enacted,* That the commissioners aforesaid, or a majority of them,

shall have power and they are hereby authorized and required to lay off and set apart for public purposes two acres of marsh on each side of Black-bird creek aforesaid, at and adjoining to the dam which shall be made across said creek, and to lay out a public road through the fast land and marsh upon each side of the said creek, from the present roads to be laid out; and that all persons shall have the liberty to cross the said bank with lumber, grain, cord wood, and other commodities for the purpose of putting it on board any boat or vessel; and the said commissioners, or a majority of them, shall assess the damages of all persons by occasion of the setting apart of such marsh, and the opening of said roads, and shall return their proceedings in the premises, to the court of general quarter sessions of the peace and jail delivery within Newcastle county aforesaid, and if the same shall be approved by the said court, the said marsh so set apart and the said roads so laid out, shall upon the damages assessed, being paid or tendered, become and be public highways, free to all persons; and if the said court shall set aside said proceedings, it shall appoint other three commissioners to lay out said roads and set apart said marsh; and said roads shall be made and opened as other public highways.

Two Acres at dam to be set apart for public uses;  
roads to be laid out;  
privileges of the public;  
return to court of common pleas, Newcastle.

SEC. 21. *And be it further enacted,* That the managers for the time being, or a majority of them, with the approbation of a majority of the company in regular meeting, shall have power at the proper costs of the aforesaid owners and possessors, to erect a house in such place as the said managers, or a majority of them, may determine upon, and keep the same house up for the residence of some person to be employed by said managers, or a majority of them, to inspect and take care of the aforesaid banks and dam, whose wages shall be paid out of the common fund.

Powers of managers to build a house for overseer of bank.

SEC. 22. *And be it further enacted,* That all and every the owners and possessors of land lying

Scow navigation.

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above the bank and dam to be erected across the said Black-bird creek as aforesaid, shall be permitted to keep flats or scows to transport their lumber, cord wood, grain and other commodities down the said creek, and have free egress and regress up and down the same, with the further liberty and privilege at all convenient times hereafter of landing such lumber, cord-wood, grain and other commodities, upon the aforesaid public landings, so to be laid off as aforesaid, and afterwards of taking and carrying the same from off the said public landings, either to be exported from thence or imported there; the said public landings being used with as little injury as may be.

PASSED AT DOVER, }  
February, 1822. }

### CHAPTER CXXXI.

A SUPPLEMENT to an act entitled "*An act for granting to Joseph Bush and James Sylces, a certain tract or parcel of marsh therein described.*"

PASSED AT DOVER, }  
7 February, 1822. }

### CHAPTER CXXXII.

A SUPPLEMENT to the act laying duties on licenses to retailers of foreign goods, wares and merchandize.

Ante 57 chap  
xlvii.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fourth and eighth sections of the act to which this is a supplement, be and the same are hereby repealed, made null and void, except so far as the same may apply to duties which have accrued and which have

Repeal 4th &  
8th sec  
ante 59, 60.

not been paid, as by the said act is directed: *And provided*, that all duties, penalties and forfeitures which have accrued and incurred under the said act shall be paid and recovered as if this act had not been passed.

proviso.

SEC. 2. *And be it enacted*, That every person or persons who is or shall be deemed and taken to be a retailer or retailers of merchandise within the meaning of the act to which this is a supplement, shall in the month of May in this and every year hereafter, file with the clerk of the peace in the county in which he, she or they shall reside, a certificate in writing, duly signed, in which he, she or they shall honestly and truly state the aggregate value of his, her or their stock of said goods, wares and merchandise on hand, or which he, she or they own or have in trade at the time of filing such statement; according to the original prices the same were purchased for, and to which said certificate shall be annexed or added the oath or affirmation of such person or persons made before the clerk of the peace or some judge or justice of the peace, that according to the best of his, her or their knowledge and belief the value of the said goods, wares and merchandise, do not exceed the value or amount as stated in such certificate.

Retailers  
within sec 1,  
chap. 47, ante  
pp. 57, to file  
with clerk of  
the peace cer-  
tificate of  
stock in trade.

affidavit.

SEC. 3. *And be it enacted*, That every such retailer of merchandise as aforesaid, except those who deal in dry goods only, and whose stock in trade does not exceed two hundred dollars, and except *feme sole* traders in dry-goods only, whose stock in trade does not exceed four hundred dollars; and apothecaries who deal in medicines only, shall on or before the first day of June, in this and every year hereafter pay to the clerk of the peace of the county in which he, she or they shall reside on taking out the license directed by the act to which this is a supplement, a tax or duty of twenty-five cents on each and every one hundred dollars value of the said goods, wares and merchandize as mentioned in the certificate to be filed as aforesaid,

Licenses, and  
tax, and per-  
sons excepted.

Duty paid to  
be stated in  
the license.

SEC. 4. *And be it enacted,* That it shall be the duty of the clerk of the peace in each of the counties of this State in every license by him delivered out, under the act to which this is a supplement, to state the duty or tax received by him therefor, and the value of the goods according to the certificate filed as aforesaid.

Collectors to  
make lists of  
the wholesale  
and retail  
dealers in fo-  
reign mer-  
chandise  
within their  
respective  
hundreds and  
deliver the  
same to the  
clerk of the  
peace;

SEC. 5. *And be it enacted,* That it shall be the duty of the collector of the taxes in each of the hundreds of the respective counties, in the month of May, in this and every year hereafter to make a list of all the wholesale and retail dealers of foreign merchandise within their respective hundreds, as far as they can ascertain the same, and on or before the first day of June, in this and every year hereafter deliver the said list to the clerk of the peace of the county to be filed of record; and it shall be the duty of the attorney-general to compare the said lists with the certificates filed as aforesaid, and they general to prepare and prosecute indictments against all who appear not to have obtained a license, and who all not obtain. ought to have obtained the same.

Appropriation;

commission  
of clerk of  
the peace,

and of State  
treasurer.

SEC. 6. *And be it enacted,* That all the monies which shall be received for licenses aforesaid shall be placed to the credit and applied to the use of the State of Delaware; and the said clerk of the peace shall retain in his hands for his trouble two per centum, and the State treasurer shall be entitled to retain out of any monies hereafter received for licenses, at the rate of one and a half per centum on all monies so received and accounted for by him.

PASSED AT DOVER, }  
February 7, 1822. }

## CHAPTER CXXXIII.

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CXXXIII.

AN ACT to enjoin certain duties on the clerks of  
the orphans' court.

1822.

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the clerks of the orphans' court in the respective counties of this State shall hereafter enter in a separate book to be kept for that purpose, all recognisances taken in the orphans' court to be held for their respective counties for securing the appraised value of intestates' real estates, and it shall be the duty of the said clerks respectively, to keep in the said book a correct alphabetical list of all the names of all the principal recognisors and their sureties, with references to the pages of the said book where the said recognizances may be recorded.

Clerks of or-  
phans' court  
to enter re-  
cognisances  
in separate  
book—and

keep alphabe-  
tical lists.

SEC. 2. *And be it further enacted,* That the said clerks respectively, shall make a correct, general alphabetical list of the names of all persons who have entered into recognisances in the said orphans' court for the last twenty years, with references to the book and page where the said recognisances may be found. and stating the date and amount of the said recognisances; and for such last mentioned service the said clerks respectively, shall receive such compensation as the Levy-court of the county may think proper to allow, to be paid by the proper county.

and to make  
alphabetical  
lists of recog-  
nisors in re-  
cognisances  
heretofore ac-  
knowledged;

compensation

PASSED AT DOVER, }  
February 7, 1822. }

CHAP.  
CXXXIV.

## CHAPTER CXXXIV.

1822.

Ante pp. 115  
chap. lxxix.

A SUPPLEMENTARY ACT to the act entitled "*A supplement to an act entitled, 'An act for the continuance of certain banks therein mentioned, and for securing payments in specie by the said banks to persons holding their notes.'*"

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the fifth section of the act to which this is a supplement, passed on the fifth day of February, in the year of our Lord, one thousand, eight hundred and twenty-one, be and the same is hereby repealed, made null and void.

Repeal of 5th  
sec ante pp.  
117.

Tax.

SEC. 2. And be it enacted by the authority aforesaid, That the president, directors and company of the Farmers' Bank of the State of Delaware, shall semi-annually after the first day of September next, pay to the treasurer of this State, for the use of the State, a tax, at the rate of one-fourth of one per centum on the whole capital stock of said Bank actually paid in, for and during the continuance of the said Bank.

Charter con-  
tinued for 25  
years from  
Sept. 1, 1822.

SEC. 3. And be it enacted by the authority aforesaid, That the act to which this is a supplement, and the several acts mentioned in the first section of the said act, or so much of these acts as is now in force, shall be and they are hereby re-enacted and declared to be in full force from and after the first day of September next, for and during, and until the period of twenty-five years thereafter shall be fully complete and ended, excepting so much of the said acts respectively, as is repugnant to the provisions of this act.

Acceptance  
of this act to  
be verified to  
the governor,

SEC. 4. And be it further enacted by the authority aforesaid, That the said president, directors and company of the Farmers' Bank of the State

of Delaware shall certify to the Governor of this State, by certificate, under the hand of the president and the seal of the Bank, their acceptance of this act within twelve months from the passing hereof; and this act shall from time to time, when the said president, directors and company of the Farmers' Bank of the State of Delaware shall so certify their acceptance to the Governor, become and be a part of their charter of incorporation as fully and effectually to all intents and purposes as if the same had been a part of the act to which this is a supplement; the tenor of which certificate the Governor shall communicate to the General Assembly of this State by message, and the printed journal of the Senate or the printed journal of the House of Representatives, shall be good and conclusive evidence of such message, and of such acceptance being so certified, and of every fact stated in such message to all intents and purposes; but if such acceptance shall not be so certified, this act shall be void.

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CXXXIV.

1822.

evidence of  
acceptance  
being so cer-  
tified.

PASSED AT DOVER, }  
7 February, 1822. }

## CHAPTER CXXXV.

A SUPPLEMENT to the act entitled, "*An act to establish a Bank and incorporate a company under the name of the Bank of Smyrna.*" Ante chap. lxxiii, pp. 97.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the corporation and body politic made and created by the name and style of "The president, directors and company of the Bank of Smyrna," by the said act, to which this is a supplement, shall continue and be extended by and under the said name and style, until the first day of September, in the year of our Lord, one thousand, eight hundred and forty-three, and all the powers and privileges by the said act gran-

Continuance  
of the corpo-  
ration, till  
Sept. 1, 1843.

CHAP.  
CXXXV.

1822.

ted to the said corporation, shall continue to there, until the said day and year, subject to the modifications hereinafter enacted; any thing in the said act contained to the contrary notwithstanding.

Repeal of 10  
sec. of origi-  
nal act—ante  
pp. 101.

SEC. 2. *And be it further enacted.* That the same persons may be re-elected directors of the said Bank for any succeeding number of years, at the pleasure of the stockholders, and that the tenth section of the said act to which this is a supplement, be repealed.

If \$50,000  
not paid on  
Sept 4, 1822,  
how capital  
completed;

SEC. 3. *And be it further enacted,* That if any subscriber or subscribers to the capital stock of the Bank aforesaid, shall refuse or neglect to pay the instalments on each and every share by him, her or them subscribed, so that on the fourth day of September next, twenty-five dollars on each and every of the said shares shall not have been paid, it shall be lawful for the directors to receive from the other subscribers or such of them as may be willing to pay, or the directors may permit to pay, a further instalment of five dollars on one or more of the shares by him, her or them held, so as to supply the deficiency that may happen by reason of such neglect or refusal in the amount of the capital stock which ought to be paid in, by the five payments on each share appointed and required by the act aforesaid; and if such deficiency shall not be so supplied, another instalment of five dollars may in like manner be received and so on until such deficiency shall be fully supplied; and such further instalment or instalments shall be capital stock of the said Bank, paid in and entitled to dividend accordingly; but no more shall be received as aforesaid than shall be necessary to make the capital stock paid, the sum of fifty thousand dollars; what shall remain unpaid of each share may be demanded as provided by the act aforesaid.

limitation;

When 4th &  
5th payment  
may be made

SEC. 4. *And be it further enacted,* That if the subscribers to the capital stock aforesaid, shall elect so to do, they may make the fourth and fifth payments on each share required by the act afore-

said, at the time prescribed by said act for making the third payment; and the said corporation may make loans and discounts, and issue notes whenever fifty thousand dollars of said capital stock shall be paid in, and affidavit thereof made as required by the act aforesaid.

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1822.

SEC. 5. *And be it further enacted,* That the said corporation may hold any lands, tenements and hereditaments which may be sold to satisfy judgments for debts due to the said corporation, or which it may be necessary to purchase to save the debts due to them.

May hold  
lands, &c.

SEC. 6. *And be it further enacted,* That the twentieth section of the act to which this is a supplement, and so much of the twenty-third section as relates thereto, be and the same hereby are repealed, and that in lieu of other taxes the said president, directors and company of the Bank of Smyrna shall pay the treasurer of this State, for the use of the State, a tax, semi annually, at the rate of one-fourth of one per centum on the whole capital stock of the said Bank actually paid in, for and during the continuance of the said Bank, from and after the first day of September next.

Tax.

Repeal ante  
107, 108.

SEC. 7. *And be it further enacted,* That the said president, directors and company of the Bank of Smyrna shall, by certificate under the hand of the president and seal of the Bank, certify to the Governor of this State, their acceptance of this act; and this act from the time such acceptance shall be so certified, shall become and be a part of the charter of incorporation of the said president, directors and company of the Bank of Smyrna, as fully and effectually as if this supplement had been contained in the original act; the tenor of which said certificate the Governor shall communicate to the General Assembly by message, and the printed journal of the Senate or the printed journal of the House of Representatives shall be good and conclusive evidence of such message, and of the ac-

Acceptance  
how certified.

CHAP.  
CXXXV.

1822.

ceptance of this act being so certified, and of every fact stated in such message; and if the said acceptance shall not be so certified, this act shall be void,

PASSED AT DOVER, }  
7 February, 1822. }

## CHAPTER CXXXVI.

AN ACT to authorize *Hessey Mitchell* of *Worcester county* in the *State of Maryland* to bring into this *State* two negro slaves, and to pass and repass the same from one *State* to the other at her pleasure.

PASSED AT DOVER. }  
February 7, 1822. }

PRIVATE ACT.

## CHAPTER CXXXVII.

4 vol. 528,  
chap. cxcvii.

A SUPPLEMENT to an act entitled, "*An act to incorporate the Bank of Wilmington and Brandywine, in the borough of Wilmington.*"

Continuance  
of charter till  
September 1,  
1842.

SECTION 1. BE IT ENACTED by the *Senate and House of Representatives of the State of Delaware* in *General Assembly met*, That the act of the *General Assembly* of this *State* entitled, "*An act to incorporate the Bank of Wilmington and Brandywine in the borough of Wilmington, passed at Dover, February 4, 1812, and every clause thereof, except so far as the same shall be repealed or altered by the provisions of this act shall continue and be in full force, and the same is hereby extended until the first day of September, in the year of our Lord, one thousand, eight hundred and forty-three, any thing in the said act contained to the contrary notwithstanding.*"

SEC. 2. *And be it further enacted,* That the tenth and twelfth sections of the said act to which this is a supplement, and so much of the eleventh section thereof as relates to the said tenth section, be and the same are hereby repealed and annulled; and also that so much of the first and fourth sections of the act of the General Assembly of this State entitled, "An act for the continuance of certain Banks therein mentioned, and for securing payments in specie, by said Banks, to persons holding their notes," passed at Dover, 11 February, 1820, as relates to or in any manner concerns "The president, directors and company of the Bank of Wilmington and Brandywine", be and the same is hereby repealed and made null and void.

Repeal of  
10 and 12 sec.  
of original  
act.

and of part of  
sec. 1 and 4  
of chap xxiv,  
ante 21, 23.

SEC. 3. *And be it further enacted,* That so much of every other section of the said act of the General Assembly of this State entitled, "An act for the continuance of certain Banks therein mentioned, and for securing payments in specie by the said Banks to persons holding their notes" as relates to or in any manner concerns the said president, directors and company of the Bank of Wilmington and Brandywine, excepting always the said first and fourth sections of the said act shall continue and be in force, and the same is hereby confirmed and extended until the said first day of September, in the year of our Lord, one thousand, eight hundred and forty-three.

Continuance  
of part chap.  
24, ante.

exception.

SEC. 4. *And be it further enacted,* That in lieu of the other taxes, the said president, directors and company of the Bank of Wilmington and Brandywine shall pay semi-annually from and after the passing of this act, to the treasurer of this State a tax, at the rate of one-fourth of one per centum on the whole capital stock of said Bank actually paid in, for and during the continuance of said Bank.

Tax,

SEC. 5. *And be it further enacted,* That the said president, directors and company of the Bank of Wilmington and Brandywine shall certify to the

Acceptance  
how certified

CHAP.  
CXXXVII.

1822.

and evidence  
thereof,

Governor of this State, by certificate, under the hand of the president and the seal of the Bank, the acceptance of this act, within nine months from the passing hereof, and this act, shall from the time when the said president, directors and company of the Bank of Wilmington and Brandywine shall so certify their acceptance thereof to the Governor become and be a part of their charter of incorporation as fully and effectually, to all intents and purposes as if the same had been a part of the act to which this is a supplement; the tenor of which certificate, the Governor shall communicate to the General Assembly by message, and the printed journal of the Senate or the printed journal of the House of Representatives shall be good and conclusive evidence of such message, and of such acceptance being so certified, and of every fact stated in such message to all intents and purposes; but if such acceptance shall not be so certified, this act shall be void.

PASSED AT DOVER, }  
7 February, 1822. }

## CHAPTER CXXXVIII.

*AN ACT to vacate a part of the old Concord road in Brandywine hundred.*

Part of old  
Concord road  
vacated.

Proviso.

SECTION 1. 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, such part of the old Concord road as is situate between the lands now belonging to Francis Jeandelle and Joseph W. Day, and which is not occupied as a turnpike, by the Wilmington and Great Valley turnpike company, is hereby declared to be vacated: *Provided however,* that the commissioners of roads in and for Brandywine hundred, for the time being, or a majority of them shall approve of and allow the said road to

be vacated, otherwise this act to be void and of no effect.

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CXXXVIII.

1822.

PASSED AT DOVER, }  
8 February, 1822. }

### CHAPTER CXXXIX.

AN ACT to authorize the State treasurer to pay the claims therein mentioned.

SECTION 1. 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 Samuel F. Shinn, two dollars, for advertising in his newspaper the proposals of the clerks of the Senate and of the House of Representatives, for the publication of the journals of the said Senate and House of Representatives; to John M. Clayton, six dollars and seventy-seven and one half cents, the amount of postage paid by him on public letters and papers directed to him as auditor of accounts from 1 July, 1820, to 31 December, 1821; to Joram Griffith, ten dollars, for services as cryer and bailiff in attending the board of appeal, in Sussex county, for the general assessment of the State, from the first to the eleventh of May, 1820; to Thomas Stevenson, nine dollars and eleven and one fourth cents, for eight days' attendance as bailiff to the high court of errors and appeals, at the October term, 1821, and for cash paid on account of said court; to John W. Many, twenty dollars as military commissary of Kent county; to Willard Hall, Secretary of State, fifty dollars and seventy and one half cents for making index to the laws of the last session, and for cash paid for postage, for printing and for transportation of laws.

Pay ents  
to be made to

Samuel F.  
Shinn,

John M.  
Clayton,

Joram Grif-  
fith,

Thomas Ste-  
venson,

John W.  
Many,  
W. Hall.

PASSED AT DOVER, }  
February 8, 1822. }

CHAP.  
CXL.

## CHAPTER CXL.

1822.

AN ACT to improve the navigation of Duck creek, below Naudain's landing.

Canals for  
improving  
navigation of  
Duck creek,  
below Nau-  
dain's land-  
ing.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That for the purpose of improving the navigation of Duck creek, below Naudain's landing, the said landing being situated in Little creek hundred and Kent county, it shall be lawful to straighten the said creek, and for that purpose to cut and open canals through the marshes lying upon and on both sides of the said creek below said landing, and between that and the Delaware bay, in such places and of such dimensions, as may be deemed suitable and expedient.

Commis-  
sioners to lay  
out canals;

SEC. 2. And be it further enacted, That Henry M. Ridgely, Joseph Bush and Joseph Hoffecker, be and they are hereby appointed commissioners, and they or a majority of them are authorized, empowered and required to go upon and view the marshes lying upon the creek aforesaid, from the said landing down to the said bay, and lay out such and so many canals as they or a majority of them may determine, according to the best of their skill and judgment to be necessary and proper for the best improvement of the navigation of the said creek from the said landing to the said bay; to which end they or a majority of them shall determine and mark the places in said marshes through which, and the points from and to which such canals shall be cut, and the width and depth of such canals and shall make duplicate certificates to be signed by said commissioners or a majority of them of the canals which shall be so laid out, and of their proceedings in the premises, one of which certificates shall be delivered to the recorder of deeds for Kent county aforesaid, to be recorded in his office, which record or a certified copy thereof shall be competent evidence, and the other shall be delivered to the managers for the time being; and said certificates

Manner of  
laying out;duplicate cer-  
tificates;one recorded,  
and the re-  
cord evi-  
dence;

l  
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in

and proceedings of the said commissioners or of a majority of them in the premises shall be final and conclusive upon all persons: *Provided nevertheless*, that in laying out the canals it shall not be lawful for the commissioners to lay out any of the said canals in such manner, or through any marsh, so as any wise to obstruct, impede or cut off White-hall landing from the benefit of the creek as it has heretofore been used and enjoyed, any section in this act to the contrary notwithstanding.

SEC. 3. *And be it further enacted*, That the commissioners aforesaid or a majority of them shall determine whether any person or persons through whose marsh such canal or canals shall be laid out as aforesaid, will sustain any damages by reason of the cutting and opening of such canal or canals, and shall assess and award the damages, if any, which any such person or persons will sustain; which damages shall be paid or tendered to the person or persons to whom the same shall be awarded, or to the guardian or guardians of such of said persons as shall be under the age of twenty-one years, before the canal or canals, by reason of the cutting or opening of which such damages shall be assessed, shall be cut or opened, if such person or persons, or his, her or their guardian shall reside in Kent county aforesaid; but if the person or persons to whom such damages shall be awarded, or his, her or their guardian shall not reside in Kent county aforesaid, then the said damages being deposited in the Farmers' Bank of the State of Delaware, at Dover, to the credit of such person or persons residing out of said county, shall be sufficient, and the managers or a majority of them may proceed to cut and open the canal or canals, in the same manner, as if such damages had been paid; and the proceedings of said commissioners or a majority of them in the premises shall be final and conclusive upon all persons, and shall be certified and recorded with the other proceedings of said commissioners, and the copy of the record shall be in like manner evidence.

the other delivered to managers.

White-hall landing to be preserved.

Damages, how assessed;

to be paid before cutting canals,

or deposited in case of non-residents

Proceedings recorded.

Vacancy in  
case of com-  
missioners  
how supplied.

SEC. 4. *And be it enacted*, That if either of the commissioners before appointed or to be hereafter appointed shall die, resign, remove from the county or refuse to serve, or be unable to serve, the Governor shall have power and he is authorized to appoint a commissioner in the place of any commissioner so dying, resigning, removing from the county, or refusing, or unable to serve, and any commissioner so appointed shall have the same power and be liable to the same duty as the commissioner in whose place he shall be appointed.

Managers  
& their pow-  
ers;

SEC. 5. *And be it further enacted*, That Jacob Stout, Jonathan Alston and Elias Naudain, be and they are hereby appointed managers, and are hereby invested with full power and authority to go upon the marshes aforesaid, and employ workmen and labourers, and cause and procure all and every the canals which shall be so laid out as aforesaid, to be dug, cut and opened, and to do all acts requisite to be done for the cutting and opening of said canals, and the straightening the creek aforesaid, and improving the navigation thereof according to the direction of the commissioners under this act, or a majority of them; the said managers may appoint one of their number to act for them; and they may employ overseers or agents as may be convenient; and a majority of the managers may always act in making such appointment or in other matters; and in case of the death, resignation, removal or inability or refusal to act of either of the managers, a successor to him may be appointed by the other managers and so *toties quoties*, until all the canals shall be cut.

Vacancy in  
case of mana-  
gers how sup-  
plied.

Canals to be  
common  
highways;

penalty for  
obstructing;

SEC. 6. *And be it further enacted*, That all the canals which shall be laid out and opened as aforesaid, shall be common highways, free for all persons, and as such shall be kept open, and all obstructions thereof and nuisances therein shall be removed; and if any person shall wilfully fill up or obstruct the said canals or any of them, or any part thereof, or place any nuisance therein, or in any manner injure the navigation thereof, or of the

creek aforesaid, or shall counsel, abet or aid the doing thereof, every such person so offending for every such offence shall forfeit and pay to the State any sum not exceeding five hundred dollars, to be recovered by indictment in the court of general quarter sessions of the peace and jail delivery, in and for Kent county aforesaid; and the court shall order such obstruction or nuisance to be removed by such person or persons, as they may appoint for that purpose, who shall have full power and authority to execute such order, and so much of the fine aforesaid as shall be necessary shall be applied in defraying all expenses in removing such obstruction or nuisance.

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recoverable  
by indictment

Order for re-  
moving nu-  
isance;

Appropria-  
tion of fine.

SEC. 7. *And be it further enacted,* That the managers are authorized to raise funds for carrying this act into effect by subscriptions, and to receive such subscriptions, and to enforce payment of the sums subscribed, as other assumptions are proceeded on.

Subscriptions  
to raise mo-  
ney for dig-  
ging the can-  
als.

SEC. 8. *And be it further enacted,* That the commissioners and managers shall each for every days' service under this act be entitled to receive the sum of one dollar.

Compensa-  
tion for ser-  
vices;

SEC. 9. *And be it further enacted,* That in any action or suit against any person or persons for any thing done by authority of this act, the same may be insisted upon and given in evidence under the general issue.

Act need not  
be specially  
pleaded.

SEC. 10. *And be it further enacted,* That if any person shall obstruct, hinder or impede the cutting, digging or opening of any of the canals which shall be so laid out as aforesaid, or any part thereof, or shall interrupt or molest any person or persons in cutting, digging or opening the same, or shall hinder, impede or obstruct the cleaning out of the said canals or any part thereof, or the removing of obstructions or nuisances therefrom, every person so offending shall for every such of-

Penalty for  
impeding &c.  
the digging of  
canals, &c.

recoverable by indictment fence forfeit and pay to the State any sum not exceeding five hundred dollars, to be recovered by indictment in the court aforesaid.

Oath or affirmation of the commissioners. **SEC. 11.** *And be it further enacted,* That every commissioner shall before acting, in pursuance of this act, make oath or affirmation before some judge of this State or justice of the peace, in and for Kent county aforesaid, to perform the duties by this act, required of him faithfully and impartially, according to the best of his skill and judgment.

PASSED AT DOVER, }  
February 8, 1822. }

## CHAPTER CXLI.

Chap cxciii, 4  
vol 521. **A SUPPLEMENT** to the act entitled, "*An act for the interchange of laws.*"

Preamble. **WHEREAS**, one copy of the laws of this State to the close of the January session of the General Assembly, 1820, has been forwarded to the Department of State of the United States, another to the Department of War of the United States, and a third to the Library of Congress—Therefore—

Copies of laws to be transmitted, &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 of this State be, and he is hereby empowered and directed to transmit one copy of the laws of this State, to the Navy department, and another to the Treasury department of the United States, and also to transmit to the aforesaid Department of State and Department of War, and the Library of Congress one copy of the laws of the last session.

**SEC. 2.** *And be it further enacted,* That the governor shall annually hereafter transmit one copy of the laws of this State, hereafter enacted, to the Department of State, to the Department of War, to

the Treasury department and to the Navy department of the United States, and to the Library of Congress.

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CXLI.

1822.

PASSED AT DOVER, }  
February 8, 1822. }

## CHAPTER CXLII.

*AN ACT to appropriate the monies in the treasury of this State.*

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the monies now in the treasury of this State, or which may come into the treasury during the present year, shall be 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 of State, and Auditor of Accounts, up to the first Tuesday of January, eighteen hundred and twenty-three; and so much thereof as may be necessary, shall be applied to payment of the daily allowance to 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 thereof to the payment of any sums of money due to the citizens of this State for which provision has been made by law.

Appropriation for payment of salaries, allowances of members of General Assembly and other officers—and claims,

PASSED AT DOVER, }  
February 8, 1822. }

CHAP.  
CXLIII.

## CHAPTER CXLIII.

1822. AN ACT for the payment of claims for the tuition of poor children.

Claims, pay-  
able out of  
School-fund,

under ante 85  
chap lxx [sec.  
S, ante 86,]  
in Newcastle  
county—

in Kent coun-  
ty—

in Sussex  
county.

Further re-  
quisites in  
case of ac-  
counts for tu-

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the trustee of the fund for establishing schools in the State of Delaware, be and he is hereby authorized and directed to pay, out of any monies belonging to the said fund and not otherwise appropriated, the following claims for the education of poor children under the provisions of the act entitled, "An act for the encouragement and support of schools in this State," passed on the 3 February, 1821: that is to say, for the education of poor children in Newcastle county, to Maria C. Smith, for and on account of the Female Harmony Society of Wilmington, one hundred and ninety-five dollars; to Margaret Colesbury, for and on account of the Female Benevolent Society of Newcastle, one hundred and fifteen dollars; to Richard B. Thompson, nine dollars and eighty two cents; to William Aspy, eight dollars; to Aquilla Thomas, six dollars and twenty-five cents; to William Pippet, six dollars; and to Samuel Jamison, four dollars and fifty cents; and for the education of poor children in Kent county, to Hannah Green, for and on account of the Female Union Society of Smyrna, forty eight dollars; to Joseph Oliver the elder, four dollars and twenty-nine cents; to Samuel Smith, six dollars and sixty-eight cents; to William H. Wilds, six dollars and twelve and a half cents; and to Henry W. Dillan, five dollars; and for the education of poor children in Sussex county, to Frederick Row, thirty-five dollars and ninety-seven cents, the amount of two accounts presented by him; and to Solomon Pretty-may, sixteen dollars.

SEC. 2. And be it further enacted, That in addition to the other requisites prescribed in the act entitled, "An act for the encouragement and sup-

port of schools in this State," passed on the third<sup>dition of poor</sup> February, 1821, every account hereafter presented<sup>children.</sup> under the provisions of the said act shall specifically state and set forth the day, month and year that each child commenced going to school, and also the day, month and year that each child ceased to go, or the day, month and year down to which the account for the tuition of each child is brought.

PASSED AT DOVER, }  
8 February, 1822. }

## CHAPTER CXLIV.

AN ACT to revive and continue in force the act Chap. cv, c.  
entitled, "An act to create a fund sufficient to<sup>2 vol. 1296.</sup>  
establish schools in this State and for other  
purposes."

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware<sup>Chap. 103, c.  
revived and  
extended in-  
definitely,</sup> 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 the same is hereby revived and re-enacted, and every provision thereof shall be in force, and so continue until repealed by law.

SEC. 2. And be it enacted, That all the monies<sup>Monies which  
according to  
above act  
would have  
belonged to  
School fund,  
received since  
it expired—  
appropriated;</sup> which have been received by the State-treasurer since the first day of January, in the year eighteen hundred and twenty, and which would have belonged to the School-fund, if the said act had not expired, shall be laid out and applied by the trustee of said fund, as directed by a resolution of the General Assembly, adopted the thirteenth day of February, in the year of our Lord, eighteen hundred and sixteen, which is hereby declared to

proviso for  
payment of  
salaries of  
judges.

be in full force, and shall so continue until repealed by law: *Provided nevertheless*, that in case of a deficiency of other funds the State-treasurer may retain out of the said monies, such sum or sums of money, as may be necessary to pay the salaries due and to become due to the chancellor, judges of the supreme court and court of common pleas.

Any monies  
applied under  
proviso to be  
reimbursed.

SEC. 3. *And be it enacted*, That in case any of the monies aforesaid shall heretofore have been or shall hereafter be retained for and applied to any of the purposes mentioned in the proviso to the second section aforesaid, then and in such case the monies so retained and applied, shall be made good and paid over to the trustee of the School-fund, out of any money hereafter received into the treasury and not otherwise appropriated.

PASSED AT DOVER, }  
8 February, 1822. }

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## CHAPTER CXLV.

AN ACT to authorize and empower Joseph Chamberlain of Newcastle county, to bring into this State from the State of Maryland, a certain negro slave named Amelia.

PASSED AT DOVER, }  
8 February, 1822. }

PRIVATE ACT.

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## CHAPTER CXLVI.

AN ACT to enable Isaac A. Dale to bring into the State of Delaware from the State of Maryland, certain negroes therein mentioned and to hold them as slaves.

PASSED AT DOVER, }  
8 February, 1822. }

PRIVATE ACT.

## CHAPTER CXLVII.

CHAP.  
CXLVII.

AN ACT to enable Eleanor Ann Riley and Rachel Riley to remove to the State of Maryland certain negroes therein mentioned.

1822.

PASSED AT DOVER, }  
8 February, 1822. }

PRIVATE ACT.

## CHAPTER CXLVIII.

RESOLVED by the House of Representatives of the State of Delaware with the concurrence of the Senate, That Cornelius P. Comegys be, and he is bys, State-treasurer, hereby appointed State-treasurer.

ADOPTED AT DOVER, }  
January 18, 1822. }

## CHAPTER CXLIX.

RESOLVED UNANIMOUSLY by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Thomas Clayton, Peter Robinson and Charles Thomas, esquires, be and they are hereby appointed a committee to express to Mrs. Gibson, widow of Col. James Gibson, deceased, formerly of the United States' army, who gloriously fell in defence of his country, at the memorable sortie at Fort Erie, on the seventeenth September, one thousand eight hundred and fourteen, the high esteem entertained for the private character, the bravery and patriotism of the deceased, and the regret felt for his loss, by the Legislature of his native State.

Thomas Clayton, Peter Robinson and Charles Thomas, esquires, committee,

RESOLVED, That the said committee request Mrs. Gibson to permit a copy of the Portrait of Col. Gibson to be taken by an artist, for the purpose of adorning the chamber of the Senate.

to procure copy of portrait of Col. James Gibson;

## LAWS OF THE STATE

appropriation. **RESOLVED**, That the sum of one hundred and twenty dollars, be and the same hereby is appropriated to defray the expense thereof and be paid to the draft of the said committee out of any money in the treasury not otherwise appropriated.

ADOPTED AT DOVER, }  
February 5, 1822. }

## CHAPTER CL.

Directors of  
the Farmers'  
Bank.

**RESOLVED** by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the following persons be, and they are hereby appointed directors of the Farmers' Bank of the State of Delaware, on the part of this State, agreeably to an act of the General Assembly of this State in such case made and provided:

For the principal Bank, Jonathan Jenkins, Dr. James Sykes and Joseph G. Rowland; for the branch at Wilmington, William Warner, John R. Brinckle and John Gordon; for the branch at Newcastle, James Rogers, Levi Boulden and Samuel Meter; for the branch at Georgetown, Jehu Stockley, Stephen M. Harris and Philip Short.

PASSED AT DOVER, }  
8 February, 1822. }

## CHAPTER CL.

**RESOLVED** by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the Governor of this State be, and he is hereby requested to inform the Governor of the State of Maryland of the injuries and grievances complained of in the petition of James Ray, to the Legislature of this State, and to request the Governor of the State of Maryland to lay a statement of the same before the Legislature of that State.

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RESOLVED FURTHER, That the speaker of the House of Representatives be, and he is hereby requested to transmit to the Governor of this State a copy of the petition of the said James Ray.

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CLK

1822.

PASSED AT DOVER, }  
8 February, 1822. }

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SECRETARY'S OFFICE,

DOVER, MARCH 16, 1822,

I certify that in obedience to an act of the General Assembly of the State of Delaware, entitled "An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes," I have collated with and corrected by the original rolls, this edition of the laws, passed during the last session of the General Assembly.

WILLARD HALL,

*Secretary of the State of Delaware.*

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## CHAPTER CLII.

Ante chap. AN ACT to incorporate a number of Physicians  
cxvi, pp. 185: of the Delaware State, and for other purposes  
therein mentioned.

Preamble.

WHEREAS the practice of medicine is of acknowledged and extensive benefit to society, and therefore ought to be promoted and encouraged: *And whereas*, it is of great consequence that the same should be conducted on some permanent establishment of regularity and public utility, for the purposes whereof:

Physicians incorporated; SECTION 1. *Be it enacted by the General Assembly of the Delaware State*, That the following persons now resident Physicians in this State, to wit: John M'Kinly, Nicholas Way, Jonas Preston, Ebenezer Smith, George Monro, Thomas M'Donough, Joshua Clayton, Ezekiel Needham, James Tilton, William Molleston, Edward Miller, James Sykes, Nathaniel Luff, Robert Cook, Matthew Wilson, Joseph Hall, John Marsh, John Polk, John Stephens Hill, Julius Augustus Jackson, William M'Mechen, Henry Latimer, James M'Calmont, Joseph Capelle, Archibald Alexander, Henry Peterson and Levarius Hooker Lee, are hereby authorized and empowered at any time after the second Monday in May next, to meet together, at the town of Dover, in the county of Kent, or other convenient place, and being so assembled to the number of six or more, elect and choose by a plurality of voices then present, a president and such other officers as to a majority shall appear proper and necessary for the convenience and government of the same, which said president and such other officers as aforesaid so elected, together with all and every the persons aforesaid named, are hereby made and constituted a body politic and corporate to all intents and purposes in this act expressed, in deed and in law forever, by the name and title of the President and Fellows of the Medical

name, and perpetual succession.

Society of Delaware, and by that name and style shall be known and called, and have perpetual succession.

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CLII.

1822.

SEC. 2. *And be it further enacted by the authority aforesaid,* That the said corporation be, and shall hereafter be capable in law to sue and be sued, implead and be impleaded, answer and be answered unto, defend and be defended, in any of the courts of law or equity, or any other place whatsoever, and to do and execute all and singular the matters and things which bodies politic and corporate lawfully may do.

General capacity and powers.

SEC. 3. *And be it enacted,* That the President and Fellows are hereby authorized to hold one annual stated meeting at any place, which by them may be deemed convenient, within this State; and at every such annual and stated meeting, elect and choose in such manner as to the majority of those assembled may seem meet, a President and all and every such other officer and officers, the same being fellows of the said society, as shall appear proper and necessary as aforesaid, to serve in their respective offices, which they may be respectively appointed to for the year ensuing, and until the next annual and stated meeting of the corporation as aforesaid: and the said corporation are hereby further authorized and empowered, at any and all times of their meeting and assembling together, duly and conformably to any such regulations as they shall make or enter into respecting the same, to elect, choose and admit into the said corporate body Fellow or Fellows in such manner, and under such restrictions and qualifications of the person or persons standing candidate for such fellowship, and so proposed to be admitted thereto, as shall or may be hereafter directed and allowed by any regulations, acts or ordinances of the said corporation respecting the same.

Annual stated meeting;

officers;

[also chap. 118, ante sec. 1, pp 185]

admission of Fellows;

sec. 7, chap. cxvi, ante pp. 187.

SEC. 4. *And be it enacted,* That the President and Officers of the said corporation which may be elected; or at any time hereafter may be elected, in

Continuance in office.

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1832.

virtue of the powers by this act granted, or which at any time hereafter they may be legally invested with, shall keep and hold their respective offices, and shall continue and be fully, and to all intents and purposes, the President and Officers of the said corporation, until others shall be appointed in virtue of any of the powers granted by this act.

Powers of the  
corporation—  
For further  
powers see—  
chap. cxvi,  
ante 185.

SEC. 5. *And be it further enacted*, That the President and Fellows of the said corporation shall be capable of exercising such powers for the government and ordering of the said corporation, and of holding at all and any time and place, such occasional meetings for that purpose as have been, or hereafter may be fixed or agreed on by any laws or regulations, which may be legally made or entered into by the said corporation.

By laws—  
ante sec. 3,  
chap. cxvi.

SEC. 6. *And be it further enacted*. That the said corporation shall and may make, or law and establish any such laws, regulations and ordinances as to them shall seem proper and necessary, for the well ordering and governing the said corporation; *Provided always nevertheless*, that nothing in this act contained shall be taken or construed to authorize the said corporation to enter into any regulations or ordinances, or to exercise any powers contravening, repugnant or contrary to the laws and constitution of this State.

Common seal  
—certificates  
under this seal

SEC. 7. *And be it further enacted*. That the said corporation shall have full and competent power and authority to make, have and use, a common seal, and at any time to break and alter the same, and establish another or others, with such device or devices as they shall think proper; and that all which shall or may be certified under the said seal, or under any other seal of the said corporation, shall have full faith and credit in all and every the courts of law within this State.

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# LAWS

OF THE

## STATE OF DELAWARE.

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### CHAPTER CLIII.

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1823.

**AN ACT** *to enable the persons therein mentioned to collect and settle up the outstanding tax for the year eighteen hundred and twenty-one, in Christiana hundred.*

**WHEREAS** it hath been represented to this General Assembly, that Joseph Jones, late of the borough of Wilmington, was duly appointed by the levy court of Newcastle county, collector of the county, road and poor taxes in Christiana hundred for the year eighteen hundred and twenty one; and that said collector died leaving a considerable portion of the same uncollected, whereby his sureties experience considerable difficulty and embarrassment in settling up the same:

Preamble.

*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 John Way and Moses Rea, sureties of Joseph Jones, late collector of the hundred of Christiana, decreed, to collect, or to appoint an agent or agents to collect and settle up the outstanding county, road and poor taxes due and unpaid in Christiana hundred, for the year eighteen hundred and twenty one; and they or their agent duly authorized by them are hereby vested with full power and authority to complete the collection of the same, in such*

John Way  
& Moses Rea,  
authorized to  
collect, &c.  
the outstand-  
ing county,  
road and poor  
taxes, &c. in  
Christiana  
hundred, for  
the year 1821.

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manner and form as the said Joseph Jones, was authorized and empowered to do, by the existing laws of this State, at any time during his appointment, any law, custom, or usage to the contrary notwithstanding.

PASSED AT DOVER, }  
January 15, 1823. }

## CHAPTER CLIV.

AN ACT to enable Hyland B. Penington, to remove certain manumitted slaves from this State into the State of Maryland.

PASSED AT DOVER, }  
January 15, 1823. }

PRIVATE ACT.

## CHAPTER CLV.

4 vol, 275. A SUPPLEMENT to an act entitled "An act to alter and re establish the charter of the borough of Wilmington."

BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the person or persons, who may hereafter be elected to the office of high constable of the borough of Wilmington, shall, previous to entering upon the duties of said office, give bond and surety to and security, to be approved of by the burgesses of said borough, for the faithful discharge of the duties of the office.

PASSED AT DOVER, }  
January 17, 1823. }

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### CHAPTER CLVI.

CHAP.  
CLVI.

AN ACT to enable *Ennols Breeding* to remove to the State of Maryland, a certain negro woman therein named.

1823.

PASSED AT DOVER. }  
January 17, 1823. }

PRIVATE ACT.

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### CHAPTER CLVII.

AN ADDITIONAL SUPPLEMENT to "*An act for regulating the general elections of this State.*"

4 vol. 422;  
5 vol. 44.

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, the electors of the hundred of Brandywine, being the first election district of the county of New castle, shall hold their general and special elections at the house known by the name of the Blue Ball tavern, now occupied by Robert Gilbreath, and situated on the Wilmington and Great Valley turn-pike.

Election of  
Brandywine  
hundred to be  
held at the  
house named  
the Blue Ball  
tavern, &c.

PASSED AT DOVER. }  
18 January, 1823. }

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### CHAPTER CLVIII.

AN ACT to repeal the act entitled "*An act for the security of creditors in certain cases.*"

BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act entitled "*An act for the*"

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CLVIII.

1823.

security of creditors in certain cases," be and the same is hereby repealed.

PASSED AT DOVER. }  
22 January, 1823. }

## CHAPTER CLIX.

### AN ACT *concerning suits upon administration and testamentary bonds.*

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in every action upon any bond, which has been or shall be taken by the register for the probate of wills and granting letters of administration, in and for either of the counties of this State, upon granting letters of administration or letters testamentary, as many

In suits on administration bonds, &c. as many breaches may be assigned as is necessary in the declaration; and if not in declaration or replication, &c. they may be on the record, and the jury who try the issue shall assess damages; if judgment be given for want of plea, &c. order, &c. Breaches may be assigned and a writ of inquiry, &c. and return, and to make due return upon taken, the inquisition so taken and returned being approved by the court, the damages

breaches of the condition of such bond may be assigned, as may be deemed expedient, and in case such breaches shall not be assigned in the declaration, and an assignment cannot be formally made in the replication, the same may be suggested upon the record; and the jury, which shall try the issue or issues, shall assess the damages of the party or parties aggrieved, on occasion of the breaches so assigned or suggested; and if judgment shall be given for the plaintiff upon demurer, for want of a plea, by confession or otherwise, without a trial of any issue in fact by a jury, as many breaches of the condition of the bond as may be deemed expedient, may be suggested upon the record, and thereupon a writ of inquiry may be issued to the sheriff of the county, commanding him to inquire by the oath or affirmation of twelve good and lawful men of his bailiwick, of the truth of the breaches assigned in the declaration or suggested on the record, and of the damages sustained thereby, and to make due return of the inquisition thereupon taken, the inquisition so taken and returned being approved by the court, the damages

thereby found shall be taken to be the true damages sustained on occasion of such breaches; or in case of a judgment so given without trial, of any issue in fact by a jury, if the breaches be assigned in the declaration, or if not then, after suggesting upon the record, as many breaches of the condition of the bond on which the action is brought, as may be deemed expedient, which suggestion shall be held regular; the action may be put upon the trial list, and the truth of the breaches assigned in the declaration or suggested upon the record may be inquired of, and the damages sustained on occasion thereof, may be assessed by a jury, at the bar of the court in which such judgment shall have been given, and the jury in such case shall be drawn, sworn or affirmed, and their verdict taken and entered of record, in the same manner as in the case of a trial of issues in fact; and the judgment in an action upon any bond as aforesaid, if for the plaintiff, shall be for the penalty in the bond and costs of suit; and the damages on occasion of the breaches of the condition being assessed or found as aforesaid, an execution may be issued upon the said judgment, but no more shall be demanded, levied or received by virtue of such judgment or execution, than the damages so assessed or found as aforesaid, with interest and costs of suit; nevertheless the judgment shall remain as a security to answer to the person or persons for whose use the action was instituted or shall be endorsed before the rendition of the judgment, such damages as he, she or they may sustain by occasion of any further breach of the condition of the bond upon which the action was brought, and a writ of *scire facias* may be issued upon such judgment against the defendant or defendants, or his, her or their heirs, executors or administrators, suggesting other breaches of said condition and commanding that it be made known to such defendant or defendants, or his, her or their heirs, executors or administrators to appear and shew cause, why execution ought not to be awarded on such judgment. And the damages on occasion of the breaches suggested in such writ may be assessed or found by a

proved by the court to be the true, &c. Or if judgment be without trial by jury, &c. breaches assigned, &c.

The action may be put on trial list & damages assessed by a jury at the bar &c. as in other cases.

Terms of the judgment, &c.

And upon execution no more shall be levied than &c. Judgment to remain cautionary for any further damages, &c.

Upon which sci. fa. may issue suggesting breaches, &c.

And damages may be found by a jury on tri-

al or writ of inquiry, &c. by a jury at the bar and execution may issue &c.

And further proceedings may be had so often as may be necessary. But no more than damages &c. be levied, &c.  
 Proviso.

Further proviso.

Other parties

may proceed notwithstanding other actions may be, &c.  
 Proviso.

Former judgment, &c. when pleadable in abatement or in bar.

on the trial of issues thereon joined, or upon a writ of inquiry, or by a jury at the bar of the court, in like manner as is provided in relation to the original action, and execution may thereupon be issued upon the said judgment, and such proceeding may be had by *scire facias* suggesting further breaches, and the damages assessed or found and execution had, so often as there may be occasion; but no more than the damages assessed or found, with interest and costs shall be demanded, levied or received by virtue of said judgment or any execution thereupon awarded or issued: *Provided*, that any such judgment shall be a lien upon real estate to the amount of the damages assessed or found as aforesaid, with interest and costs, and from the time or times respectively of the assessing of the same, or the approving of the inquisition finding the same, and not otherwise: *And provided* further, that any breach of the condition that may have happened previously to the time of putting the cause at issue, may be suggested, although happening after the commencement of the action or the issuing of the *scire facias*, and although breaches may be assigned in the declaration.

## Sec. 2. And be it further enacted, That another

action pending upon the same bond, or a judgment recovered in an action upon the same bond, or a former judgment for the defendant, shall not be pleadable in abatement or in bar, except against the person or persons for whose use such action pending, or the action in which such judgment was recovered, or such judgment was rendered for the defendant was instituted, or shall be endorsed; but any other party or parties aggrieved may proceed upon such bond, notwithstanding the pendency of actions or the recovery of judgments thereon for the use of other persons, or the rendering of a judgment for the defendant in an action for the use of another person: *Provided*, that nothing contained in this act shall be construed to make the obligor or obligors in any such bond liable for damages beyond the penalty of the bond, or to deprive such obligor or obligors or his, her or their heirs, exe-

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CLIX.

1823.

Further pro-  
viso.

cutors or administrators of any legal mode of defence or form of pleading requisite to protect him, her or them from being compellable to pay more than, according to the legal effect of the bond, can be demanded: *And provided also*, that in determining any question arising from the foregoing proviso, or relating to the principle therein referred to, the circumstance that a prior judgment is a security for breaches of the condition subsequent to, or other than those assessed or found, shall not be considered as available against the proceeding in a subsequent action on the same bond for damages sustained; but in all cases in which the penalty shall not be adequate to cover all the damages that may happen from breaches of the condition, damages assessed or found shall alone be considered, and shall stand in priority, according to the dates respectively, of assessing such damages or of approving the inquisition finding the same: *And provided further*, that if different actions shall be brought upon the same bond, and the court shall consider, that the same or any two of them can, without material inconvenience, be consolidated, they may make a rule for that purpose, at any time during the pendency of such actions, and may disallow such part of the costs, or make such order concerning the same, as they in their discretion may deem just.

Further pro-  
viso.Different  
suits on same  
bond may be  
consolidated.

SEC. 3. *And be it further enacted*, That in all actions, commenced in the supreme court or court of common pleas upon bonds as aforesaid, previously to the last terms of the said courts, respectively, the proceedings may be according to this act, or the twelfth section of the act entitled "An act for establishing orphans' courts," at the election of the plaintiff, and that in all other actions upon such bonds the proceedings shall be according to this act, Actions commenced previous to the last terms, &c. may be proceeded with according to this act, &c.

PASSED AT DOVER, }  
January 24, 1823. }

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CLX.

## CHAPTER CLX.

1823.

**A 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 divided about three thousand a-  
 cres. situate in Redlion and St. George's hun-  
 dreds and county of Newcastle; and for keep-  
 ing the dyles and dams belonging to the same  
 in good order and repair."*

**SECTION 1.** *BE IT ENACTED by the Senate and  
 House of Representatives of the State of Delaware  
 in General Assembly met.* That the vacancy occa-

*P. Reyhold,* sioned by the death of *Hugh Gemmel*, a commis-  
 appointed in sioner, appointed by a supplementary act to the a-  
 place of *H. Gemmel*, de. above recited act, passed on the twenty ninth day of  
 ceased.

January, one thousand eight hundred and twenty-  
 one, shall be supplied by *Philip Reyhold*, who is  
 hereby authorized to do and perform the same du-  
 ties which by the said supplementary act the said  
*Hugh Gemmel*, was authorized to do and perform.

**SEC. 2.** *And be it enacted.* That *Samuel Tho-  
 mas, John Plat, John L. Morris, David Nevin,*  
*Vacancies* commissioners heretofore appointed by supplemen-  
*how supplied.* tary acts, and the said *Philip Reyhold*, by this act  
 appointed a commissioner, or the survivors of them,  
 or a majority of them or the survivors of them, shall  
 be, and they or a majority of them, or the survivors  
 are hereby authorized and empowered to appoint  
 commissioners or a commissioner to supply any va-  
 cancy or vacancies which may hereafter happen by  
 reason of death, inability to attend, or resignation  
 of any of the said commissioners; and the person  
 or persons so appointed shall be, and hereby are  
 authorized and empowered to do and perform the  
 same duties which the person or persons in whose  
 place he or they may be appointed, was authorized

and empowered to do and perform by the said supplementary act.

CHAP.  
CLX.

1823.

PASSED AT DOVER. }  
January 25, 1823. }

CHAPTER CLXI.

AN ACT concerning appeals from justices of the peace.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That in every case in which an appeal is allowed by law to be taken from the judgment of a justice of the peace in either of the counties of this State; the person or persons having right to appeal, may appeal to the next supreme court, to be holden for the county in which the suit shall be commenced, as well as in the court of common pleas; and it shall not be specified at the time of taking the appeal, to which court the same shall be taken, except the appellant shall so direct; but the appellant or appellants may at any time before the day of the term of the court, which shall commence next after the taking the appeal, direct to which court the same shall be returned.

Appeals from justices of the peace to be permitted to the supreme court, as well as, &c. Shall not be specified at the time, &c. to which court the appeal is taken &c. unless &c. Appellant may direct to which, &c. at any time, &c.

SEC. 2. And be it further enacted, That all laws and regulations, which apply to appeals taken to the court of common pleas, shall apply to appeals which shall be taken to the supreme court; and the recognisances which shall be taken for prosecuting said appeals, shall be a security for the prosecuting the appeal in either court, & shall be forfeited in case of a failure to abide the judgment of either court the appeal; and the appeal, if taken to the supreme court, shall be entered in said court, and there proceeded in, in the same manner, and under the same legal provisions as appeals in the court of common pleas.

All laws &c. which apply to appeals in the c. pleas shall be applied to &c. 5 vol 92, 320, &c. Recognisance to be a surety for prosecuting in either court, &c.

SEC. 3. *And be it further enacted, That in every*  
*In judg- case of a judgment given under the act entitled "An*  
*ments under*  
*the act, 5 vol.*  
*321, where debts," passed at Dover, February 3d, 1818, in*  
*debt &c. ex-*  
*ceed 15 dolls.*  
*defendant shall exceed fifteen dollars, the defendant or defen-*  
*may appeal.*  
*Plaintiff may*  
*appeal when,*  
*&c.*  
*act in which the demand, together with the costs*  
*below shall on hearing the appeal be found to ex-*  
*ceed that sum.*

PASSED AT DOVER, }  
 January 25, 1823. }

## CHAPTER CLXII.

AN ADDITIONAL SUPPLEMENT to the  
*act entitled "An act directing the manner of*  
*suing out attachments within this govern-*  
*ment."*

1 vol ch. 200  
 2 pa 460, and  
 5 vol. ch. 133,  
 pa. 232.

SECTION 1. 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, a writ of attachment may issue  
 out of any court of law in this State, against a non-  
 resident, upon the plaintiff or plaintiffs, or some  
 other credible person for him, her or them, making  
 oath or affirmation, that the defendant or defendants  
 reside out of this State, and is or are justly indebted  
 to him, her or them, in the sum of fifty dollars, and  
 upwards; which oath or affirmation shall be admin-  
 istered by the clerk of the supreme court or protho-  
 notary of the court of common pleas, and filed of  
 record in the said cause; and the said writ of at-  
 tachment shall be proceeded in as is directed and  
 required by the third section of the act to which this  
 is an additional supplement, and the act supple-  
 mentary thereto; and so much of the act to which  
 this is an additional supplement, as requires the

Attachment  
 may issue a-  
 gainst a non-  
 resident on  
 plaintiff or &c.  
 making oath,  
 &c.

Proceedings  
 in as directed  
 by 1 vol 460,  
 sec 3, and 5  
 vol. 232.

person or persons requesting a writ of attachment, or some other credible person for him, her or them, to make oath or affirmation, that the defendant avows coming into this government, least he or she be taken to answer his or her just debts, is hereby repealed, made null and void.

So much of the original act as requires the oath, &c. repealed, 1 vol. 460, sec. 16.

PASSED AT DOVER, }  
January 27, 1823. }

## CHAPTER CLXIII.

AN ACT authorizing John D. Anderson, administrator of William Seeney, to convey to James Seeney, certain lands.

PASSED AT DOVER, }  
January 27, 1823. }

PRIVATE ACT.

## CHAPTER CLXIV.

AN ACT authorizing the register in chancery, for Kent county, to procure the last chancery docket to be re-bound, and to make a new alphabet thereto, and also alphabets to the other two chancery dockets.

BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the register in chancery, for Kent county, procure the last chancery docket in his office to be re-bound and make a new alphabet to the same, likewise alphabets to the other two chancery dockets; and that the expenses, with a reasonable compensation for his services, be allowed by the levy-court for Kent county,

The last chancery docket in Kent, to be re-bound, &c.

PASSED AT DOVER, }  
January 27, 1823. }

CHAP.  
CLXV.

## CHAPTER CLXV.

1823.

AN ACT providing for the election of constables and concerning elections of inspectors and assessors.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the number of constables, in and for the respective hundreds in the several counties of this State, shall be as follows, that is to say: in Newcastle county, there shall be two constables in and for Christiana hundred, two constables in and for Appoquinimink hundred, and one constable in and for every other hundred in the said county; in Kent county, there shall be two constables in and for Duck creek hundred, one constable in and for Little-creek hundred, two constables in and for Dover hundred, three constables in and for Murderkill hundred, and three constables in and for Mispillion hundred; and in Sussex county, there shall be two constables in and for every hundred in the said county; and that such constable or constables, in and for the several hundreds respectively, in the said several counties, shall be chosen every year, by the citizens, residing in the said hundreds respectively, entitled to vote in elections of Governor, Senators and representatives, at the same time and at the same places in said hundreds respectively, at which, and in the same manner, in which, the inspectors and assessors of said hundreds respectively, shall, according to law be chosen; and to this end, the citizens residing in each hundred in the said counties entitled to vote as aforesaid, shall in the present year and every year hereafter, at the same time and place of choosing the inspector and assessor in such hundred, choose by balloting the constable or constables in and for the said hundred; and the same persons who, according to law shall be judges of the election of inspector and assessor, shall be judges of the election of constables as aforesaid, and they shall certify the said election of constables by

Number of  
constables in  
Newcastle  
county;

In Kent county;

In Sussex,  
two in each  
hundred.

To be chosen  
in the hun-  
dreds annual-  
ly, at the time  
and places of  
choosing in-  
spectors, &c.

Judges of the  
election of in-  
spectors &c.  
to be judges  
of the election  
of constables,  
and shall cer-  
tify, &c.

two certificates under their hands according to the following form:

County, ss. We certify that at an election for constables [or constable, if only one be allowed in the hundred] held in and for                      hundred, on the                      day of September, in the year of our Lord, one thousand eight hundred and                      upon counting the votes                      were [or was] duly chosen constables [or if one only be allowed in the hundred, constable] in and for said hundred. In witness whereof we the judges of said election, have hereunto set our hands the                      day of September, in the year aforesaid. And the judges of said election shall within two days after holding said election, cause one of said certificates to be deposited in "the office for recording of deeds," in and for the county, in which the election shall be held, and the same shall be there recorded, and a copy of the record, certified under the hand and seal of office of the recorder, shall be evidence. and the recorder shall be bound to certify and deliver such copy upon request, and receiving the usual fees, and the other of said certificates shall be delivered to the persons elected, or to one of them, upon request.

Form of certificate.

Within two days after election certificate to be deposited in recorder's office of the county, &c. and recorded.

Recorder to certify upon request which shall be evidence.

A certificate to be given to the person elected upon request.

SEC. 2. And be it further enacted, That the constables so chosen as aforesaid, shall and may enter upon the discharge of the duties of their respective offices on the fourth Monday of the same month of September in which they shall be so chosen, and shall hold their said respective offices for the term of one year thence next ensuing: *Provided always*, that every constable shall, on or before the fourth Monday of the same month of September in which he shall be chosen, give bond to the State of Delaware, with sufficient surety or sureties, in the penalty of two thousand dollars, with condition thereunder written according to the following form: The condition of the above obligation is such, that if the above named                      being a constable, in and for                      hundred,

To enter upon office on the fourth Monday of September, & hold the same for one year.

Proviso.

Constables to give bond, &c.

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1823.

To be taken  
and how ap-  
proved, &c.

Which, with  
certificate of  
approval shall  
be deposited  
in recorder's  
office, &c. and  
recorded, &c.

To be in  
trust for any  
person ag-  
grieved, &c.  
and sued in  
the name of  
the State of  
Delaware, &c.

Constables  
failing to give  
bond, &c.

their election  
to be void, &c.

in county, shall and do faithfully pay over all monies which shall come to his hands as constable as aforesaid, to the person or persons entitled to receive the same; and further shall and do in all things perform the duties of his office with fidelity, then the above obligation shall be void, otherwise in full force. Which said bond may be taken and the surety or sureties therein approved by any judge of the court of common pleas, or any judge of the supreme court residing in the county where such constable shall reside, or in case there shall be no such judge in the county, then by any two justices of the peace of the said county setting together; and every such bond with a certificate of the due approval thereof shall be deposited in "the office for recording of deeds" in and for the county in which the constable therein named shall reside, on or before the fourth Monday of the same month of September, in which such constable shall be chosen, or within three days afterwards, and shall there be recorded by the recorder of deeds, and the original bond shall be carefully preserved on the files of said office, and in case of a loss of the original, the record or a copy thereof shall be good evidence; which said bond shall be in trust for any person or persons, who may be aggrieved on occasion of the non-performance of the condition thereof, and who shall be entitled to prosecute actions thereon in the name of the State of Delaware, for the recovery of damages sustained in consequence of such non-performance; and in case any person who may be chosen constable, shall fail to give bond with surety as aforesaid, to be approved as aforesaid, or shall fail to procure such bond with the certificate of the approval to be deposited in "the office for recording of deeds" as aforesaid, on or before the fourth Monday of the same September in which he shall be chosen or within three days afterwards, in either of the said cases, the choice of the person so failing shall become and be absolutely void, and he shall have no authority to exercise the said office, and in such case, the justices of the court of common pleas residing in the county where such

failure shall happen, or any one of them, or in <sup>And their places how supplied;</sup> case there shall be none such, then any judge of the supreme court, residing in said county, may appoint some fit person to be constable in the place of him so failing, who shall serve till the fourth Monday of September, succeeding his appointment, and who, before he shall be authorized to act shall give bond and surety as aforesaid, to be approved and recorded as aforesaid; and such appointment shall not be considered as made till <sup>But the failure of one not to affect any other, &c.</sup> bond shall be given and approved; but the failure of any one constable to comply with this proviso, shall not in any manner affect the election of any other.

SEC. 3. *And be it further enacted,* That the <sup>Their powers under this act;</sup> powers of all constables chosen or appointed pursuant to this act, shall extend through the county, and shall be the same as those possessed heretofore by constables in this State. and they shall be called constables of the county, where the hundred <sup>their title.</sup> for which they shall be chosen or appointed, shall be situated.

SEC. 4. *And be it further enacted,* That no person shall be chosen or appointed constable, who <sup>No person to be elected who shall not be a freeholder in the county.</sup> shall not be a freeholder in the county in which the hundred for which he shall be chosen or appointed, shall be situated. or who shall not at the time of the election reside in the hundred for which he shall be chosen, and have actually resided there at least six calendar months before the election. and no person shall be chosen constable for more <sup>How and when re eligible.</sup> than three years successively, in any term of six years.

SEC. 5. *And be it further enacted,* That the <sup>Appoint-ments by the next court of quarter sessions.</sup> court of general quarter sessions of the peace and jail delivery shall, at the next terms of such court in the several counties, appoint constables as heretofore; but the term of office of such constables so appointed shall expire on the fourth Monday of September next; and so much of the laws of this

Repeal of for-mer acts con-  
trary to &c.  
after the 4th  
Monday of  
September  
next.

State as vests the power of appointing constables in the said court, or as provides for the appointment to the said office, otherwise than is contained in this act, or for any other number of constables than is by this act prescribed, shall be and stand repealed and become void from and after the fourth Monday of September next.

Elections for inspectors to be holden at the places where general elections are holden &c. or if that be impracticable may be changed according to the existing law

4 vol. 423 s. 5.

**SEC. 6.** *And be it further enacted.* That the elections for inspector and assessor in the several hundreds, shall be holden at the places in said hundreds respectively, which shall be the places respectively, according to law for holding the general election at, in such hundreds respectively in the same year, unless it shall be impracticable to hold such election at any such place, in which case, the place may be appointed according to the law upon this subject heretofore existing.

If collector be absent at the time, &c. electors present to choose a freeholder of the hundred as

**SEC. 7.** *And be it further enacted,* That if any collector of a hundred in either of the counties of this State, shall be absent from the place of election, at the hour assigned for opening the election for inspector and assessor in his hundred, the electors present at the time, shall forthwith proceed to choose a freeholder, residing in said hundred, inspector, to hold the election in place of such collector. [in the same manner as appointed by the third section of the act, entitled, "An act for regulating elections and ascertaining the number of the members of Assembly?"] for the choice of inspectors, and the person chosen shall take to his assistance two freeholders residing in said hundred, and the said inspector and freeholders shall be the judges of said election, and the collector, or in case of his absence the inspector and the freeholders shall before opening the election take an oath or affirmation as follows, viz: I A. B. do solemnly swear [or affirm] that I will conduct the election here to be held, faithfully and impartially, according to the best of my understanding. Which oath or affirmation shall be administered by one of the freeholders to the collector or inspector, and by him to the freeholders.

Inspector to hold the election in place of such collector in the same manner as is directed, &c.

1 vol 148.

And take two freeholders residing in said hundred to assist him.

who, with the inspector, shall be judges of election.

Oath of collector, inspector and freeholders;

By whom administered.

SEC. 8. *And be it further enacted.* That if any person shall at any election as aforesaid, vote or attempt to vote in a hundred in which he shall not actually reside at the time of such election, or vote, or offer to vote a second time, or if any person not entitled to vote, shall vote or attempt to vote at any such election, every such person, shall for such offence forfeit and pay the sum of thirty dollars, to be recovered by indictment in the court of general quarter sessions of the peace and jail delivery, within the county where the offence shall be committed, with costs of prosecution; and that if the judges of such election or either of them shall be guilty of any wilful neglect of the duties enjoined upon them, or shall be guilty of corrupt conduct in performing the same, every person so offending shall for every such offence, forfeit the sum of one hundred dollars, to be recovered in like manner, and shall further be answerable to any person aggrieved, in a civil action for damages.

Penalty for—persons not entitled to vote attempts ing, &c.  
how recovered.  
Judge of election guilty of wilful neglect of duty, &c shall forfeit one hundred dollars—  
how recovered.

SEC. 9. *And be it further enacted.* That fees of the recorder of deeds for recording the bonds as aforesaid, shall be the same as for recording deeds, to be paid by the person whose bond is recorded.

Fees for recording bonds to be the same as for deeds and paid by obligor.

PASSED AT DOVER. }  
January 28, 1823. }

## CHAPTER CLXVI.

AN ACT to detach from Murderkill hundred a part thereof lying northerly of a division line in said act described, and to change the place of holding the election.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Murderkill hundred, in Kent county, shall be divided by the following division line, that is to say: beginning at the

Murderkill  
hundred in  
Kent county  
how divided.

The part to  
become and  
to be called  
Dover hun-  
dred.

The part to  
be Murder-  
derkill hun-  
dred.

Dover hun-  
dred to be the  
third election  
district of  
Kent,

mouth of the branch upon which the mill and mill-seat, late of Henry Molleston, deceased, the mill and mill-seat, late held by Samuel Howell, deceased, now of Thomas H. Howell, the mill and mill seat, late held by William Warner, deceased, and the mill and mill-seat of William Allaband, are situated, called Isaac's Branch, at the place where the said branch empties into St. Jones' creek or Dover river, and running thence up the said branch and through the mill-ponds of the said mills, by and with the water courses, to the mouth of a prong or stream, emptying into the said branch from the southward, near the head of Allaband's mill pond, and which prong or stream crosses the State road running from the line of Maryland, near the River Bridges, by Thomas' chappel, through Camden to the Forest Landing, between the Poor house and the house formerly of William Kirkley, and running from the mouth of said prong or stream last mentioned up the same, by and with the water courses, to the said State road, and thence toward the State of Maryland, by and with the said State-road to the line of the said State of Maryland, called the Stone line; and that all that part of Murderkill hundred, lying northerly of the said division line beginning at the mouth of the said first mentioned branch, and running as aforesaid to the line of the State of Maryland, be and the same hereby is detached and set-off from the said hundred, and united to St. Jones' hundred, and that the said part of Murderkill hundred lying northerly of said division line and St. Jones' hundred shall form and be one hundred, and shall be called Dover hundred; and the residue of Murderkill hundred, lying southerly of said division line, shall form and be one hundred, and shall be called Murderkill hundred,

**SEC. 2.** *And be it further enacted,* That Dover hundred as formed, according to the preceding section, shall be the third election district of Kent county, and the electors of the said hundred shall hold their general elections, and their special elections under the act entitled "An act for regulating

the general elections of this State," passed at Dover, January 31, 1811, at the court-house, in Dover, in the same manner, and under the same regulations, as if the said Dover hundred had been the third election district according to said act, and the place in the said act appointed for holding said elections had been the court-house, in Dover; and that Murderkill hundred, as formed according to the preceding section, shall be the fourth election district of Kent county, and the electors of said hundred shall hold their general and special elections, under said act, at the house now occupied by Levi Walcott, in Canterbury, in the same manner, and under the same regulations, as if the said Murderkill hundred had been the fourth election district of said county, and the place in said act appointed for holding said elections had been the said house now occupied by the said Levi Walcott, in Canterbury; and that all laws that apply to hundreds as such, shall apply to Dover hundred and to Murderkill hundred as formed as aforesaid, as entire and distinct hundreds, and to the citizens residing in each accordingly.

SEC. 3. *And be it further enacted,* That there shall be two commissioners of the levy-court and court of appeals residing in Dover hundred as formed as aforesaid, and two commissioners of the levy-court and court of appeals residing in Murderkill hundred as formed as aforesaid, and that there shall be two trustees of the poor in said Dover hundred, and two trustees of the poor in said Murderkill hundred,

SEC. 4. *And be it further enacted,* That all the valuations of property or assessments upon the assessment or levy-list of St. Jones' hundred shall be transferred by the levy-court and court of appeals for Kent county to Dover hundred, by changing the name of the hundred upon the books or list containing such valuations or assessments; and that all the valuations of property or assessments upon the assessment or levy-list of Murderkill

Elections for said hundred to be held under the act, 4 vol. 423, at the court-house in Dover in the same manner &c.

Murderkill shall be the fourth election district of Kent; and the elections to be held at the house of Levi Walcott in Canterbury, &c.

All laws applicable to hundreds as such shall apply to, &c.

Two levy commissioners, &c residing in Dover hundred,

and two in Murderkill; And two trustees of the poor in each hundred.

Valuations on the assessment list of St. Jones' to be transferred to that of Dover hundred,

and so likewise that part of Murderkill now in Dover hundred.

The assessors of Murderkill and St. Jones' shall jointly report to levy court by the first Tuesday of March next.

Levy court to effect all transfers as aforesaid, &c. and to rectify all errors, &c.

Collector of Dover hundred to collect &c.

In cases of omission to transfer, the collector of Murderkill to collect, &c.

hundred; within or belonging to that part of the said hundred lying northerly of the division line aforesaid, and detached from Murderkill hundred as aforesaid, shall be transferred by the said levy court and court of appeals to Dover hundred aforesaid, and be duly placed upon the levy or assessment list of the said hundred; to enable the said levy court to do which, the present assessor of Murderkill hundred, and the present assessor of St. Jones' hundred shall jointly, if they can agree, and if not, severally report to the said levy court on or before the first Tuesday of March next, all the valuations of property or assessments upon the levy or assessment list of Murderkill hundred, within or belonging to that part of said hundred lying northerly of the said division line and so detached; and that the levy court and court of appeals shall have authority to effect all proper transfers in the premises. in order to make the levy or assessment list of Dover hundred as formed as aforesaid correct; and from time to time to rectify all errors therein, that the collector of Dover hundred as formed as aforesaid, shall have full power and authority to demand, receive and collect all taxes from all persons within the said hundred, or according to the duplicate of the assessment which shall be delivered to him, in the same manner and by the same means and proceedings, which collectors of taxes, according to the laws of this State may or can use; and if in consequence of any omission in transferring the valuations or assessments, any valuation or assessment, one or more within and belonging to that part of Murderkill hundred so detached as aforesaid, shall not be upon the duplicate delivered to the collector of Dover hundred; but shall be upon the duplicate delivered to the collector of Murderkill hundred, in every such case the collector of Murderkill hundred shall have full authority and power to demand, receive and collect the tax or taxes according to such assessment or assessments upon his duplicate as fully and effectually as if the same were within Murderkill hundred, and this act had not been passed.

SEC. 5. *And be it further enacted,* That the assessors aforesaid: for any services performed under this act, shall receive the usual allowance of assessors. Assessors to receive the usual allowance, &c.

SEC. 6. *And be it further enacted,* That so much of the act "for regulating the general elections of this State" as provides that the electors of the hundred of Murderkill shall hold their said elections at the house then occupied by Isaac Register, in the village of Camden, be repealed. So much of the act authorizing the election of Murderkill to be held at Camden, repealed.

PASSED AT DOVER, }  
January 28, 1823. }

### CHAPTER CLXVII.

AN ACT to authorize and empower Sarah Candy Brown to sell certain lands therein mentioned.

PASSED AT DOVER, }  
January 28, 1823. }

PRIVATE ACT.

### CHAPTER CLXVIII.

AN ACT to authorize the partitioning the lands therein mentioned.

PASSED AT DOVER, }  
January 30, 1823. }

PRIVATE ACT.

### CHAPTER CLXIX.

AN ACT declaring the effect of a certain deed from Thomas Paynter and Mary his wife to Robert Burton, of Indian River hundred in Sussex county.

PASSED AT DOVER, }  
January 30, 1823. }

PRIVATE ACT.

## CHAPTER CLXX.

6 vol. ch. 166  
p. 367.

**A SUPPLEMENT** to the act entitled, "*An act to incorporate the owners and possessors of a certain tract of meadow, marsh and cripple, known by the name of the Brandywine marsh, in the borough of Wilmington and county of Newcastle.*"

Preamble.

WHEREAS, great inconvenience has arisen to the said Brandywine marsh company in the conducting their affairs, by reason of the mode of recovering or compelling the payment of the taxes assessed by them on the several owners and possessors of marsh within the bounds of said company being too tedious; for remedy whereof—

**SECTION 1.** BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That if any of the

Owners of the Brandywine marsh neglecting to pay assessments &c. managers to sue for the same before a justice &c. in the same manner as debts under §50, &c. without stay of execution;

owners or possessors of that tract of meadow, marsh and cripple known by the name of the Brandywine marsh, situate on the north side of the Christiana river, in the borough of Wilmington and county of Newcastle, shall neglect or refuse to pay the several taxes which may be assessed from time to time, upon the marsh owned or possessed by them respectively, together with the forfeitures arising thereon; for such neglect or refusal to pay such sum or sums within thirty days after any of the days or times in which they were ordered to be paid, it shall and may be lawful to and for the managers of the said Brandywine marsh company, or either of them, in his or their name or names, to sue all and every such person or persons so refusing or neglecting, for the respective sum or sums of money which he, she or they ought to have paid, by virtue of the act to which this is a supplement, before any justice of the peace in Newcastle county, or burgess of the borough of Wilmington, in the same manner as for debts under fifty dollars, without any stay of execution; or

it shall and may be lawful for the said managers or, after notice, to expose the marsh of such owners or possessors so neglecting or refusing, to shares of owners so neglecting. public sale (first giving ten days notice of such sale by advertisements posted up at two of the most public places in Wilmington) for so long a time as may be considered necessary by the said managers, at a fair rent, to pay and discharge all such sum and sums of money so assessed or so charged, together with costs and forfeitures arising thereon, for his, her or their neglect or refusal to pay the same as aforesaid, and no longer: And it is hereby declared that such sale shall be sufficient to enable the purchaser to hold the said marsh independent of the owner or owners thereof, during the term for which the same may have been so sold by the managers aforesaid.

SEC. 2. *And be it enacted*, That so much of the said act to which this is a supplement, as is hereby contradicted, altered or amended, shall be, and the same is hereby repealed, and declared to be null and void. Repeal of so much of original act as is altered hereby.

PASSED AT DOVER. }  
January 30, 1823. }

## CHAPTER CLXXI.

AN ACT to authorize Joseph Maull, the owner and possessor of marsh and low grounds lying upon Slaughter creek, in Sussex county, to embank and drain the same.

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 Joseph Maull or his heirs, at any time after the passing of this act, to erect or cause to be erected and made, a suitable bank or bank,

Joseph Maull, empowered to  
embank cer-  
tain marsh,  
&c.

land or dams, with the requisite trunks and sluices, extending from the said Joseph Maull's boundary, on the north side of Slaughter creek, to a point of land of Rouse Young's farm, to such place upon the said point or upland on the south side of said creek as shall be deemed most proper or suitable for such purposes, in such site or sites and directions, and such form and dimensions as shall be deemed most proper for said purposes; and to keep and maintain the said banks, dams and trunks and sluices in good order and repair; and to make such additions to or alterations, either in form or dimensions of said banks or dams, trunks or sluices as may be deemed expedient and necessary.

SEC. 2. *And be it enacted by the authority aforesaid,* That it shall be the privilege of the said Joseph Maull, in pursuance of this act, to enter upon

Authorized to  
enter upon  
said marsh  
and cause the  
same to be  
well embank-  
ed, &c. and at  
whose cost.

the aforesaid marsh and low grounds, and cause and procure the same to be well and effectually embanked at the proper cost and charge of the said Joseph Maull, to make and construct a good and sufficient dam across the aforesaid Slaughter creek, at or near the place herein before mentioned or pointed out for that purpose; and also to make and construct good and suitable banks, with the requisite trunks or sluices as shall be deemed most proper by the said Joseph Maull; and to cause and procure the said dams, banks, trunks and sluices to be kept and maintained, amended and in good and sufficient order and condition, and additions or alterations to be made to, or of said dams, banks, trunks or sluices as may be deem expedient, also at the proper cost and charges of the said Joseph Maull; and for the purpose of making and constructing, and amending, repairing, adding to or altering the said dams, banks, trunks or sluices as the said Joseph Maull shall see proper; he shall have full power and authority to employ all such workmen and labourers to dig, take and carry away mud or gravel where it may be most convenient, without any expense or charge for such mud and gravel; and it shall be the further privilege of the said Joseph Mall, from time to time, to enter

Empowered  
to amend and  
keep in good  
repair, &c.

upon, inspect and carefully examine the dam, bank, trunk and sluices, as he shall deem most proper.

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SEC. 3. *And be it further enacted.* That after the said Joseph Maull shall have finished and completed the embankment and improvement herein authorized, and as soon thereafter as the benefits resulting from the said improvement can be ascertained, it shall be lawful for the said Joseph Maull to apply to the judges of the court of common pleas, or of the supreme court setting in Sussex county, who upon such application, are hereby required to appoint three good and substantial freeholders of said county, who shall, after having taken an oath or affirmation to do justice in the premises, go upon and view all the marsh and low grounds included within the aforesaid embankment and declare what, if any, improvement or increase in value has arisen to any of the said marsh and low grounds from such embankment, and a fair and correct return thereof to make under their hands, or a majority of them, to the next term of the said court from which their appointment issued, which shall be filed of record in the said court: and the several and respective sums so returned as aforesaid, shall be paid by the person or persons assessed as aforesaid, or by their heirs, executors or administrators to the said Joseph Maull, or to his legal representatives, until he the said Joseph Maull shall have been fully compensated for expenses incurred in effecting the said improvement, or so much thereof as he may be found entitled to receive, according to the increased value of all the aforesaid marsh and low grounds included in the said embankment: *Provided however,* that if any person or persons, his, her or their heirs, executors or administrators should think him, her or themselves aggrieved by the award and return of the commissioners aforesaid, it shall be lawful for such person or persons to apply to the next term of the same court, whereupon, three other commissioners shall be appointed, who shall review the proceedings of the first commissioners, and all

After embankment the court of common pleas, or the supreme court to appoint three freeholders &c

Who shall declare what increase in value has arisen, &c and make return to the next term, &c

Reimbursement to be made by the persons benefited,

Proviso.

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matters and things relative to, and touching the premises, and report thereof make to the next term of the said court thereafter; which return shall be final and conclusive to the parties, and payment (if any be allowed) shall thereupon be made accordingly.

Authority  
to clear out all  
obstructions  
in said creek.

SEC. 4. *And be it enacted by the authority afore-*  
*said,* That it shall and may be lawful for the said Joseph Maull to clear out and remove any obstruction or obstructions which may be in the said Slaughter creek, either above or below the place where he may stop said creek, so that the waters may pass off without impediment.

Persons in-  
juring said  
banks, &c.  
how fined and  
in what sum.

SEC. 5. *And be it enacted,* That if any person or persons shall destroy, break or in any manner injure any of the dams, banks, trunks or sluices which may be made and constructed in pursuance of this act, or any part thereof, every such person destroying, breaking or injuring said dams, banks, trunks or sluices or either or any of them, shall be deemed guilty of an indictable offence; and every person or persons so destroying, breaking or injuring any the said dams, banks, trunks or sluices, or any part thereof, or aiding, abetting or counselling therein, or thereto, shall be liable to be proceeded against in the court of general quarter sessions of the peace and jail delivery in Sussex county, by indictment; and on conviction, shall be fined in any sum not exceeding one thousand dollars, at the discretion of said court, and shall be sentenced to pay the said fine with all costs, and such proceedings shall be had, as in all other cases of indictable offences.

Commis-  
sioners' their  
allowance.

SEC. 6. *And be it further enacted,* That the commissioners appointed by virtue of the third section of this act, shall receive one dollar each, for every day's attendance in performing the duties assigned them by this act, to be paid by the said

Joseph Maull, and charged by him as a part of the expenses of said improvement.

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PASSED AT DOVER, }  
January 30, 1823. }

## CHAPTER CLXXII.

AN ACT to enable William Hopkins. to complete his title to certain vacant lands. situate in Missillion hundred, in Kent county.

PASSED AT DOVER, }  
January 30, 1823. } PRIVATE ACT.

## CHAPTER CLXXIII.

AN ACT for regulating the construction and use of wears, nets and gill seines in the waters of Indian River in Sussex county.

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 any person or persons, inhabitants of Sussex county, to make, construct, erect, place and use any wear, wears, hedge or gill seines in any of the waters of Indian river, above the intersection of Pepper's creek with said river, in the county of Sussex, under the following restrictions and limitations, that is to say: No gill seine or net shall be placed, used or kept for the purpose of taking fish, so as not to leave a clear passage or space of the deepest waters of said river, directly across said channel, of twenty rods.

Inhabitants of Sussex allowed to erect wears, &c. in Indian rivers and in what places.

Proviso.

SEC. 2. And be it enacted by the authority aforesaid, That no wear or wears shall be put, placed or erected in any of the waters of Indian river, a-

No wear, &c. above or higher up said river than the place known to be placed, by the name of the Ferry, in any manner, so as to &c. above the ferry so as to injure the free navigation for vessels, flats or other water-crafts, to pass and repass at their will or pleasure, &c.

Distance across; nor shall any two wears be set, placed or put part and nearer each other than twenty rods; and at all width of times shall leave a clear space directly across said channel, of the distance of forty

feet of the said river; and the owner or owners of every such wear shall take up the same and every part thereof, once during the month of April in each and every year.

**SEC. 3. And be it further enacted.** That if any

Wears erected contrary to the provisions of this act, how to be removed. person or persons shall place, put, keep or use any gill-net, wear, hedge or seine, in or across any of the waters of Indian river, contrary to the provisions of this act, it shall be the duty of any justice of the peace for Sussex county, on complaint to him made by any freeholder of said county, to issue his warrant directed to any constable of said county, requiring such constable to remove and destroy any such wear, hedge, or gill seine, and the owner or owners shall be liable for all charges attending the same, to be adjudged by some justice of the peace for said county.

**SEC. 4. And be it further enacted.** That it shall

Lawful for any person to destroy any wear, &c. not authorized by this act. be lawful for any person or persons to destroy any wear, hedge or gill seine found in any of the waters of Indian river, contrary to the provisions of this act.

PASSED AT DOVER. }  
January 31, 1823. }

## CHAPTER CLXXIV.

CHAP.  
CLXXIV.AN ACT *concerning costs in criminal cases.*

1823.

BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met.* That no person, who shall hereafter upon the trial of any issue or traverse joined upon any indictment, be acquitted by a jury, shall in any case be liable to pay the costs of prosecution; but that every person so acquitted, so far as concerns the charge or charges contained in such indictment, shall upon acquittal be discharged without the payment of costs.

Persons acquitted in criminal cases not to be liable for costs, &c.

PASSED AT DOVER. }  
January 31, 1823. }

## CHAPTER CLXXV.

AN ACT *to appropriate the money in the treasury of this State.*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the money now in the treasury of this State, or which may come into the treasury of this State during the present year, shall be 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 court of common pleas, attorney-general, Secretary of State, and auditor of accounts, up to the first Tuesday of January, one thousand, eight hundred and twenty four; 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 pas-

Appropriation for payment of salaries; allowances of members of General Assembly and other officers & claims.

CHAP.  
CLXXV.

1823.

sed at the present session of the General Assembly, and the votes and proceedings of the two branches thereof; and the residue, if any, or so much thereof as may be necessary, to the payment of any sums of money due to the citizens of this State, for which provision has been, or may be made by law.

PASSED AT DOVER. }  
February 1, 1823. }

## CHAPTER CLXXVI.

AN ACT providing for the draining of certain marshes and low grounds in Slaughter neck.

Owners authorized to cut ditches.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That for the purpose of draining the marshes and low grounds in Cedar-creek hundred, Sussex county, in the lower part of Slaughter neck, the owners and possessors of the said marshes and low grounds, shall have full power to cut such ditch or ditches to empty into Slaughter creek as shall be laid out as hereinafter directed.

Commissioners appointed — their power and duties;

SEC. 2. And be it further enacted. That John Collins, of Cedar-creek; David Hazzard and William Kendrick, all of Sussex county aforesaid, be, and they are hereby appointed commissioners to go upon and view the said marshes and low grounds, in the lower part of Slaughter neck aforesaid, and to lay out such ditch or ditches to empty into Slaughter creek, as they or a majority of them shall determine to be necessary and proper, for the effectual draining of the said marshes and low grounds; and the said commissioners or a majority of them shall determine the point or points from which such ditch or ditches shall be dug, the places and directions thereof, and the width, depth, form and dimensions thereof; also the said commissioners, or a majority of them, shall ascertain and

determine all the owners of all the marshes and low grounds which will be benefitted by the ditch or ditches so to be laid out, and the quantity thereof held by each owner, or by joint owners, if any be held undivided, and shall appraise all the said marshes and low grounds, which in their opinion or the opinion of a majority of them, will be benefitted by such ditch or ditches, by fixing the value thereof per acre, according to the situation, and upon such principles as will do equal and exact justice to all parties; which said appraisement shall be the rate of assessment for all taxes laid under this act; and the said commissioners or a majority of them shall estimate the sum of money requisite to complete the ditch or ditches so to be laid out, and shall apportion, lay and assess the same upon the said value so fixed of the said marshes and low grounds so appraised, according to a certain rate for every dollar of said value, and so *pro rata*, and shall apportion and tax the same sum of money among and upon the owners respectively accordingly, and the said commissioners or a majority of them, shall make two certificates under the hands of them, or a majority of them, describing the ditch or ditches so laid out, and containing the names of the owners, the quantities held by them respectively, the appraisement or valuation, and the taxes laid; one of said certificates shall be deposited in "the office for recording of deeds" in and for Sussex county, and shall there be recorded by the recorder of deeds for said county, and a copy of said record, under the hand and seal of office of said recorder shall be competent evidence, and the other of said certificates shall be delivered to the treasurer for the time being; and the said certificates shall be final and conclusive upon all parties.

and to determine the quantity and benefit of owners, &c.

and appraise, &c.

Appraisement to be the rate of assessment, &c.

and ascertain the sum requisite by assessment, &c.

Certificates to be made;

where deposited and recorded.

Copy of record to be evidence.

Certificate to be final, &c.

SEC. 3. *And be it further enacted*, That the owners of the aforesaid marshes and low grounds, which, according to the determination of the aforesaid commissioners, or of a majority of them, will be benefitted by the ditch or ditches, which shall be

Owners to be a company —name of— when to meet and where, &c.

Notice of meeting;

Officers chosen, how and when;

General powers, &c.

Occasional meetings how called and notified;

Votes by proxies.

Managers appointed, how to continue &c.

present treasurer;

laid out as aforesaid, shall compose a company to be called "The Slaughter neck marsh company," and shall hold a meeting on the first Monday in March, in the year eighteen hundred and twenty-four, and on the first Monday of March yearly, and every year thereafter, at such place in Slaughter neck aforesaid, as the managers for the time being, or the survivor of them, or if none such, as the treasurer for the time being, shall appoint, whereof ten days notice shall be given by at least two advertisements posted in the most public places in said neck, or at such place as the company may by vote, from time to time determine upon; at which annual meeting the said owners of said marshes and low grounds shall choose by ballot and by majority of votes, two managers and one treasurer, for the year ensuing such meeting, and may do and determine upon all such matters and things as shall be deemed requisite for draining the said marshes and low grounds, either by extending the ditch or ditches laid out, or altering the same or otherwise; and that occasional meetings of said owners to be held in Slaughter neck aforesaid, may be called by the managers and treasurer for the time being, or a majority of them, at such time and place as the said managers and treasurer, or a majority of them may appoint by giving ten days public notice by advertisements posted in three, at least, of the most public places in said neck, and five days written notice to the persons in the possession of said marshes and low grounds, or to the owners; at which occasional meetings, like acts may be done as at the annual meetings; and at all meetings a guardian of a minor owner shall have right to vote for his ward, and an absent owner to vote by proxy.

SEC. 4. *And be it further enacted,* That Robert Young and George Bennett, be, and they are appointed managers to continue in office for the term of one year from the first Monday in March next, and until successors to them respectively, shall be duly chosen; and that Laurence Riley, be, and he

is appointed treasurer, to continue in office for one year from the first Monday in March next, and until a successor to him shall be duly chosen; and every manager and treasurer to be chosen under this act shall continue in office until the first Monday in March next ensuing the election of him, and till a successor shall be chosen.

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General term  
of office.

SEC. 5. *And be it enacted*, That if either of the commissioners aforesaid or either of the managers or the treasurer aforesaid, or any commissioner, manager or treasurer hereafter to be chosen shall die, resign or refuse or neglect to act, the owners of the aforesaid marshes and low grounds may at any annual or occasional meeting to be held or called pursuant to this act. choose a commissioner, manager or treasurer to fill such vacancy or vacancies; and any vacancy either of a commissioner, manager or treasurer. at any time so happening, may be so filled: At all meetings regularly held or called, those present may always act, and the acts of a person chosen to fill any vacancy shall be as valid and effectual to all intents and purposes as those of the commissioner or manager or treasurer in whose place he shall be so chosen.

Vacancies,  
how filled.

SEC. 6. *And be it further enacted*. That the managers aforesaid and their successors, managers for the time being, shall have full power to enter upon the marshes and low grounds aforesaid. and at the common expense of the company, procure such ditch or ditches as may be laid out pursuant to this act, or as may be ordered and directed by the company, to be cut and opened, and kept cleaned out and scoured; and for this purpose they may employ workmen and labourers as they may deem expedient; and they shall pay all wages and hire of workmen and labourers, and all expenses by them incurred under this act, by orders drawn upon the treasurer, which shall specify the service or expense for which the same shall be drawn; they shall keep an exact account of all orders by them drawn, and of all wages, hire and expenses, and

Powers & duties of managers.

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shall lay the same before the company at the annual meeting; and when the money which shall be assessed by the commissioners, or a majority of them, shall be expended, the managers aforesaid or their successors, managers for the time being, shall have full power and authority from time to time, to determine upon such sum and sums of money as will be requisite to enable them to perform the work necessary to be done, and to defray the expenses necessary to be incurred in cutting, opening and scouring such ditch or ditches as aforesaid, and from time to time to apportion, lay and assess such sum and sums of money among the owners of the aforesaid marshes and low grounds, upon and according to the value of the respective quantities or parcels which such owners respectively, shall hold of the said marshes and low grounds which shall be mentioned and contained in the aforesaid certificates so to be made as aforesaid, by the commissioners aforesaid, or a majority of them, as such value shall be fixed and set down in said certificates, at, and according to a certain rate upon and for every dollar of said value, and so *pro rata*; and the said managers shall make a list of all assessments and taxes by them from time to time made and laid, and shall deliver the same to the treasurer for the time being, and the same shall be final and conclusive upon all parties.

Power of  
treasurer to  
collect taxes,  
&c. manner  
of collecting,  
&c.

SEC. 7. *And be it further enacted,* That the treasurer aforesaid, and every treasurer to be chosen as aforesaid, for the time being, shall have full power and authority to demand and receive, levy and make all and every the taxes, which shall be laid and assessed pursuant to this act, whether by the commissioners or a majority of them, or by the managers, according to the certificate or the list which shall be delivered to such treasurer; and in case any tax or taxes so laid and assessed or any part thereof, shall remain unpaid for the space of ten days after the time appointed for the payment thereof, the treasurer aforesaid and every treasurer for the time being, may and shall proceed to make

and levy all such taxes so remaining unpaid or any part thereof remaining unpaid in the same manner and by the same means and proceedings as are provided by the act of the General Assembly of this State, entitled "An act for raising county rates and levies," and by the twenty fifth and twenty-sixth sections of the act of the General Assembly of this State, entitled "An act for the valuation of real and personal property within this State." for levying and recovering the rates and taxes in said acts mentioned.

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SEC. 8. *And be it further enacted,* That the commissioners or managers laying the taxes, shall appoint the time for the payment thereof.

Managers, &c.  
to appoint the  
time of pay-  
ment.

SEC. 9. *And be it further enacted,* That the treasurer aforesaid, and every treasurer, for the time being, shall before he shall enter upon the duties of his office, give bond with surety or sureties, to be approved by the managers, to and in the name of the company aforesaid, in the penalty of two thousand dollars, upon condition to be void, if he shall pay all orders, that may be drawn upon him by the managers, so far as he shall have funds for that purpose, and shall well and truly account for all monies that may come to his hands as such treasurer, at every annual meeting of the company or otherwise as the company may direct, and shall pay any balance or sum which shall be due from him on such account to his successor in office, or otherwise as the company shall direct, and shall perform all the duties of his office with fidelity: and every treasurer, for the time being, shall have the same power to collect and levy all taxes upon a list delivered to a former treasurer remaining unpaid, which the treasurer, to whom the list was originally delivered had.

Treasurer to  
give bond, &c.

Condition;

Authorized to  
collect arrear-  
ages, &c.

SEC. 10. *And be it further enacted,* That every commissioner and manager before acting under this act, shall take an oath or affirmation before a justice of the peace in and for Sussex county, to per-

Oath of ma-  
nagers, &c.

CHAP.  
CLXXVI.

form all the duties required of him by this act, with impartiality and fidelity.

1823.

Penalty for  
obstructing  
the ditches, &c.

SEC. 11. *And be it further enacted.* That if any person shall wilfully fill up or in any manner obstruct any ditch or ditches to be cut as aforesaid, every such person shall pay to the aforesaid company treble damages, to be recovered before any justice of the peace of Sussex county, it not exceeding in the whole fifty dollars, as debts above forty shillings, and not exceeding fifty dollars are recoverable, and if above that sum, in the supreme court or court of common pleas.

How recovered.

Company authorized to  
bring suits &  
how.

SEC. 12. *And be it further enacted,* That suits may be instituted and prosecuted in the name of the company aforesaid, upon any bond given as aforesaid, or for the recovery of damages as aforesaid.

Owners, &c.  
may drain  
their marshes  
under direc-  
tions of ma-  
nagers for the  
time being;

SEC. 13. *And be it further enacted,* That the owners and possessors respectively, of the aforesaid marshes and low grounds shall respectively, have right and privilege to discharge the waters from their respective marsh or ground, either by the natural channels or by drains to be cut through the marsh or grounds of other owners or possessors in such places and directions, and of such width, depth and dimensions, as the managers, for the time being, shall prescribe; if the cutting of such drains will be advantageous to the marsh or grounds of other owners, such owners shall contribute such proportion of the expense as the managers shall direct; if the cutting of such drains will injure the marsh or grounds of other owners, the managers shall assess the damages, and the cutting shall not be commenced until the damages shall be paid or tendered; any owner shall have privilege to cut any drain or drains through his own marsh or ground emptying into the ditch or ditches of the company.

Benefitted to  
contribute, &c.

If injured da-  
mages to be  
paid before &c.

Privilege of  
owners, &c.

Compensati-  
on of officers.

SEC. 14. *And be it further enacted,* That every commissioner and manager shall for every day's service under this act receive one dollar, and every

treasurer shall be allowed a commission of five per centum on all monies by him collected.

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1823.

PASSED AT DOVER. }  
February 1, 1823. }

## CHAPTER CLXXVII.

### AN ACT concerning roads and bridges in Newcastle county.

SECTION 1. 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, no bridge shall be erected on any public road or highway within the county of Newcastle, at the common expense of the county, until a majority of the members of the levy court shall have recommended the erection of such bridge, and the court of common pleas shall have approved the same. No bridge to be erected unless, &c.

SEC. 2. And be it further enacted, That all bridges hereafter erected according to the provisions of the first section of this act, shall be perpetually hereafter maintained and kept in good order and repair, by the levy court of Newcastle county, at the common expense of the county. — hereafter erected how repaired, &c.

SEC. 3. And be it enacted, That all bridges within the county of Newcastle, which may have heretofore been erected and built by the authority of the levy court of said county, and which may now require to be rebuilt or repaired shall be so rebuilt or repaired and hereafter kept and maintained at the common expense of the county. — heretofore erected, &c. how repaired & kept &c.

SEC. 4. And be it enacted, That the bridge lately erected over Redlion creek by the commissioner of roads for Newcastle and Redlion hundreds, and Bridge and causeway over Redlion

creek, how the causeway leading to the same in Newcastle and  
 paid for and Redlion hundreds, shall be paid for out of the  
 maintained&c funds of the county, and hereafter be maintained  
 at the common expense of the said county.

PASSED AT DOVER, }  
 February 1, 1823. }

## CHAPTER CLXXVIII.

AN ACT to unite the company of owners and possessors of the marsh, cripple and low grounds lying on and at the head of Heron gut, in Little creek hundred, Kent county and State of Delaware, to the Simon's creek marsh company, and for other purposes.

### Preamble.

WHEREAS, it has been represented to this General Assembly, that all persons concerned would be much benefitted by the uniting of the "Company of owners and possessors of the marsh, cripple and low grounds lying on and at the head of Heron gut," in Little-creek hundred, Kent county and State of Delaware, (which company was authorised by an act of the General Assembly, passed at Dover, in the year of our Lord, one thousand, eight hundred and eleven, to ditch, drain and embank the same) to the company of owners and possessors of the adjoining marsh, cripple and low grounds incorporated with powers to ditch, drain and embank the same, under the name and title of "The Simon's creek marsh company."

4 vol chap 59  
 p. 464.

5 vol. p 351.  
 6 vol. 98, p.  
 134.

Managers of  
 &c authoriz-  
 ed to stop the  
 water course  
 of Heron gut,  
 &c.

SECTION 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* that with a view to effect this object the managers for the time being, of the first aforesaid company, be, and they are hereby authorized and empowered to stop the water course of the said Heron gut, at that point or place upon the said gut where the bank of the a-

foresaid Simon's creek marsh company now terminates, and to place therein such sluice or sluices as may be necessary, as well for letting off the back waters as for keeping the tide waters from flowing into the said company's marsh: And to make a good and sufficient bank from the said place of stopping the said gut, across the marsh on the line between Jonathan Alston and John Banning, and between the said Alston and the heirs of Jonathan Emerson, deceased, to the present bank of the aforesaid company of owners and possessors of the marsh, cripple and low grounds lying on and at the head of Heron gut: And in order to raise a sufficient sum of money to defray the expenses of stopping the said gut and making the said bank, the managers aforesaid are hereby authorized and empowered to levy the sum necessary, by a tax or taxes upon the said marsh, cripple and low grounds lying on, and at the head of Heron gut, the same to be levied and collected in the same manner as the taxes of the said company have heretofore been levied and collected.

To levy tax  
to defray ex-  
pense as, &c.  
4 vol. p. 464.

Sec. 2. *And be it enacted.* That when the said managers shall have completed the said stopping and embanking as aforesaid, it shall and may be lawful for them to demand and receive for the use of the said "Company of owners and possessors of the marsh, cripple and low grounds, lying on and at the head of Heron gut," from the treasurer for the time being of "The Simon's creek marsh company" the sum one dollar per rod, for each and every rod comprised in the distance from the point or place on Heron gut where the Simon's creek marsh company's bank now terminates, to that part of the bank of "The company of owners and possessors of the marsh, low grounds and cripple lying on and at the head of Heron gut," to which it was contemplated to extend the said bank of the said Simon's creek marsh company: And the said treasurer is hereby authorized and required out of any money he may have in his hands as such trea-

Managers to  
receive from  
the treasurer  
of &c the  
sum of &c.

Said treas-  
urer authorized

to pay, &c.  
when, &c.

sure", to pay to the said managers the sum aforesaid, for the use aforesaid, as soon as the said stopping and embanking shall be completed as aforesaid.

**SEC. 3. And be it enacted.** That it shall and

Said com-  
pany owners  
of marsh on  
Heron gut to  
attend first  
annual meet  
ing after, &c.  
of Simon's  
creek marsh  
company to  
be held, &c.  
6 vol. p. 135,  
sec. 3.

may be lawful for the several owners and possessors of marsh, cripple and low grounds, situate within the boundaries of the "Company of owners and possessors of the marsh, cripple and low grounds, lying on and at the head of Heron gut," and they are hereby authorized and empowered to attend the first annual meeting of the "Simon's creek marsh company" prescribed by the several acts of the General Assembly, incorporating and regulating said company, for the election of officers and for other purposes, which shall be held after said company shall have made a good and sufficient back upon all those borders of the marsh of said company, which are exposed to the tide waters of the Delaware bay, and stopped the creeks and water courses leading through the said marsh; and also after the managers of the "Company of owners and possessors of the marsh, cripple and low grounds, lying on and at the head of Heron gut," shall have done and performed all that is required of them in the first section of this act; and shall have liberty at such meeting to vote for all the officers, and shall be eligible to all the offices of the said "Simon's creek marsh company," and shall enjoy generally the same rights and privileges in said meeting as are granted to the several individuals composing the said "Simon's creek marsh company" by the several acts of the General Assembly incorporating and regulating said company.

And vote for  
officers and be  
eligible to &c  
and enjoy &c.

**SEC. 4. And be it enacted.** That after the holding of such meeting of the "Simon's creek marsh company" as aforesaid, the said "Company of owners and possessors of the marsh, cripple and low grounds lying on and at the head of Heron gut," and the several members thereof shall become and be, and forever remain, to all intents and purposes, a part of the "Simon's creek marsh company," and

Said com-  
pany to be in-  
corporated  
with Simon's  
creek marsh  
company af-  
ter, &c.

the said acts of the General Assembly incorporating and regulating the said company last aforesaid, shall be so extended; and they are hereby so extended as that after the said meeting to be held as aforesaid, the several enactments and provisions thereof shall embrace all the marsh, cripple and low grounds, within the boundaries of the "Company of owners and possessors of the marsh, cripple and low grounds lying on and at the head of Heron gut," and be binding and obligatory upon the owners and possessors thereof.

Former acts extended and to whom and when  
5 vol. p. 351;  
6 vol. p. 134.

SEC. 5. *And be it enacted*, That the managers, for the time being, of the "Company of owners and possessors of the marsh, cripple and low grounds, lying on and at the head of Heron Gut," are hereby authorized and required to add to the assessment of Jonathan Alston, (one of the said company) the marsh lying and being between the present site of the said company's bank, and the site as contemplated in the first section of this act at the same rate per acre as the marsh, cripple or low ground, belonging to said Alston, within the present bank of the said company was valued at in the assessment heretofore made, and (thus amended) to procure the said assessment heretofore made by Samuel Price, John Marim and Robert Hopkins, under the act of the General Assembly, constituting said company, to be recorded in the recorder's office in and for Kent county.

Tract of marsh to be added to assessment of J Alston, and by whom,

Assessment heretofore made by &c. to be recorded,

SEC. 6. *And be it enacted*, That the aforesaid assessment of the company of owners and possessors of the marsh, cripple and low grounds, lying on and at the head of Heron gut, amended as aforesaid, shall be, and remain valid and unalterable as well after as before the said company becomes a part of the "Simon's creek marsh company" as aforesaid; and that the assessment of the said Simon's creek marsh company as heretofore made by Jonathan Alston, John Bell and John Fleetwood, shall be and remain forever the true and proper assessment of the several tracts or par-

Assessment so amended to remain unalterable and when, &c.

Assessment made by J. Alston, J. Bell, and J.

Fleetwood to  
remain good,  
&c.

cel's of marsh; cripple and low grounds belonging  
to the several individuals composing said company.

Additional  
preamble,

*And whereas*, it has been further represented to  
this General Assembly, that the tract of marsh  
granted to Thomas Clayton and Jacob Stout, es-  
quires, by an act of the General Assembly, passed  
at Dover, on the second day of February, in the  
year of our Lord, one thousand, eight hundred and  
eighteen, lies contiguous and adjoining to the said  
marsh of the said "Simon's creek marsh company:"  
that the said tract so granted to the said Clayton  
and Stout, has been by them enclosed by a bank,  
and the creeks, guts and water courses passing  
through or into it have been so stopped as to pre-  
clude the tide waters from flowing into them; that  
arrangements have been made between the said  
Clayton and Stout, and the said "Simon's creek  
marsh company," by which it is not contemplated  
to keep up any bank on the division line between  
them, and consequently if either of the said concerns  
were to refuse or neglect to keep in good repair the  
banks, sluices or stoppings, respectively, belonging  
to them, the other might thereby be ruined:

SEC. 7. *Be it therefore enacted*, That if at any  
time the outer banks, sluices or stoppings of the  
said "Simon's creek marsh company," be found ei-  
ther broken, or in such a state of delapidation as to  
endanger any of the embanked premises; and if the  
managers of the said company, for the time being,  
upon five days notice of such breach or delapidation  
being given to them by the said Clayton and Stout,  
or their heirs or assigns, shall refuse or neglect effec-  
tually to repair the same, then and in that case it  
shall and may be lawful for the said Clayton and  
Stout or their heirs and assigns, and the said Clay-  
ton and Stout, their heirs and assigns are hereby  
authorized and empowered to go on and make the  
necessary reparation upon such banks, sluices or  
stoppings and to collect the sum thus expended from  
the "Simon's creek marsh company," in the same  
manner that the taxes of said company are collected;  
*Provided nevertheless, and it is hereby enacted*, that  
if at any time the outer banks, sluices or stoppings

T. Clayton  
and J. Stout,  
to repair  
banks, &c  
Simon's creek  
marsh com-  
pany, and col-  
lect, &c.

Proviso.

upon the said tract of marsh granted as aforesaid, to the said Clayton and Stout, be broken or delapidated as aforesaid; and if the said Clayton and Stout or their heirs or assigns shall upon five days notice of such breach or delapidation being given to them by the managers, for the time being, of the "Simon's creek marsh company," refuse or neglect effectually to repair the same, it shall and may be lawful for the managers aforesaid, and they are hereby authorized and empowered to go on and make the necessary reparation of such breach or delapidation, and to collect the sum thus expended from the said Thomas Clayton and Jacob Stout, their heirs or assigns, in the same manner that the taxes of the said "Simon's creek marsh company" are collected.

Managers of  
Simon's creek  
marsh com-  
pany to repair  
outer banks,  
&c and when,

Sec. 8. *And be it enacted.* That if any person or persons shall destroy, break or in any manner injure any of the banks, dams, trunks or sluices which have been made, or may hereafter be made and constructed upon the said tract of marsh granted to the said Thomas Clayton and Jacob Stout, esquires, as aforesaid, every such breaking, injuring or destroying of the said dams, banks, sluices or trunks, or either or any part of the same, shall be an indictable offence, and every person so destroying, breaking or injuring any of the said dams, banks, trunks or sluices, or any part thereof, or aiding, abetting or counselling therein or thereto, shall be liable to be proceeded against in the court of quarter sessions of the peace and jail delivery, in Kent county aforesaid, by indictment, and on conviction, shall be fined in any sum not exceeding two thousand dollars, at the discretion of said court, and shall be sentenced to pay the said fine with all the costs, and such proceedings shall be had as in all other cases of indictable offences, and one half of the said fine shall be paid to the said Clayton and Stout, or their heirs or assigns, being owners or possessors of the premises so injured at the time of such proceedings.

Breaking the  
banks, &c of  
T Clayton &  
J Stout's said  
marsh, &c  
declared an  
indictable of-  
fence.

Penalty;

and how ap-  
plied,

**SEC. 9** *And be it enacted, That it shall and*  
 Managers may be lawful for the managers, for the time being,  
 under the 1st section of this act, in making marsh, cripple and low grounds, lying on and at  
 said bank, &c. the head of Heron gut, in making and constructing  
 shall take the mud one half the bank directed by the first section of this act, to  
 from, &c. go on and take one half of the mud necessary for  
 the said bank, from the marsh belonging to Jonathan Alston, aforesaid, and lying along the rout of  
 the said bank, and the other half from the marshes  
 of John Banning and the heirs of Jonathan Emerson,  
 aforesaid, in such proportions as may be con-  
 venient for the completion of said bank.

PASSED AT DOVER. }  
 February 1, 1824. }

## CHAPTER CLXXIX.

**AN ACT** to annul the marriage contract between  
*Sally Riggs and John Riggs.*

PASSED AT DOVER. }  
 February 3, 1824. }

PRIVATE ACT.

## CHAPTER CLXXX.

**A FURTHER SUPPLEMENT** to the act enti-  
 2 vol ch. 39, c titled "An act for the better regulation of dis-  
 pa 1147 tresses for rent, and for other purposes there-  
 3 vol ch. 132, tresses for rent, and for other purposes there-  
 pa 288 in mentioned."  
 4 vol ch 88,  
 pa 262  
 4 vol ch 96,  
 pa 441.

**SECTION 1.** BE IT ENACTED by the Senate and  
 House of Representatives of the State of Delaware  
 in General Assembly met, That where any land-  
 lord shall have sufficient grounds to suspect that his  
 tenant will remove with his effects out of the county  
 before the expiration of his term, or before his rent  
 rent due, &c. shall accrue due, so that no distress for said rent

can be made, it shall be lawful for such landlord, or any credible person for him, to apply to the prothonotary of the court of common pleas, or clerk of the supreme court, in and for the county where the lands or premises leased lie, and make oath or affirmation before said prothonotary or clerk, what rent the tenant is to pay; and at what time the same will be due, and that he has just cause to suspect, and doth believe, that such tenant will remove his or her effects out of the county before the time of payment, and thereupon a writ of attachment shall be issued out of such court, returnable to the next term thereof, directed to the sheriff of the county, against the goods and chattels of such tenant, and if such tenant shall not, at the time of serving such attachment, or before, or at the court to which such writ shall be returnable, give security to the landlord by bond, with sufficient surety or sureties, to be approved by the sheriff before the return of the writ, or by the court, at the term to which the same shall be returnable, to pay the said rent when the same shall become due, or so much thereof as shall upon trial be found due, with costs of suit, and further to abide the judgment that may be given in the case, the court, at the term, to which such writ shall be returnable, shall make an order for the sale of the goods and chattels attached, or so much thereof as shall be necessary to pay the rent, with the costs of suit; and the residue of the said goods and chattels, if any, shall, after such sale, be restored to the tenant, his executor, administrator or assigns, unless there shall be other sufficient cause, by reason of executions or otherwise, for the sheriff's holding the same.

CHAP.  
CLXXX.

1823.

Upon application on oath to, &amp;c.

Form of oath.

Attachment may issue; &amp;c.

If tenant do not give bond goods to be sold, &amp;c.

Residue unsold to be returned, unless &amp;c.

SEC. 2. *And be it further enacted.* That if the tenant shall give security as aforesaid, and deny the claim of rent, the court in which the case shall be, may direct an issue to be tried at the bar of the said court for ascertaining whether there be any claim for rent, and the amount thereof, and the said court shall render judgment for the plaintiff or defendant, according to the verdict; which judgment

If tenant give security and join issue court shall direct a trial at bar and render judgment &amp;c nor to be reversed for error except &amp;c.

ment shall not be liable to be reversed for any error in the form thereof or of the writ, or of the proceedings, excepting only for a substantial defect in the oath or affirmation: *And provided further*, that exception may be taken to any opinion delivered by the court, and a bill of exceptions signed, stating said opinion, and the same opinion shall be liable to be revised in the high court of errors and appeals, on writ of error.

Bill of exceptions allowed.

**SEC. 3.** *And be it further enacted*, That if a lessee for life or lives, terms of years or at will or otherwise of any messuages, lands or premises upon the demise whereof any rents are or shall be reserved or made payable, shall at any time during the term for which the rent accrues, remove or carry off from the demised premises his goods or chattels without the consent of the lessor in writing, it shall be lawful for the lessor within the space of forty days after said rent shall accrue due, to seize and take such goods and chattels, wherever the same may be found as a distress for said rent, and to sell and dispose of the same, unless the same shall be duly replevied, in the same manner as if the said goods and chattels at the time of distraining the same had been upon the demised premises: *Provided*, that nothing herein contained shall extend or be construed to empower the lessor to seize any such goods and chattels as a distress, which shall have been *bona fide* and for a valuable consideration sold before such seizure made, and actually in the possession of the buyer or buyers, separately from the possession of the seller: *And provided also*, that notice to remove from and yield up the demised premises to the landlord, shall not be taken to be a license from the landlord to remove the goods and chattels of the lessee from the demised premises.

Lessee removing from premises his goods &c without consent in writing

Lessor may seize them within forty days wherever found, and sell unless, &c.

Proviso in favour of purchaser in possession.

Further proviso.

**SEC. 4.** *And be it further enacted*, That all notices and demands from any landlord to a tenant to quit or to remove from and leave the premises demised, shall be in writing, otherwise the same

Notice to tenant to quit to be in writing or void.

shall be void; and that whenever any messuage, lands or tenements shall be leased from year to year or for a term of years, the tenant or tenants in order to determine the tenancy shall give to the landlord notice in writing of his, her or their intention to quit and remove from the same, three months before the end of any year or term of years, of his tenancy, in order to determine the said tenancy and the liability of the tenant therefrom arising; and if any tenant aforesaid shall quit or remove from any premises demised as aforesaid, without giving such notice, such tenant shall nevertheless be liable and shall be obliged to pay full rent for the said demised premises for the subsequent year, and for the said year shall be liable to all the covenants, agreements and promises contained in the lease to him, or arising by implication from the tenancy or demise, which shall be deemed to be continuing for such subsequent year; and if any tenant shall refuse to remove or quit, pursuant to any notice given as aforesaid by such tenant, he shall incur and pay double rent for the said premises which may be distrained for or recovered as other rents: *Provided always*, that all leases in which no time shall be expressly fixed upon by the parties for the termination thereof, shall be deemed leases from year to year, unless in the case of such houses and lots as are according to usage, let for a less term than one year.

CHAP.  
CLXXX.

1823.

By tenant to be in writing three months, &c. or else pay full rent and be liable for all, &c.

Refusing to quit pursuant to notice shall pay double rent, &c.

Proviso.

PASSED AT DOVER, }  
February 3, 1823. }

## CHAPTER CLXXXI.

AN ACT dissolving the marriage between Adam Morton and Sarah his wife, late Sarah Ward.

PASSED AT DOVER, }  
January 16, 1823. }

PRIVATE ACT.

CHAP.  
CLXXXII.

## CHAPTER CLXXXII.

1823. AN ACT to change the place for holding elections in Newcastle hundred, being the sixth election district of Newcastle county.

BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General

*Election for Newcastle hundred to be held in town of Newcastle.* Assembly met, that after the passing of this act, the electors of the hundred of Newcastle, being the sixth district in Newcastle county, shall hold their general elections and their special elections at the court house in the town of Newcastle, and that so much of the act "for regulating the general elections of this State," passed at Dover, January 31, 1811, as requires the said electors to hold their said elections at the tavern then occupied by John Hare,

4 vol ch 152,  
pa. 422.

*that Newcastle turnpike company execute a license under seal, &c.* Provided be repealed: *Provided*, that the "Newcastle turnpike company" shall execute a license under the common seal of said company, permitting the electors of Newcastle county, upon all days for holding any elections by the electors of said hundred, either under the constitution or any of the laws of this State now existing, or which may hereafter be enacted, in the present and every year hereafter, to go to and return from the said court-house, free from tolls; which license shall be recorded in "the office for recording of deeds" in and for Newcastle county aforesaid, and a copy of the record, certified by the recorder, shall be good evidence, and the same shall be available to exempt all said electors, travelling on the turnpike road of said company from tolls on said days; and notice of the executing and recording of the same shall be given by advertisement in at least one newspaper printed in Wilmington; and if such license shall not be so executed and recorded as aforesaid, or if notice shall not be so given as aforesaid, on or before the tenth day of July next, this act, and every clause hereof, shall cease and become and be absolutely void.

Which shall be recorded.  
Certificate of record;

Its effect, &c.

Notice to be given and how &c. and when &c.

PASSED AT DOVER. }  
February 3, 1823. }

## CHAPTER CLXXXIII.

CHAP.  
CLXXXIII.

AN ACT to establish the line between Duck-creek  
and Little creek hundreds in Kent county.

1823.

WHEREAS it hath been represented to this General Assembly, that Duck-creek and Little-creek hundreds are divided by the main branch of Little-duck-creek, but that the said creek does not extend to the Maryland or Stone line, so as to make a plain and distinct line, but branches off into several small streams or swamps, causing a great difference of opinion respecting the line between said hundreds.

Preamble.

SECTION 1. *Be it therefore enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the dividing line between Duck creek and Little creek hundreds shall commence at the mouth of Little duck-creek, thence up said creek, binding with the several courses thereof to Register's mill; thence through the mill-pond of the said Register's mill, Wail's heirs and Cloak's mills, with the main stream or water courses thereof, until it crosses the State road leading from Kenton to Sadler's cross-roads, in the State of Maryland; thence with said road to the Stone line, so called, between this State and the State of Maryland; and the same to be and remain the dividing line between the said hundreds.

Division line  
of Duck-  
creek and Lit-  
tle creek des-  
cribed.

SEC. 2. *And be it further enacted,* That the levy-court and court of appeals of and for Kent county, shall, at their March session, correct the assessment lists of each of the said hundreds agreeably to the line laid down by this act; and the assessor of each of the said hundreds is hereby directed and required to give to the said court, such information as will enable them to correct said lists.

Levy-court  
of Kent to  
correct the as-  
sessment lists  
&c.

Assessors to  
give informa-  
tion, &c.

PASSED AT DOVER. }  
February 4, 1823. }

CHAP.  
CLXXXIV.

## CHAPTER CLXXXIV.

1823. AN ACT to prevent swine from running at large  
in certain limits therein mentioned.

Swine pre-  
vented from  
running with-  
in certain li-  
mits;

SECTION 1. BE 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 other person or persons whatsoever, residing within the limits and bounds hereinafter 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 at 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 the said division line to a corner stone, formerly a corner of Daniel Leech and Peter Lowber's lands; thence with a line dividing the lands of said Leech, now Vincent Moore and the heirs of Thomas Lowber, to the line of Joseph G. Rowland, and with said line to the end thereof, continuing said course to Murderkill creek, and down the same to the fork of Spring creek.

SEC. 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 March next, within the bounds or limits aforesaid, the owner or owners of all such hogs or swine, shall forfeit all such hogs or swine to the use of any person or persons who may take up and secure the same, unless the owner or owners may or shall pay to the person or persons so taking up and securing said hog, hogs or swine, one dollar for each and every hog or swine, with the proper charges for keeping the same.

SEC. 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 within the bounds aforesaid, to shoot or kill every 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 shot, but notice to be given.

SEC. 4. *And be it enacted by the authority aforesaid,* That nothing in this act contained shall be taken or construed to effect the hog or hogs of any person or persons living or residing without the bounds or limits described in this act, unless the 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. This act not to affect unless &c.

SEC. 5. *And be it further enacted,* That the act of Assembly on this subject, passed on the twentieth day of January, one thousand eight hundred and ten, be and the same is hereby repealed. Repeal, 4 vol. 317.

PASSED AT DOVER. }  
February 4, 1823. }

## CHAPTER CLXXXV.

A FURTHER SUPPLEMENT to an act entitled, "*An act directing the manner of choosing commissioners to regulate and repair the streets in the town of Milford, and for other purposes.*" also to an act entitled, "*A supplement to the act directing the manner of choosing commissioners, and for other purposes.*" 4 vol. 103.  
4 vol. 225.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That the commissioners are hereby required, directed and enjoined to cause Commissioners to cause nuisance-

ces to be removed, and how. all nuisance to be removed from the 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 the time specified by any two of the commissioners in writing, 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, any sum named by the commissioners, not less than one dollar, and not exceeding five dollars, to be sued for by said treasurer, and recovered as debts under forty shillings are recoverable.

SEC. 2. *And be it further enacted*, That it shall and may be lawful for Peter T. Causey to advertise, to give notice of election for officers, &c. and give notice at the election of commissioners, assessor, inspector and treasurer for the present year, in the same manner as could have been done by an assessor legally chosen; and that section five of the act entitled "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,'" be, and the same is hereby revived, and continued in full force, from and after the passing of this act.

4 vol. sec 6, p 105, repealed. SEC. 3. *And be it further enacted*. That section six of the act, passed at Dover, February fifth, one thousand eight hundred and seven, to which this is a further supplement, be and the same is hereby repealed, made null and void.

PASSED AT DOVER, }  
February 4, 1822. }

## CHAPTER CLXXXVI.

AN ADDITIONAL SUPPLEMENT to the *6 vol. p. 45.*  
*act entitled, "An act to incorporate a company*<sup>189.</sup>  
*for cutting and opening two canals to facili-*  
*tate the navigation of Christiana creek."*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met.* That "The Christiana canal company," having completed the canal first mentioned and described in the act to which this is an additional supplement, the president and managers of the said company shall have power, and they are hereby authorized to appoint a toll-gatherer or toll-gatherers, as they may think proper, to collect and receive from the owner or person having charge and command of each and every vessel passing through the said canal, the tolls and rates hereinafter mentioned; to which said tolls and rates, all and every vessel and vessels passing said canal, are hereby declared to be subject; and the said rates and tolls shall be as follows, that is to say: for every vessel laden in the whole or in part with goods, wares or merchandise, or articles of property, thirty-three cents; for every other vessel, twenty-five cents; for every scow or lighter, whether laden or not, twelve and one half cents; for every raft of lumber, thirty three cents; which tolls and rates shall be paid in the same manner, and collected and recovered by the same means and proceedings, and the same forfeiture or penalty shall be incurred for neglect or refusal, and recovered in the same manner as are provided by the sixth section of the act to which this is an additional supplement, in relation to the tolls and rates therein mentioned; and the same when paid or collected, shall be appropriated and applied as provided in the act to which this is an additional supplement.

*Toll gather-ers to be appointed to collect, &c.*

*Tolls fixed, how recovered, and applied;*

*6 vols. 6 p45.*

6 vol. sec. 2,  
pa 189, con-  
tinued in  
force.

SEC. 2. *And be it further enacted.* That the second section of the supplement to the aforesaid original act, shall be and continue in full force, notwithstanding any thing contained in the third section of said supplement to the contrary; and that if Samuel Johnson, his heirs or assigns shall apply to the supreme court or court of common pleas, pursuant to the fourth section of said supplement, notice of such application shall be given to the Christiana canal company, as the court shall direct, and the company shall be heard as to the appointment of freeholders.

Notice of ap-  
plication of  
S. Johnson,  
under 4 sec  
vol 6, p 189;  
to whom, &c.

PASSED AT DOVER. }  
February 4, 1823. }

## CHAPTER CLXXXVII.

4 vol. 662. A SUPPLEMENT to the act entitled "*An act to alter the times of holding the courts of law and equity in this State.*"

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from the passing of this act, there shall be two terms in every year in each of the counties of this State, of the court of general quarter sessions of the peace and gaol delivery, and of the court of common pleas, which shall commence as follows, that is to say: the 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 commencement of the term of the supreme court, in March or April, in Newcastle county, and in November, on the second Monday after the commencement of the term of the supreme court, in October or November in Newcastle county; and the said court of general quarter sessions of the peace and gaol delivery, shall commence and be held in Kent county, on the third Monday after the commence-

Terms of qr.  
sessions and  
common pleas

Qr. sessions  
—when hol.  
den in Sussex;

In Kent;

ment of the respective terms of the said court, in Sussex county; and in Newcastle county, on the third Monday after the commencement of the respective terms of said court in Kent county; and the court of common pleas shall commence and be held in each county, on the Monday after the commencement of the respective terms of the court of general quarter sessions of the peace and gaol delivery in such county.

In Newcastle;  
Common  
pleas, when  
holden.

Sec. 2. *And be it further enacted, That the high court of errors and appeals shall be held once in every year in the town of Dover, in Kent county, on the first Monday of August, to receive, hear and judge of appeals, and writs of error, and in all matters of law and equity which shall come before the said court.*

Court of ap-  
peals, when  
holden, &c.

Sec. 3. *And be it further enacted, That all appeals, writs of error, bills, actions, suits, indictments, pleas, commissions, writs, processes, bail-bonds, and all other proceedings, matters and things relating to any cause at law or in equity, civil or criminal which now is, or hereafter shall be depending in, or returnable to the high court of errors and appeals, the court of common pleas, or the 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 a manner as any appeal, writ of error, bill, action, suit, indictment, plea, writ, process, bail-bond or other proceeding, matter or thing now can or ever could have been tried, heard and determined before any such court.*

Continuance  
of process, &c.

Sec. 4. *And be it further enacted, That so much of any act of the General Assembly of this*

Repeal of  
former acts,

5 vol. 234. State, as appoints a different time for holding said  
4 vol. 662. courts is repealed.

PASSED AT DOVER. }  
February 1, 1823. }

## CHAPTER CLXXXVIII.

AN ACT for improving and extending the navigation of that part of Pokomoke river, which is situated in the State of Delaware.

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 managers to be appointed by the governor, in the manner hereinafter directed, to institute, carry on and draw, a lottery for raising a sum not exceeding ten thousand dollars, clear of all expenses, to be applied by commissioners, to be appointed for that purpose, by the governor, for improving and extending the navigation of the Pokomoke river, from the head waters of the said river, in Sussex county, to the west line dividing this State from the State of Maryland.

Lottery authorized.

SEC. 2. That before the said lottery shall be drawn, or any tickets therein sold, there shall be given to the governor, in the name of the State, such security for the fair drawing of the said lottery and for paying of the prizes and of the profits of the said lottery as the said governor shall deem adequate to the said purposes.

Bond, condition of.

SEC. 3. And be it enacted by the authority aforesaid. That the governor shall appoint five suitable persons to be commissioners for clearing out and improving the navigation of that part of the said river which is situated in the said county; and shall draw orders in favour of the said commissioners, upon the managers of the said lottery for the a-

Five commissioners to be appointed by governor;

their powers.

mount of the profits of the said lottery; which commissioners, before they proceed to act, shall give such security to the governor as he shall direct, for the faithful performance of their duties; and the said commissioners shall return to the governor, an account of their expenditures, to be laid before the General Assembly.

To give bond,  
&c. and ac-  
count, &c.

SEC. 4. *And be it enacted*, That the managers shall publish in the American Watchman and Delaware Advertiser, and in the Delaware Gazette, as well as in some one of the Philadelphia newspapers the scheme of the said lottery; and shall, as soon as a sufficient number of tickets shall have been sold, proceed to the drawing of the said lottery; and the fortunate adventurers shall be paid the prizes drawn against their numbers, on demand, at any time within ninety days after the drawing of the said lottery; but if not demanded within six months after the drawing of the said lottery, the said prizes shall remain to be expended for the benefit of the said improvement.

Duty of managers.

Prizes not  
demanded in  
six months to  
be forfeited,  
&c.

SEC. 5. *And be it enacted*, That the governor shall, from time to time, supply, by other appointments, any vacancies which may happen in the number of the said managers and commissioners.

Vacancies,

SEC. 6. *And be it enacted*, That the said managers may, if they deem it proper, retain, for the use of the objects of internal improvement herein provided for, any number of tickets in the said lottery, not exceeding one hundred and fifty tickets.

Managers  
may retain  
150 tickets.

SEC. 7. *And be it enacted*, That the said commissioners, if there shall be any balance remaining in their hands unexpended, after the work shall be completed on the said river, shall apply the same to the improvement of any of the water courses which have their sources in the neighbourhood of the head waters of the said river, and fall into the ocean or into Indian river; commencing the said improvements so far only remote from the said sources, as

Appropriation of balance unexpended.

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Five man-  
agers to be ap-  
pointed by go-  
vernor.

the money to be expended will enable them to pro-  
secute the said improvements, up to the said sources.

SEC. 8. *And be it enacted*, That the governor of  
this State shall have power and is hereby required,  
to appoint five suitable persons, being citizens of  
Sussex county, to act as managers to institute, draw  
and carry on the lottery herein authorized.

PASSED AT DOVER. }  
February 4, 1823. }

## CHAPTER CLXXXIX.

AN ACT *regulating the travelling over public  
bridges, in Newcastle county.*

Regulation  
of stage dri-  
vers, &c. pas-  
sing bridges,  
&c.

Penalty on  
offenders how  
recovered and  
applied.

BE IT ENACTED by the Senate and House of Re-  
presentatives of the State of Delaware in General  
Assembly met. That every stage driver, driving a  
stage, and every other person, driving any waggon,  
cart, coach, gig, chaise or any other carriage for  
the conveyance of persons or otherwise, over any  
public bridge in Newcastle county, built at the ex-  
pense of the county, shall check his horse, horses  
or team upon arriving at said bridges on either side  
thereof, and drive over the said bridges with his  
horse, horses or team in a walk, and that if any  
person or persons shall intentionally and wilfully  
offend against this provision, every person, for eve-  
ry such offence, shall forfeit and pay a sum not ex-  
ceeding five dollars, to be recovered before any jus-  
tice of the peace in and for Newcastle county; and  
applied, one moiety thereof to the person suing,  
and the other moiety to Newcastle county, and paid  
to the treasurer thereof, in an action at the suit of  
the informer; and further, that every person driving  
any stage, coach, waggon, cart, gig, chaise or other  
carriage for the conveyance of persons or otherwise,  
or riding on horse back over said bridge, shall  
keep on the right hand side or track of the bridge.

lately erected over Brandywine creek. at the village of Brandywine; and every person offending against this provision shall for every offence forfeit a like penalty, not exceeding the sum of five dollars, to be recovered and applied as aforesaid, before any justice of the peace for Newcastle county, in manner aforesaid; and that in case of any stage driver offending against either of these provisions, the proprietors of such stage or either of them, shall be liable to pay the penalty incurred, and to be proceeded against before any justice of the peace for Newcastle county, for the recovery thereof, in manner aforesaid, and the penalty when recovered shall be applied as aforesaid; and it shall be the duty of the levy court of Newcastle county, to put up an index board at each end of said bridge, explanatory of the provision of the aforesaid regulation, otherwise no fine or forfeiture shall be incurred; and further, the levy-court of Newcastle county is hereby directed to erect and keep two lamps regularly lighted through the night time on said bridge erected over Brandywine, at the village of Brandywine.

Regulation of stage drivers, &c. passing Brandywine bridge. Penalty on offenders.

Proprietors of stage liable, &c.

Duty of levy-court.

PASSED AT DOVER, }  
February 4, 1823. }

## CHAPTER CXG.

AN ACT *authorizing a subscription to the stock of the Chesapeake and Delaware canal.*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That as soon as books shall be opened for subscriptions to the stock of the "Chesapeake and Delaware canal company," the trustee of the fund for establishing schools in this State, shall be, and he is hereby authorized and required to subscribe, for the benefit and on behalf of the said fund, to the amount of five thousand dollars in stock of the said company;

Trustee of school fund to subscribe five thousand dollars, & when, &c.

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and that he pay the said sum of five thousand dollars in such instalments, and in such manner as may be required by the commissioners or directors of said company, out of any money belonging to the aforesaid fund, not otherwise appropriated by law.

SEC. 2. *And be it further enacted,* That the trustee of the fund for establishing schools in this State for the time being, be, and he is hereby authorized and required annually, and within the period of each and every year, for the term of five years, taking date from the time of the first subscription as authorized by the first section of this act, to make a further subscription of five thousand dollars to the stock of the aforesaid Chesapeake and Delaware canal company, in like manner, for the benefit and on behalf of the fund for establishing schools in this State; which several sums shall be paid from time to time, as the same may become payable, out of any money belonging to the said fund not otherwise appropriated: *Provided however—*

SEC. 3. *And be it further enacted,* That in case the trustee of the fund for establishing schools in this State should be unable at any time during the five years aforesaid, to obtain the full amount of stock authorized to be subscribed by this act, or any part thereof, on original subscription, in that case he is authorized and by this act required to purchase the same, or so much thereof as he may be unable to obtain on original subscription for the lowest price and on the best terms he can obtain.

SEC. 4. *And be it enacted,* That all stock obtained by virtue of this act, and as fast as the same may be subscribed for or purchased, shall be put to the credit of the fund for establishing schools in this State; and all interest or dividends arising upon the said stock, and which the trustee of the said fund for the time being, is hereby authorized to receive from time to time as the same

map become due and payable, shall by him in like manner be placed to the credit of the said fund.

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SEC. 5. *And be it enacted.* That the trustee for the time being, of the fund for establishing schools in this State, is authorized at any election which may be held for president and directors, or other officers of the Chesapeake and Delaware canal company, to vote on any number of shares of the said stock belonging to the fund aforesaid, either himself or by proxy, according to the provisions of an act of Assembly 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," and the several supplements to the said act now in force.

Trustee to  
vote or by  
proxy as di-  
rected, 3 vol.  
pa. 170.

PASSED AT DOVER, }  
February 5, 1823. }

## CHAPTER CXCL.

**AN ACT** to authorize and empower the owners and possessors of the marsh, cripple and low grounds lying on Little creek in Kent county, to ditch, drain and bank the same.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Cornelius P. Comegys, Spencer Williams, Jonathan W. Mifflin, Joseph M. Patten and Edward Fisher, be, and they are hereby appointed managers for the purpose of ditching, draining and banking the marsh, cripple and low grounds lying on both sides of Little-creek, in the county of Kent, between the head of the said creek and the site for the bank hereinafter mentioned, to be fixed and determined by the said managers, and they are hereby authorized to go up- on and view all the marsh, cripple and low grounds aforesaid, and cause the same to be ditched, drained

Present man-  
agers;

Their powers  
and duties.

CHAP.  
CLCI.

1823.

Site where to  
be fixed.Further pow-  
ers, &c.

and banked in such manner as to them or a majority of them shall seem most proper; and to fix and determine the site of a bank to be erected and built across the said creek, under the superintendence and direction of the managers aforesaid, at such place as they, or a majority of them, shall deem most proper and most beneficial to the owners of the meadow, marsh and cripple aforesaid: *Provided* however, that the site of said bank so to be fixed and determined by the said managers, shall be above the draw-bridge on the said creek, and distant at least two hundred yards therefrom; and the said managers are hereby authorized and required to cause to be cut or opened a sluice or sluices in the said bank, so to be erected, across the said creek, for the purpose of venting the back waters from flowing through and from the low grounds, marsh and cripple above the said bank.

Commission-  
ers appointed,  
to view, their  
powers and  
duties;

SEC. 2. *And be it enacted.* That Jacob Stout, Jonathan Alston, Manlove Hayes, John Bell and Gideon Cullen, be, and they are hereby appointed commissioners to go upon and view all the marsh, cripple and low grounds which may be benefited and improved by the ditches, drain and bank to be erected and made by or under the directions of the managers hereinbefore appointed; and the said commissioners are hereby authorized and empowered to assess and levy a tax on each and every owner of the said marsh, cripple and low ground sufficient in the whole sum thus to be assessed and levied, to defray the expense of cutting, making and erecting the said ditches, drains and bank and sluice or sluices; and the said commissioners in apportioning the whole tax among the several owners of the said marsh, cripple and low grounds shall take into consideration the degree or amount of advantage which each of the said owners will derive from the said ditches, drains and banks and sluice or sluices, and shall make the apportionment accordingly.

To make  
list of owners,

SEC. 3. *And be it enacted.* That the said commissioners, when, and as soon the said tax shall be

apportioned as aforesaid shall make a list of the names of such owners and possessors of the marsh, cripple and low grounds as shall be liable to pay any part of the said tax by them apportioned as aforesaid, with the respective sums annexed to each name, for which every of the said owners or possessors shall be liable, and they shall deliver the said list to the treasurer hereinafter named.

SEC. 4. *And be it enacted*, That the treasurer hereinafter named and his successors respectively are hereby required to pay over all such sums of money as shall be collected by virtue of this act, to the aforesaid managers deducting therefrom, and reserving five per cent. for his trouble of collecting.

SEC. 5. *And be it enacted*. That Jonathan W. Mifflin, be, and he is hereby appointed treasurer to collect and pay over the taxes by this act directed to be levied and raised; and he is hereby authorized and empowered in case of neglect or refusal to pay the tax herein before directed to be assessed and levied, to proceed to collect the same, in the same manner as by law is provided for the collection of county rates and levies, except that he shall advertise at least thirty days before the sale.

SEC. 6. *And be it enacted*, That the treasurer aforesaid, before he shall enter upon the duties of his office, according to the directions of this act, shall give bond to, and in the name of the managers, with sufficient security, if required, in the sum of five hundred dollars, lawful money of the United States of America, conditioned for the faithful performance of his duties under, and the due observance of this act.

SEC. 7. *And be it enacted*, That the said managers and commissioners be severally allowed one dollar per diem for each and every day they shall be actually engaged in the services herein before mentioned.

Vacancies  
how filled.

SEC. 8. *And be it enacted,* That if any of the managers or commissioners or the treasurer aforesaid, shall die or refuse to serve, the owners and possessors of the said marsh, cripple and low grounds shall and may, upon ten days notice by the remaining managers, meet and choose, by ballot, a fit person or persons to fill such vacancy or vacancies; and the person or persons so chosen, shall have all the authority and power vested by this act, in the person or persons whose place he or they shall be elected to supply; and the treasurer so to be chosen, is hereby authorized and empowered to receive or sue for any balance that shall be due from his predecessor in office.

Ditches &c. to  
be kept in re-  
pair and how;

Penalty for  
injuring, &c.  
how applied.

SEC. 9. *And be it enacted,* That after the said ditches, drains and bank shall be made and completed, the said managers are hereby authorized and empowered to keep the same in good order and repair; and if any person or persons whomsoever shall stop up or obstruct the said ditches or drain or either or any of them, or shall injure or break the said bank, or injure the said sluice or sluices to be created, erected or made in pursuance of this act, he, she or they so doing, shall forfeit and pay to the treasurer aforesaid, double damages for the injury so done, to be recovered by the said treasurer, in the court of common pleas or supreme court of this State, and to be applied towards keeping the said ditches, drain, bank and sluice or sluices in good order and repair as aforesaid.

Second as-  
sessment, if  
first not suffi-  
cient, to be  
made, &c. and  
by whom.

SEC. 10. *And be it enacted,* That if the first assessment, made under this act, for the purpose of raising a sum to make the said ditches, drain and bank, and keep the same in repair, be found not sufficient for that purpose, the said commissioners or their successors shall make another assessment, and levy another tax upon the owners as aforesaid, of the said marsh, which additional tax shall be collected by the treasurer as herein before is directed.

SEC. 11. *And be it enacted.* That the said managers and treasurer shall keep a fair, just and regular account of their receipts and expenditures, which any of the owners and possessors of the said marsh, cripple and low grounds shall at any reasonable time have the liberty of seeing and examining.

Managers  
and treasurer,  
to keep ac-  
counts.

SEC. 12. *And be it enacted.* That the said owners and possessors of the said marsh, cripple and low grounds, shall, within one year after the passing of this act, procure a copy thereof regularly attested by the Secretary of State, and cause the same to be recorded in the office for recording of deeds, in and for Kent county, (for which the recorder shall have the same fees as for recording deeds) and a copy of the said record, under the hand of the said recorder, with the seal of the said office thereto affixed, shall be received as evidence in all courts of law and equity within this State.

Owners, &c.  
to obtain copy  
of this act  
and cause it  
to be recorded  
and copy of  
record evi-  
dence.  
Recorders fee

PASSED AT DOVER, }  
February 5, 1823. }

## CHAPTER CXCL.

### AN ACT for the payment of claims for the tuition of poor children.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the trustee of the fund for establishing schools in this State, be, and he is hereby authorized and required to pay out of any money belonging to the said fund and not otherwise appropriated, the following claims for the education of poor children, authorized by law, that is to say: to Henry W. Dillon, twenty one dollars and eighty nine cents; to William Veach, four dollars and seventy five cents; to Frederick Rowe, the amount of two accounts, fifty-two dol-

Trustee of  
school fund to  
pay to—  
H W Dillon,  
Wm. Veach,  
F. Rowe,

M. C. Smith, lars and eighty five cents; to Maria C. Smith, one hundred and eighty three dollars; to Joseph Huston, five dollars and forty cents; to James Williamson, twelve dollars and fifty cents; to Jane Porter, six dollars and three and an half cents; to Joseph Oliver, twenty-one dollars and sixty-eight cents; to Wm. Pippin, William Phippen, seven dollars and fifty cents; to Isaac Powell, Isaac Powell, eight dollars and eighty-seven and an half cents; to Mary Farson, fifty-six dollars; to J. Loring, Jerome Loring, nine dollars and sixty-seven cents; J.C. Mitchell, to Joshua C. Mitchell, sixteen dollars; and to M. Colesberry, Margaret Colesberry, seventy-six dollars and eleven cents.

PASSED AT DOVER, }  
February 6, 1823. }

### CHAPTER CXIII.

2 vol. p. 988, A FURTHER SUPPLEMENT to the act entitled, "An act for the better relief of the poor." 1034; 3 vol. p. 241, 263; 5 vol. p. 346.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That no person shall be received into the poor house of either county in this State, without an order from two trustees of the poor, one of whom at least shall be in the hundred, of which such person is a resident: *Provided*, that this direction shall not embrace the case of any pauper having no known residence, who may be received upon the order of any two trustees of the poor.

SEC. 2. And be it further enacted, That any Committee of the board of trusters or the overseer of the poor, shall have full power to remove any person or persons who may have been received into the poor house, whenever such committee or overseer shall deem such removal proper.

**SEC. 3.** *And be it further enacted,* That if any female negro shall be admitted into the poor-house, in either county in this State, and be there delivered of a bastard child, that it shall be in the power of the trustees of the poor of the county in which such poor-house shall be, or a majority of them, and they or a majority of them, are fully authorized to sell such female negro as a servant, for the best price that can be obtained to any person within this State, for such term as shall be necessary, in order to reimburse all the expenses and charges, which shall have arisen or been incurred on occasion of admitting such female negro into the poor-house and keeping her there; and by indenture to bind such female negro to the purchaser or purchasers, and his, her or their executors, administrators or assigns, for the term for which she shall be sold; and the said female negro so sold and bound shall be obliged to serve the person or persons to whom she shall be so bound, and his, her or their executors, administrators and assigns, for and during the term for which she shall be so sold and bound: *Provided*, that such term of servitude shall not exceed eighteen months, and no assignment thereof shall be made except by the consent of two justices of the peace, or two trustees of the poor of the county, where the master or mistress may reside.

Trustees to  
sell female ne-  
gro having  
bastard in  
poor house.

And execute  
indenture, &c.

Proviso—  
term not to  
exceed eigh-  
teen months.  
Indenture not  
to be assigned  
unless.

**SEC. 4.** *And be it further enacted,* That it shall be the duty of every trustee of the poor to give information to the board of trustees of any poor negro or mulatto child or children, whose parents may not be able to maintain the same, or may not have means to bring the same up to industry; and on receiving such information the trustees of the poor of either county or any two of them, shall by a warrant under the hand of the president of the board, or any two of the trustees, cause such parents and children, or if there be no parents living, such children or child to be brought before them, and the said trustees of the poor in either county, or any two of them shall have full power, if they shall deem it proper so to do, to bind such child or children as apprentices to traders or otherwise; the males

Trustees to  
give notice of  
poor negro  
children, &c.  
to the board  
of trustees.

Their duty.

till the age of twenty-one years, and the females till the age of eighteen years; and the indenture of apprenticeship in such case need not express the proceedings nor more than the binding in the common form of indenture of apprenticeship, as now used by trustees of the poor; and the terms of apprenticeship, in the case of all indentures made by the trustees of the poor, or any two of them, shall be transmissible to executors and administrators, and shall be assignable with the approbation of two justices of the peace, or two trustees of the poor, by the original master or mistress or his or her executors, administrators or assigns; and the trustees binding such child or children, may secure such compensation to the parents as may be deemed proper.

**What indentures shall contain.**

**How assigned**

**Trustees to secure compensation to parents.**

**SEC. 5. And be it further enacted,** That no person or persons while in the poor-house, in either county, shall marry either with each other or with a person not in the poor-house; and that it shall be the duty of the overseer to prevent any such marriage from taking place at the poor house; for neglect of which duty he shall be removed from his office, unless he shall satisfy the board of trustees that he is excusable; and any such person or persons so marrying shall be immediately removed from the poor-house; and any minister of the Gospel solemnizing such marriage, knowing the parties or either of them to be in the poor-house at the time, or in charge of said overseer of the poor, shall forfeit and pay to the trustees of the poor of the county where the marriage takes place, a sum not exceeding fifty dollars, to be recovered before a justice of the peace as other debts are recoverable, with costs.

**Paupers prohibited from marrying and with whom.**

**Overseer neglecting, &c to be removed**

**Forfeiture for ministers solemnising, &c.**

**SEC. 6. And be it further enacted,** That no trustee of the poor, in any county of this State, shall furnish or provide any article for the poor house; but that all purchases shall be made from persons not trustees; and that the treasurer of the poor, in all settlements shall furnish bills of particulars shewing every item of his account.

**Trustees not to furnish articles for poor house**

**Treasurer's duty.**

SEC. 7. *And be it further enacted.* That if any husband shall separate himself from his wife, or if any father or mother desert his or her children, leaving them a charge upon the county, it shall and may be lawful for the trustees of the poor of the county where such wife or children shall be so neglected, or a majority of them to issue a warrant of sequestration, under the hand of the president, for the time being, and the seal of the corporation, directed to the sheriff of said county, commanding him to seize and sequester so much of the goods and chattels, and so much of the rents and profits of the real estate of the husband or father or mother as the said trustees, or a majority of them shall deem requisite to be applied for the maintenance of such wife, or the maintenance and bringing up of such children; by virtue of which warrant of sequestration, the said sheriff shall sequester or seize into his hands, goods and chattels of such husband, father or mother to the amount required, or the lands and tenements of the said husband, father or mother; and the warrant of sequestration shall be a charge and lien upon such goods and chattels, lands and tenements, from the time of the seizure or service of the sequestration, which shall be held liable to answer the purposes, for which such warrant shall be issued in preference to all subsequent liens, incumbrances, conveyances, contracts or agreements of the said husband, father or mother; and the trustees of the poor, or a majority of them, shall have power to make orders for the sale of the goods and chattels so seized and sequestered, and for receiving the rents and profits of the lands and tenements sequestered, and for applying the same to the support of the wife and children: *Provided*, that the said husband, father or mother whose property shall be so taken, may appeal to the next court of common pleas for said county, who shall hear the case, and may so modify or alter the amount required, or make such order in the premises as to them shall seem expedient: *Provided*, that the said sequestration shall continue a lien as aforesaid, in order to cover any sum that may be ordered by the said court, and also this section shall not re-

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Warrant of sequestration to issue where wife or children are deserted, &c.  
What it shall contain.

Duty of the sheriff.

Preference given under this act.

Trustees to draw orders for sale.

Proviso, that husband may appeal to common pleas.

Sequestration to continue a lien.

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peal the tenth section of a former supplementary act, to the act to which this is a further supplement, but the same shall remain in full force.

SEC. 8. *And be it further enacted.* That any

The reputed  
father of a  
bastard child  
charged with  
its support  
may apply to  
two trustees.

Their duties  
and powers.

person who has been, or hereafter shall be charged with the support of a bastard child, as the reputed father thereof, may apply to two trustees of the poor of the county. and the said trustees, if on hearing such application, they shall deem further inquiry proper, shall, by a warrant under their hands and seals, directed to any constable of the county, cause such child and the mother or person having charge of such child and the mother or person having charge of such child to be brought before them at some certain time and place in such warrant to be appointed; and the said trustees, if upon considering the circumstances, they shall deem it expedient, shall have full power to bind such child as an apprentice, to a trade or otherwise, to any person whom they shall approve. if a male, to the age of twenty-one years, and if a female, till the age of eighteen years; and the term of every such apprenticeship shall be transmissible and assignable, according to the regulations of this act relative to other apprenticeships: *Provided*, that such binding shall not in any manner impair or affect the security which shall have been given by the reputed father to indemnify the county from all charges that may arise from the maintenance of such child; but that such security shall remain in full force and effect notwithstanding any such binding.

Term of ap-  
prenticeship  
transmissible  
& assignable.  
Proviso.

SEC. 9. *And be it further enacted,* That the

Duties of the  
board of trus-  
tees of the  
poor at their  
annual meet-  
ing in January

board of trustees of the poor in each of the counties of this State respectively, shall at their annual meeting in the month of January, in each and every year. make out, under the signature of the president of the board of trustees in each county respectively, a fair and full statement in writing, and cause the same to be printed, of all the expenditures made for, and on account of the poor for the year preceding such statement, including as well

the expenditures in the respective poor houses, as for the out door paupers; and also the amount of the taxes levied for the support of the poor, and the several sums thereof which have been received, with a general view of the state of the finances of the respective institutions; also the number of paupers supported by the respective counties, distinguishing the in from the out door paupers, giving the names, ages, sex, colour, diseases or disabilities, with the time of the admission of each; together with such remarks and observations as may by the said trustees in the several counties respectively, be deemed pertinent and necessary to give a full, fair and impartial view to the citizens generally of their respective counties of this State, and condition of their paupers; and one copy of every such report, when so made out and printed, shall be hung up in the most public place in each hundred of the several counties respectively, in this State.

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1823.

PASSED AT DOVER, }  
February 6, 1823. }

## CHAPTER CXCIV.

AN ACT to authorize the State treasurer to pay  
the claims therein mentioned.

SECTION 1. 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 Samuel Harker, for public printing, twenty-two dollars and fifty cents; to Willard Hall, for index to laws of eighteen hundred and twenty-two, and for packing and transporting the same to Newcastle and Sussex, and for postage, thirty one dollars and fifty cents; to William Saulsberry, sheriff of Kent county, for attendance on high court

Payments to  
be made toS. Harker,  
Willard Hall,  
W. Saulsberry.

Jas. Gaskins, of errors and appeals, twelve dollars; to James Gaskins as military commissary of Sussex county, for the year eighteen hundred and twenty-one, and for box for packing arms, also as military commissary for the same county for the year eighteen hundred and twenty two, two accounts, forty two dollars; to John M. Clayton, auditor of accounts, for postage, six dollars and thirty cents; to Peter Robinson, late Secretary of State, for postage, twenty nine dollars and nineteen cents; to Augustus M. Schee, for stitching and packing laws of eighteen hundred and twenty-two, also for public printing, two accounts, forty-six dollars and twenty two cents; to John Reed, assignee of Seleck Osborn, for public printing, eight dollars; to Samuel F. Shinn, for public printing, four dollars; to James Wilson, for public printing and for binding journals, forty-five dollars and sixty-six cents; to Cornelius P. Comegys, bills paid by him for publishing notice of the want of bank stock, three dollars.

John Reed,  
assignee of  
S Osborn,  
S. F. Shinn,  
Jas. Wilson,

C P Come-  
gys,

PASSED AT DOVER, }  
February 6, 1823. }

## CHAPTER CXCIV.

### AN ACT to incorporate the members of the Penn Fire Company of Newcastle.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Evan H. Tho-

Members of  
the Penn Fire  
company in-  
corporated;

mas, J. M. Orbelltree, J. Frazer, J. Wiley, jun.  
R. Sexton, jun. J. Murch, Josiah Murch, J. Dodd,  
J. Colwell, J. Kennedy, G. B. Riddle, J. O.  
Reed, James Hull, Isaac Smith, T. Challenger,  
T. Jeffers, Jesse Turner, S. M. Couper, G. Jan-  
vier, D. P. Best, I. Kello, James Riddle, jun,  
Samuel Allen, John McCallmont, Abraham S.  
Eves, B. Murphy, John King, Michael King,  
William Ardes, David King, John McIntyre, 2d.

James Sawden, Charles Dancer, John Belville, Arthur McCallmont, Edward Williams, Henry Vining, Thomas P. Jones, Howell J. Terry, James Wilson, William Bates, George H. Read, David C. Wilson, Thomas Janvier, jun. Bennett Lewis, Robert M. Bird, John F. Barr, Barnard Britton, Thomas H. Tatlow, Barge Vanderslice, Samuel Smith and such other persons as shall hereafter be admitted, or become members of the Penn Fire Company of Newcastle, according to the laws and constitution of the said company, hereafter to be made, and forever hereafter shall be, by virtue of these presents, one body politic and corporate, in deed, fact, name and in law, to have continuance forever, by the name of the Penn Fire Company of Newcastle.

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1823.

Their title;

SEC. 2. *And be it enacted.* That the said corporation and their successors, shall forever hereafter be persons able and capable in law, to have, hold and enjoy all manner of lands tenements, rents, annuities, liberties, franchises and hereditaments, goods, chattels and other things of what nature, kind or quality soever, and also to give, grant, let, sell or assign the same lands, tenements, hereditaments, goods and chattels, and to do and execute all other things about the same, by the name aforesaid; and also that they and their successors, by the name of the Penn Fire Company of Newcastle, be, and shall forever hereafter be persons able and capable in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in all or any of the courts or other places, and before any judges, justices, or other persons whatsoever, in all manner of actions, suits, complaints, pleas, causes or matters, of what nature or kind soever.

Their powers  
and qualifica-  
tions.

SEC. 3. *And be it enacted.* That it shall and may be lawful to and for the said Penn Fire Company of Newcastle, and their successors forever hereafter to have and use a common seal, with such device or devices as they shall think proper for

Seal establish-  
ed.

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1823.

sealing all and singular, deeds, grants, conveyances, contracts, bonds, articles of agreement, assignments, powers, and all and singular other affairs touching or concerning said corporation.

Meetings of  
said company  
when and  
how called, &c

General Powers,

Proviso:

Further proviso: corporation not to hold property exceeding 1500 dollars, nor exercise banking powers.

SEC. 4. *And be it enacted.* That it shall and may be lawful for the said company and their successors to assemble and meet together, as often as occasion may require, at such convenient place or places as they may from time to time appoint, due notice being given of the same; and shall have full power and authority from time to time to make, constitute and establish such laws, statutes, orders and constitutions as shall appear to them or the major part of them, to be good and useful, honest and necessary, according to the best of their judgment and discretion, for the government, regulation and direction of the company, and for the appointing and regulating the election or nomination of such, and so many officers as they shall think fit, and for limiting and appointing their trust and authority, and for the admitting of new members, and to do all things concerning the government, estate, goods, lands and revenues, as also all the business and affairs of the said company; all which laws, statutes, orders and constitutions, so to be made as aforesaid, shall be binding on every member and be from time to time inviolably observed, according to the tenor and effect of them: *Provided*, they be not repugnant or contrary to the constitution and laws of this State, or of the United States: *Provided always*, that it shall not be lawful for the said corporation, and it shall not have power to have, possess, or in any manner hold, goods or chattels, rights or credits, lands or tenements, or property of any kind, of an amount exceeding in the whole, fifteen hundred dollars; and that the said corporation shall not have or exercise any banking powers whatever.

PASSED AT DOVER, }  
February 6, 1823. }

## CHAPTER CXCVI.

CHAP.  
CXCVI.  
1823.

AN ACT to enable Daniel Melvin to complete his title to certain vacant lands, situate in App-  
quinimink hundred, and county of New-  
castle.

PASSED AT DOVER, }  
February 6, 1823 }

PRIVATE ACT.

## CHAPTER CXCVII.

AN ACT to authorize and empower Caleb H. Sipple, administrator of John Clarke, late of the town of Dover, deceased, to sell and convey all the right of the deceased in a certain house and lot of ground therein mentioned.

PASSED AT DOVER, }  
February 6, 1823 }

PRIVATE ACT.

## CHAPTER CXCVIII.

AN ACT concerning apprentices.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, for a remedy in ca-  
ses of apprentices absenting themselves from the service of their master or mistress, that from such time as any apprentice shall absent him or herself from the service of his or her master or mistress, without leave first obtained for the same, every such apprentice, for such absence and expenses of taking up, securing and other necessary charges, shall at the expiration of the time of his or her apprenticeship, make satisfaction by serving a fur-  
Apprentice absenting, to make satisfaction to master, &c.

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1823.

ther term, as the court of common pleas, in and for either of the counties of this State, before whom the said apprentice shall be brought, shall upon considering all the circumstances of the case, adjudge and direct,

PASSED AT DOVER, }  
February 7, 1823. }

## CHAPTER CXCIX.

*RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That all monies belonging to this State, hereafter received by the State-treasurer, shall be deposited in the Farmers' Bank of the State of Delaware, by the said treasurer or his agents, to the credit of the said treasurer, and the same shall remain and continue in the said Bank until drawn therefrom by checks of the State-treasurer given in payment of appropriations made by law; or in the transfer of the said monies from one State-treasurer to his successor in office.

Monies be-  
longing to  
School fund  
to be deposi-  
ted in Far-  
mers' Bank.

*Resolved further,* That all monies belonging to the fund for establishing school in the State of Delaware shall be deposited in the Farmers' Bank of the State of Delaware, to the credit of the trustee of the fund for establishing schools in the State of Delaware; and the said monies shall be and remain in the said bank subject only to the drafts of the said trustee, drawn in discharge or in consequence of appropriations of the said fund made by law; or in the transfer of monies of the said fund from one trustee of the said fund to his successor in office.

ADOPTED AT DOVER, }  
January 16, 1823. }

## CHAPTER CC.

RESOLVED by the Senate and House of Representatives of the State of Delaware, That Joshua J. G. Brinckle permitted to retain 500  
Gordon Brinckle, agent for procuring a settlement of the claim of this State against the United States, be allowed to retain for his services, the sum of five hundred dollars out of the monies received by him of the United States; and that he be authorized and directed to pay the balance thereof, amounting to nine thousand and forty five dollars and seventy two cents, to the State-treasurer.

ADOPTED AT DOVER, }  
January 17, 1823. }

## CHAPTER CCI.

RESOLVED by the House of Representatives of the State of Delaware, with the concurrence of the Senate, That Ezekiel Cowgill, be, and he is hereby appointed State-treasurer.

ADOPTED AT DOVER, }  
January 17, 1823. }

## CHAPTER CCII.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That the following persons be, and they are hereby appointed directors of the Farmers' Bank of the State of Delaware, on the part of this State, agreeably to an act of the General Assembly in such case made and provided:

For the principal bank—John Bell, Jonathan Jenkins and John G. Maxwell;

For the branch at Wilmington—William Warner, John Gordon and Allen Thompson;

Appointment of directors of the Farmers' Bank of the State of Delaware on the part of the State,

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1823.

For the Branch at Newcastle—Levi Boulden,  
John Crow and Samuel Meteer;

For the branch at Georgetown—David Hazzard,  
William D. Waples and William Kussel.

ADOPTED AT DOVER. }  
January 21, 1823. }

### CHAPTER CCIII.

Governor re-  
quested to re-  
move T Jan-  
vier, clerk of  
Sup Court of  
Newcastle  
county.

RESOLVED by the Senate and House of Repre-  
sentatives of the State of Delaware in General As-  
sembly met, That the Governor of this State be,  
and he is hereby addressed and requested by both  
Houses of the Legislature of this State, that Tho-  
mas Janvier, esquire, the clerk of the supreme  
court of this State, in and for Newcastle county,  
be removed from said office of clerk of the supreme  
court of this State in and for Newcastle county a-  
foresaid.

ADOPTED AT DOVER, }  
February 3, 1823. }

### CHAPTER CCIV.

Commission-  
ers appointed  
to make divi-  
sion line be-  
tween Sussex  
and Kent;

RESOLVED by the Senate and House of Repre-  
sentatives of the State of Delaware in General  
Assembly met, That Ralph Robinson and John  
Richards of Sussex county, and John Tatman and  
William Hopkins of Kent county, be, and they  
are hereby appointed commissioners to run and  
mark the division line between Sussex and Kent  
counties, from the south prong at the head of  
Rigg's mill pond, to the line of the State of Ma-  
ryland; and that William Johnson be surveyor  
to assist said commissioners, and that the said  
commissioners return their proceedings to the next  
General Assembly; and that said commissioners

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shall be allowed each, one dollar and fifty cents per diem, for their services, and the said surveyor two dollars per diem for his services.

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1823.

ADOPTED AT DOVER, }  
February 6, 1823. }

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SECRETARY'S OFFICE,

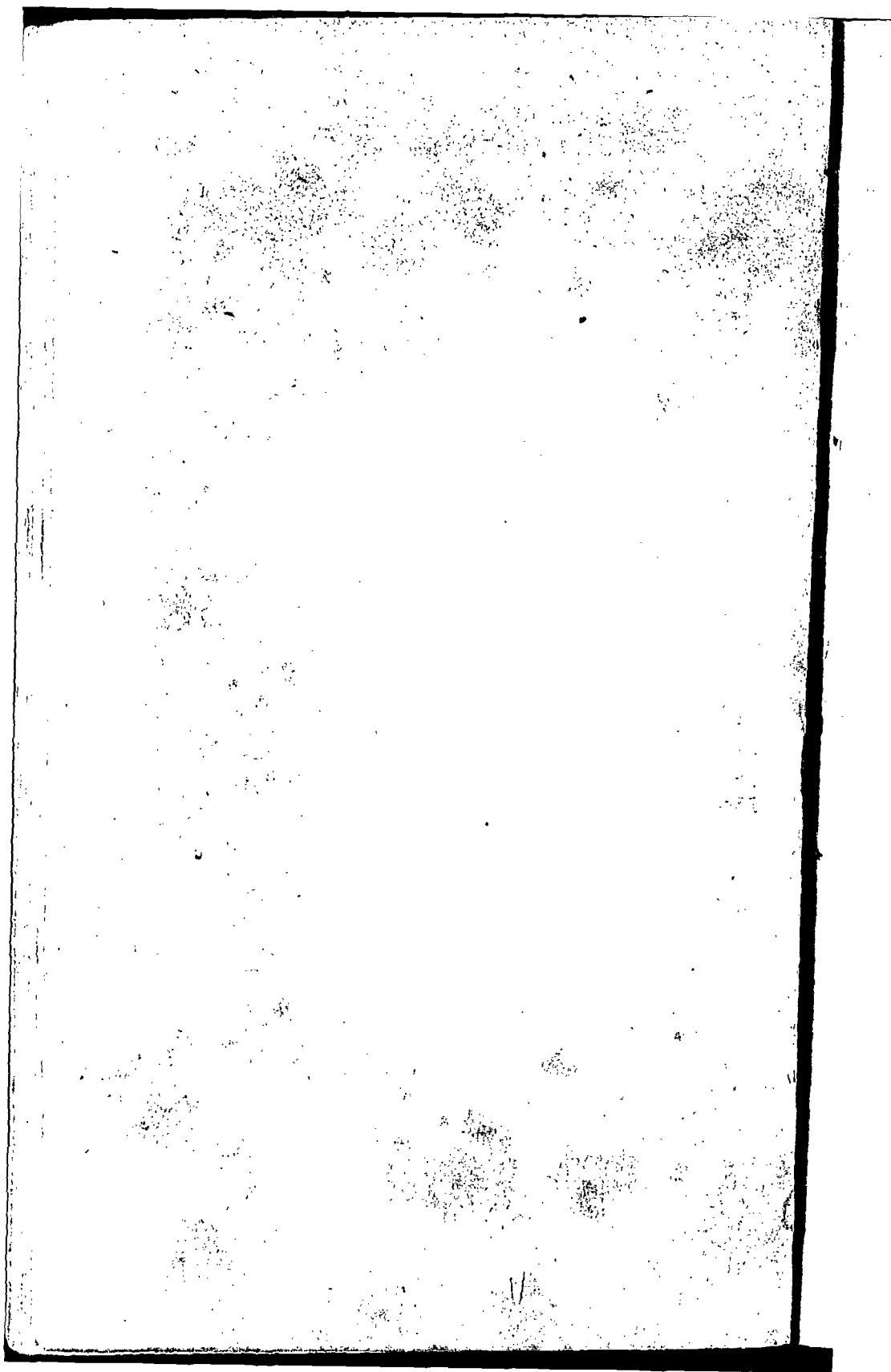
GEORGE-TOWN, APRIL 4, 1823.

I certify, that in obedience to the directions of an act of the General Assembly of the State of Delaware, entitled, "An Act to enjoin certain duties to be performed by the Secretary of State, and for other purposes," I have collated with and corrected by the original rolls, this edition of the laws, passed at Dover during the last session of the General Assembly.

HENRY H. WELLS,

*Secretary of the State of Delaware.*

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# LAWS

OF THE

## STATE OF DELAWARE.

### CHAPTER CCV.

AN ACT *for the appointment of an Auditor of  
Accounts.*

CHAP.  
CCV.

1824.

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That Ebenezer Blackiston be and he is hereby appointed auditor of accounts, for the term of two years from the passage of this act. Ebenezer Blackiston appointed auditor for two years.

SEC. 2. *And be it enacted,* That in case the said auditor should die, remove from the State, resign, or otherwise cease to act, before the expiration of his term of office, the vacancy thereby caused may be supplied by the Governor of the State for the time being. vacancy how supplied.

SEC. 3. *And be it enacted,* That the auditor appointed by, or in pursuance of, this act, shall perform the same duties, and receive the same compensation, and in the same manner, as is now directed and required by the laws of this State. Duties & compensation of auditor.

Svol. p. 156.  
6 vol. p. 12.

PASSED AT DOVER, }  
January 15, 1824. }

CHAP.  
CCVI.

## CHAPTER CCVI.

1824.

AN ACT to enable Jonathan Hooks (of D.) of Worcester county, in the State of Maryland, to remove a certain negro slave from Sussex county, in the State of Delaware, into Maryland.

PASSED AT DOVER, }  
January 16, 1824. }

PRIVATE ACT.

## CHAPTER CCVII.

A FURTHER ADDITIONAL SUPPLEMENT to the act entitled "An act for regulating the general elections of this State."

4 vol. 422.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the electors of the hundred of Little-creek, being the second election district of the county of Kent, shall hold their general and special elections at Robert Register's mill, situate on the State road leading from Dover to Smyrna, in said county, any law, usage or custom to the contrary notwithstanding.

Elections in  
Little creek  
hundred,  
Kent county,  
where to be  
held.

4 vol. 424.

PASSED AT DOVER, }  
January 19, 1824. }

## CHAPTER CCVIII.

AN ACT to fix and establish the place of holding the general and special elections in Brandywine hundred.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Dela-

*ware, in General Assembly met,* That after passing Election in this act, the elections of the hundred of Brandywine, Brandywine being the first election district of the county of where to be held. 4 vol. 423—5 Newcastle, shall forever hereafter hold their ge- vol. 44—6 vol. 254. neral and special elections at the house now known by the name of "The Practical Farmer," in the said hundred.

PASSED AT DOVER, }  
January 19, 1824. }

## CHAPTER CCIX.

A SUPPLEMENT to the act entitled "*An act providing for the election of constables, and concerning elections of inspectors and assessors.*" 6 vol. 263.

SECTION 1. BE IT ENACTED by the Senate Repeal of and House of Representatives of the State of De- parts of chap laware, in General Assembly met, That so much of 165, vol. 6, p. 263. the act to which this is a supplement, as provides for the election of constables, in this and every year hereafter, and so much of said act as is by this act altered and supplied, be and the same are hereby repealed, made null and void.

SEC. 2. *And be it further enacted,* That the continuance constables of the respective hundreds, in each coun- in office of ty, now in office, shall hold their said offices, and the present constables ex- perform the duties thereof, until the time appointed tended; by law for holding the court of general quarter sessions of the peace and jail delivery, in their respective counties, in the year of our Lord one thousand eight hundred and twenty-five: *Provided* they shall respectively give bond and surety, to be approved provided they give surety &c of as is provided by the act to which this is a sup- 6 vol. 264. plement, within ten days after the fifteenth day of September next ensuing.

SEC. 3. *And be it further enacted,* That the said Court of court of general-quarter sessions of the peace and Quarter Ses-

sions to ap- jail delivery shall, at their first term of said court in  
point the con- each county, in the year of our Lord one thousand  
stables, at each county, in the year of our Lord one thousand  
their spring eight hundred and twenty-five, and at their first  
terms, in term, in each county, in every year thereafter, for  
every year, the several hundreds in each county in which said  
after the pre- court shall be so held, appoint the constables, for  
sent year.

court shall be so held, appoint the constables, for  
the several hundreds, according to the number li-  
mited, for each hundred, by this act and the act to

Constables which this is a supplement: and every constable  
so appointed appointed as aforesaid, shall hold said office, and  
to hold their offices one perform the duties thereof, for and during the term  
year:

provided they of one year next after his appointment: *Provided*,  
give bond that he shall give bond, as is provided in the act to  
within ten which this act is a supplement, within ten days after  
days—

with surety, his appointment, with such surety or sureties as  
to be approv- shall be approved of by the said court: *and provided*  
ed by said also, that he shall pay, for the use of the State, the  
court:— sum of five dollars to the clerk of the peace of the

and provided they pay five sum of five dollars to the clerk of the peace of the  
dollars to the county, at the time of his appointment as aforesaid;  
clerk of the which sum, and every other sum directed by this  
peace at time act to be paid by constables, shall be received by  
of appoint- the said clerk of the peace, and be by him paid  
ment.

Clerk to pay over to the State-treasurer, within sixty days, or he  
said sums to State Treas- shall, *ipso facto*, forfeit his office of clerk.  
suer, &c.

In case a SEC. 4. *And be it further enacted*, That if any  
constable fails constable whose term of office has been extended  
to give bond as aforesaid, or any constable appointed as aforesaid,  
with surety, shall fail to give bond, with surety or sureties, as a-

foresaid, or shall fail to pay the sum directed by  
or to pay the this act to be paid, or if the said court shall fail to  
fee on his ap- appoint as aforesaid, then, and in every such case,  
pointment, the clerk of the peace of the county in which such  
or the Court failure shall so happen, shall certify the fact to the  
fails to appoint the clerk of the peace of the county, for the use of the

—the clerk to failure shall so happen, shall certify the fact to the  
certify the fact to the Governor, who shall thereupon appoint some other

Governor: fit person to be constable, in the place of the person  
who shall so failing, or when the court shall fail to appoint as  
appoint some other fit per- aforesaid, who shall give bond, with surety or sure-

son, &c., ties as aforesaid, to be approved of by one of the  
who shall judges of the said court, or by one of the judges  
give bond of the supreme court, and who shall pay to the  
with surety, clerk of the peace of the county, for the use of the

&c., of five dollars, State, the sum of five dollars.  
and pay a fee  
of five dollars, &c.

**SEC. 5.** *And be it further enacted,* That if any vacancy shall happen in the office of constable in any hundred, in either of the counties, by death, resignation, or otherwise, or if any vacancy hath happened, in any hundred; or if, in any hundred, a constable or constables hath or have not been elected, under the act to which this is a supplement, then, and in every such case, the governour shall fill the vacancy or place thereby occasioned, by appointing some other fit person residing in the hundred in which such vacancy or non-election hath so happened, and the person so appointed shall give bond and surety, to be approved of by one of the judges aforesaid.

*In case of vacancy the Governor to appoint some other fit person, &c.*

*who shall give bond and surety, etc.*

**SEC. 6.** *And be it further enacted by the authority aforesaid.* That there shall be three constables appointed as aforesaid, in and for Dover hundred, in Kent county, one of whom shall be a resident in the town of Dover, and there shall be four constables appointed as aforesaid, in and for Murderkill hundred, in the said county.

*To be three constables in Dover hundred etc.;*

*and four in murderkill.*

PASSED AT DOVER, }  
January 19, 1824. }

## CHAPTER CCX.

**AN ACT** *to incorporate the members of the African School society of Wilmington.*

**SECTION 1.** *BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That John Jones, Joseph Grubb, John Reynolds, James Brian, Michael Megear, Joseph Bringham, William Seal, Jacob Alrichs, Eli Hilles, Isaac H. Starr, Cyrus Newlin, William Gibbons, Samuel Hilles, Benjamin Webb, John Bullock, Ziba Ferris, Isaac Bonnell, Thomas Garrett, junior, Isaac Jackson, Edward Tatnall, Benjamin Ferris, Edward Gilpin,

*Company incorporated:*

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CCX.

1824.

Jonathan Lamborn, David Smyth, William J. Hall-  
lowell and William Poole, and such other persons  
as shall hereafter be admitted or become members  
of the African school society of Wilmington, ac-  
cording to the laws and constitution of the said So-  
ciety hereafter to be made, be, and forever hereafter  
shall be, by virtue of these presents, one body po-  
litic and corporate, in deed, fact, name, and in law,  
to have continuance forever, by the name of "The  
African school society of Wilmington."

name thereof;

may hold  
lands, etc.;and sell the  
same etc.;sue and be  
sued etc.;

SEC. 2. *And be it enacted*, That the said cor-  
poration and their successors, shall forever hereaf-  
ter be persons able and capable in law to have, hold  
and enjoy all manner of lands, tenements, rents,  
annuities, liberties, franchises and hereditaments,  
goods, chattels of what nature or kind soever, and  
also to give, grant, sell, let or assign the same lands,  
tenements, hereditaments, goods and chattels, and  
to do and execute all other things about the same,  
by the name aforesaid : and also, that they and their  
successors, by the name of the African school so-  
ciety of Willmington, be, and shall forever hereaf-  
ter be, persons able and capable in law, to sue and  
be sued, plead and be impleaded, answer and be  
answered unto, defend and be defended, in all or any  
of the courts or other places, and before any judges,  
justices or other persons whatsoever, in all manner  
of actions, suits, complaints, pleas, causes or mat-  
ters, of what nature or kind soever.

have a com-  
mon seal etc.;

SEC. 3. *And be it enacted*, That it shall and  
may be lawful to and for the said African school  
society of Wilmington, and their successors fore-  
ver hereafter, to have and use a common seal, with  
such device or devices as they shall think proper,  
for sealing all deeds, grants, conveyances, contracts,  
bonds, articles of agreement, assignments, powers,  
and all and singular other affairs touching or con-  
cerning said corporation.

meet together  
etc.;

SEC. 4. *And be it enacted*, That it shall and  
may be lawful for the said society, and their suc-

cessors, to assemble and meet together as often as occasion may require, at such convenient place or places as they may from time to time appoint, due notice being given of the same; and shall have full power and authority from time to time to make, constitute and establish such laws, statutes, orders, and constitutions, as shall appear to them or the majority of them, to be good and useful, honest and necessary according to the best of their judgment, for the government, regulation and direction of the society; and for the appointing and regulating the election or nomination of such and so many officers as they shall think fit, and for limiting and appointing their trust and authority, and for the admitting of new members, and to do all things concerning the government, estate, goods, lands and revenues, as also all the business and affairs of the said company; all which laws, statutes, orders and constitutions so to be made as aforesaid, shall be binding on every member, and be from time to time inviolably observed, according to the tenor and effect of them: *Provided*, they be not repugnant or contrary to the constitution and laws of this State or of the United States: *And provided always*, that it shall not be lawful for the said corporation, and it shall not have power, to have, possess, or in any manner hold, goods or chattels, rights or credits, lands or tenements, or property of any kind, of an amount exceeding in the whole five thousand dollars, and that the said corporation shall not have or exercise any banking powers whatever.

make by-laws  
etc.

not to hold  
property ex-  
ceeding 5000  
Dls.

nor to have  
banking pow-  
ers.

PASSED AT DOVER, }  
January 20, 1824. }

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CCXI.

## CHAPTER CCXI.

1824.

AN ACT *for the preservation of the records of the high court of errors and appeals of the State of Delaware.*

Dockets of the court of errors and appeals, from August term, 1795, to August term, 1824, may be copied, etc.

SECTION 1. 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, it shall and may be lawful for the clerk of the high court of errors and appeals to proceed to transcribe or copy, or cause to be transcribed or copied, the records or dockets of said high court of errors and appeals, from August term seventeen hundred and ninety-five, to the term of August eighteen hundred and twenty-four, into a good and well bound book, made of good paper, which shall be procured by him for that purpose, and after the said clerk shall have transcribed or copied the said records, it shall be the duty of two commissioners, that shall be appointed by the governor of this State, to compare and correct the same by and with the originals; and after so comparing and correcting the same to certify thereon that it is a true copy thereof: and the copy made, examined and certified as aforesaid, shall have and receive, in all respects, the same faith and credit as the originals now may or can have and receive.

Such copies to be compared, corrected and certified by commissioners, etc.

and have same credit as originals.

Commissioners to be sworn and certificate thereof filed, etc.

SEC. 2. *And be it enacted*, That the said commissioners shall, before entering upon the performance of the duties assigned to them by this act, be sworn or affirmed before some judge of this State or the chancellor, faithfully to perform the said duties, and shall file a certificate thereof in the said court.

Compensation of commissioners

SEC. 3. *And be it enacted*, That each of the said commissioners shall have and receive for each and every day's attendance in performing the trust hereby reposed in them, a sum not exceeding two dollars, to be allowed by the Auditor of Accounts,

of this State and to be paid by the State-treasurer, out of any monies in his hands belonging to the State: and the said Auditor shall allow such reasonable compensation as may be deemed just and right to the aforesaid clerk for his services in copying the aforesaid records, to be paid in like manner as aforesaid.

SEC. 4. *And be it enacted*, That if any of the said commissioners to be appointed as aforesaid, shall die, or refuse or neglect to perform the duties herem 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.

PASSED AT DOVER, }  
January 20, 1824. }

## CHAPTER CCXII.

AN ACT to appropriate the monies in the treasury of this State.

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the monies in the treasury of this State, shall be 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 and court of common pleas, attorney-general, secretary and auditor of accounts, up to the first Tuesday of January, eighteen hundred and twenty-five; and so much thereof as may be necessary shall be applied to payment of the daily allowance to the members of the General Assembly, their clerks and other expenses, and for printing the laws, and the votes and proceedings of the two branches thereof; and the residue thereof to the payment of any sums of

Vacancy among commissioners to be supplied,

Appropriation

to pay

salaries etc

for printing the laws etc

(3 vol. 229-

6 vol. 79)

and claims of money due to the citizens of this State, for which  
citizens, provision shall be made by law.

PASSED AT DOVER, }  
January 21, 1824. }

### CHAPTER CCXIII.

AN ACT to enable Curtis Jacobs, to remove a  
certain manumitted slave into this State from  
the State of Maryland.

PASSED AT DOVER, } PRIVATE ACT.  
January 21 1824 }

### CHAPTER CCXIV.

AN ACT to authorize a gate to be erected across  
a public road therein mentioned.

Gate autho-  
rized across  
the road lea-  
ding to Fen-  
wicks island

SECTION 1. BE IT ENACTED by the Senate  
and House of Representatives of the State of De-  
laware in General Assembly met, That it shall and  
may be lawful for the owners of Rumbly marshes,  
in Baltimore hundred, in Sussex county, to erect  
a gate across the public road or common high-way,  
leading to Fenwick's island in said hundred, and as  
near as may be to said marshes; and if any person  
or persons shall wilfully injure the said gate, or leave  
the same open, he, she or they so offending, shall  
forfeit and pay a sum of money, not exceeding five  
dollars, to be recovered as debts under forty shil-  
lings are recoverable, by and in the name of any  
person or persons, who will sue for the same.

penalty for in-  
juring or lea-  
ving it open.

PASSED AT DOVER, }  
January 26, 1824. }

OF DELAWARE.

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CHAPTER CCXV.

CHAP.  
CCXV.

1824.

AN ACT *authorizing the Orphans' court to divide the lands of Jane W. Copes, late Jane W. White, deceased, and the lands of Joseph Copes, deceased, in the County of Sussex.*

PASSED AT DOVER, }  
January 26, 1824. }

PRIVATE ACT.

CHAPTER CCXVI.

AN ACT *to authorize the administrator of Enoch Joyce, deceased, to convey a certain house and lot of ground therein mentioned.*

PASSED AT DOVER, }  
January 26, 1824. }

PRIVATE ACT.

CHAPTER CCXVII.

A SUPPLEMENT *to the act entitled "An act to enable the owners and possessors of the marsh cripple and low grounds lying upon Black-bird creek, in Newcastle county, to bank and drain the same."* <sup>6 v. 206</sup>

SEC. 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That so much of <sup>Repeal of</sup> the act to which this is a supplement as empowers <sup>so much of</sup> and authorizes the owners and possessors of the <sup>ch. 130. v. 6 p. 206 as autho-</sup> marsh, cripple and low-grounds, lying in Appoquinimink hundred, in Newcastle county, to stop or <sup>izes the stop-</sup> obstruct the free navigation of Black-bird creek, be <sup>ping of Black-</sup> and the same is hereby repealed and declared to <sup>bird creek or</sup> be null and void. <sup>obstructing</sup> <sup>the navigation</sup> <sup>thereof</sup>

all the other  
provisions de-  
clared in full  
force

and dams au-  
thorized along  
the sides of  
Black-bird  
creek.

SEC. 2. *And be it further enacted by the authority aforesaid*, That all the provisions in the act to which this is a supplement, be and the same are hereby declared to be in full force and effect so far as to enable the owners and possessors of the marsh, cripple and low grounds aforesaid to embank, drain and improve the said marsh cripple and low grounds without obstructing or stopping the creek aforesaid or injuring or obstructing the navigation thereof; and that the said owners and possessors shall be fully empowered and authorized to embank, cut, drain, and improve their said marshes, cripples and low grounds by erecting dams along the sides of the said creek, and shall be entitled to all the benefits of the said last mentioned act, except so far as the same authorizes the obstruction of the free and complete navigation of the said creek.

repeal of pen-  
alties in ch  
130. v. 6. 206

SEC. 3. *And be it further enacted by the authority aforesaid* That every provision, section or part of the act to which this is a supplement, inflicting any penalty, fine or punishment whatsoever, for cutting or destroying any bank, dam or obstruction now being or hereafter to be made or erected across or in the said creek, be and the same is hereby repealed, made null and void.

PASSED AT DOVER, }  
January 27, 1824. }

## CHAPTER CCXVIII.

5 vol. 257

AN ACT to revive and continue in force "An act prohibiting the use of weirs, hedges and gill nets in St. Jones's Creek."

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the act of the General Assembly of this State, passed at Dover the sixth of February eighteen hundred and seven-

ch. 149. v. 5  
p. 237 prohib-  
iting weirs

then, entitled an act prohibiting the use of weirs, etc. in St. Jones's creek, be and revived, the same is hereby revived and declared to be in except the 2d section thereof. of

SEC. 2. *And be it enacted*, That upon any complaint made to any justice of the peace in and for Kent county, that any weir or weirs, hedge or hedges or gill sein is kept, continued, made, constructed, erected, placed or used in any part of Jones's creek, in Kent county, contrary to the provisions of the act hereby revived, and such complaint being verified by the oath or affirmation of the person making the same, it shall be the duty of the justice of the peace, and he is hereby authorized and required to issue a warrant directed to any constable of Kent county, ordering such constable to remove and destroy such weir, or weirs, hedge or hedges, or gill sein: which warrant shall be sufficient authority for removing any such weir, or weirs, hedge or hedges, or gill sein; and if any action shall be brought against any constable acting under such warrant or against any person or persons aiding such constable or any other person for any proceedings under this act or the act hereby revived, this act and the act hereby revived, or any complaint and warrant may be given in evidence under the general issue.

SEC. 3. *And be it further enacted*, That the act<sup>repeal of ch. 214, v. 5. p. 386</sup> entitled an act for regulating the construction and use of weirs in St. Jones's creek, passed at Dover the twenty-ninth of January eighteen hundred and nineteen, and the second section of the act hereby<sup>of sec. 2. ch. 149, v. 5. p. 258</sup> revived, be and the same is hereby repealed, made null and void.

PASSED AT DOVER, }  
January 28, 1824. }

CHAP.  
CCXIX.

## CHAPTER CCXXI.

1824.

AN ACT to enable James P. Morris to complete his title to certain vacant lands situate in Murderkill hundred and county of Kent.

Preamble WHEREAS it has been represented to this General Assembly that there are certain vacant lands lying and being between the line of the lands of James P. Morris, which he lately purchased of the heirs of a certain Thomas Pickering, deceased, situate in Murderkill hundred aforesaid, in Kent county aforesaid, and Jones's creek and a branch of said creek called the Cypress Branch.

Certain lands  
to be surveyed

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That some skilful surveyor be and he is hereby authorized and empowered to go upon, survey and locate the land, marsh and cripple laying within the following bounds; commencing at the beginning of the tract of land which the said James P. Morris purchased of the heirs of a certain Thomas Pickering, and from thence running north fifty-five degrees and twelve minutes west until it intersects St Jones's creek at or near the upper landing on said creek, from thence extending down said creek, by and with the several courses thereof, to the juncture of St Jones's creek and the Cypress branch, then up the said branch, with the several courses thereof, to the place of beginning, and to make a plot thereof containing the courses and distances of the same, with the number of acres, and shall return the said plot into the recorder's office in and for Kent county: *provided nevertheless* that it shall be the duty of the said James P. Morris, and he is hereby required and directed, immediately after the return of said plot into the recorder's office aforesaid, to give notice in two newspapers printed in this State, for the space of three months, that the aforesaid lands have been surveyed, and that a map or

and plot thereof  
made and  
returned;

notice thereof  
to be given.

plot thereof has been made and returned into said office, for the information of all persons concerned.

CHAP.  
CCXIX.

1824.

SEC. 2. *And be it enacted,* That if any person or persons shall claim the whole or any part of the lands described by the said survey, it shall be lawful for such person or persons to enter a caveat before the recorder of Kent county, at any time within three months after the return of said plot, notice given as aforesaid, and thereupon all matters in variance shall be heard and determined by the court of common pleas of Kent county, at the next or any subsequent term of the said court, in a summary way, according to the laws of the land and equity and good conscience.

Caveat may  
be entered,

and determi-  
ned by the  
Com. Pleas.

SEC. 3. *And be it enacted,* That if the said James P. Morris shall pay or cause to be paid to the State-treasurer, on or before the expiration of one year from the return of the said plot or determination of the court as aforesaid, at the rate of fifty cents for each and every acre of land included in such survey, or at that rate for such number of acres as the said James P. Morris shall take under the determination of the court of common pleas aforesaid upon a hearing of any caveat (if any should be entered as aforesaid); and upon producing the certificate of the State-treasurer of such payment to the Secretary of State, it shall be lawful then, and he is hereby directed to make out, or cause to be made out, in favour of the said James P. Morris a patent for the land aforesaid, in the same manner and form as is directed by the seventh section of the act entitled "A supplement to an act entitled an act for opening and establishing a land office within this State and for the the sale of all vacant and uncultivated lands therein;" which patent shall be entered of record in the office of the recorder in and for Kent county.

How patent  
may issue to  
J. P. Morris  
for said land.

SEC. 4. *And be it enacted,* That the title of the said James P. Morris to the lands described in

his title under  
said patent.

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CCXIX.

such patent, shall be good and available in law and equity.

1824.

PASSED AT DOVER, }  
January 28, 1824. }

## CHAPTER CCXX.

§. 6, 199.

A SUPPLEMENT to the act entitled "*An act to enable the president, directors and company of the Commercial Bank of Delaware, to close the concerns of that Bank.*"Corporation  
of the Com-  
mercial Bank  
continued

(4 v. 548)

till 1 March  
1827,for the pur-  
pose of clo-  
sing its con-  
cerns.

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the corporation and body politic created and made by the act of the General Assembly of this State entitled "An act to establish a bank and to incorporate a company under the name of the president, directors and company of the Commercial Bank of Delaware," passed at Dover, on the ninth day of February, in the year of our Lord one thousand eight hundred and twelve, and the act to which this is a supplement, passed at Dover, on the sixth day of February, in the year of our Lord one thousand eight hundred and twenty-two, shall be continued and extended, by and under the same name of the president, directors and company of the Commercial Bank of Delaware, from the first day of March next, until the first day of March, in the year of our Lord one thousand eight hundred and twenty-seven, and no longer; and that the powers, privileges and immunities heretofore granted to the said corporation by law, are hereby continued and extended to them, until the day and year last mentioned, to be used only for the settling and closing the concerns of said corporation, and not otherwise; and subject to the restrictions enacted by the act to which this is a supplement.

**Sec. 2.** *Be it further enacted,* That if the said corporation shall find it necessary to apply to the General Assembly for a further extension of their charter, they shall, with their petition or application for that purpose, exhibit a true copy of the accounts and statements as is provided for by the eighth sec. 6 v. 302, of the act to which this is a supplement. If further extension be asked for, accounts to be exhibited etc

PASSED AT DOVER, }  
January 29, 1824. }

### CHAPTER CCXXI.

**A SUPPLEMENT** to the act entitled "*An act* 6 v. 302. *for improving and extending the navigation of that part of Pocomoke river, which is situate in the State of Delaware.*"

**SEC. 1.** BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That whenever the Legislature of the State of Maryland shall pass an act authorizing the vending and exposing to sale, within that State, the tickets of the lottery or lotteries instituted by virtue of the act to which this is a supplement, then and thenceforth it shall be lawful to vend and expose to sale, within this State, the tickets of any lottery or lotteries by law now authorized to be instituted in the said State of Maryland for the improvement of the navigation of that part of the said river which is situated within that State. Sales of tickets in Maryland Lottery for improving the navigation of Pocomoke River authorized in this State, when etc.

PASSED AT DOVER, }  
January 29, 1824. }

CHAP.  
CCXXII.

## CHAPTER CCXXII.

1824.

AN ACT to make void the marriage contract between Henrietta Anderson and Theophilus Anderson.

PASSED AT DOVER,  
January 29, 1824. }

PRIVATE ACT.

## CHAPTER CCXXIII.

6 v. 153.

A SUPPLEMENT to the act entitled "An act to enable the president, directors and company of the Farmers' and Mechanics' Bank of Delaware to close the concerns of that bank."

Farmers and  
Mechanics  
Bank contin-  
ued

[1 v. 536.

4 v. 561.

6 v. 155 ]

till 1 March  
1826,

for closing its  
concerns:  
subject etc.  
6 v. 156;

SECTION I. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the corporation and body politic, created and made by the act of the General Assembly of this State entitled "An act to establish a bank and incorporate a company under the name of 'The accommodation Bank of Delaware, passed at Dover February 7th 1812, and the supplement to said act passed at Dover February 10, 1812, and the act to which this is a supplement passed at Dover 30 January 1822, shall be continued and extended by and under their said name of 'The president, directors and company of the Farmers and Mechanics Bank of Delaware'" from the first day of March next until the first day of March which will be in the year of our Lord one thousand eight hundred and twenty six, and no longer; and the powers, privileges and immunities heretofore granted to the said corporation by law, are hereby continued and extended to them until the day and year last mentioned, to be used only for settling and closing the concerns of said corporation and not otherwise, and subject to the restriction enacted by the act to which this is a supplement,

*Provided nevertheless* that the compensation allowed to the President and cashier for their services, and the expenses for house rent shall not, in any one year, exceed the sum of three hundred dollars; *and provided further*, that the said President and Directors of the said Bank, shall make semi-annual dividends of such part of the capital stock which may be collected.

provided the expenses of officers and house rent shall not exceed Dls. 300 a year; and that half yearly dividends of capital stock be made.

PASSED AT DOVER, }  
29 January, 1824. }

### CHAPTER CCXXIV.

AN ACT to enable Joseph B. Sims to remove certain slaves from this State into the State of Maryland.

PASSED AT DOVER, } PRIVATE ACT.  
January 29, 1824. }

### CHAPTER CCXXV.

A SUPPLEMENT to the act entitled "An act to enable the persons therein named to raise by lottery the sum of three thousand dollars, for discharging the incumbrances against St. Peter's church, in the borough of Wilmington, and for finishing the said church." 6 v. 159.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met; That the time allowed in the sixth section of the act to which this is a supplement, be and the same is hereby extended for the drawing of the said lottery in classes, to the fourth day of July, in the year of our Lord, one thousand eight hundred and twenty-five; and if the said lottery shall not be drawn within the said

Time for drawing lottery extended to 4 July 1825. If not then drawn, money to be returned

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1824.

time, the managers shall return and pay over, on demand, to any person or body corporate, the respective sums that may have been received from such person or body corporate for tickets sold in said lottery.

PASSED AT DOVER, }  
January 29, 1824. }

## CHAPTER CCXXVI.

## A FURTHER ADDITIONAL SUPPLE-

3 v. 121.

MENT 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 the Tappahannah marsh, situate in the forest of Murderkill hundred, in Kent county, to cut a ditch or drain through the same.*"

Tappahannah  
marsh compa-  
ny incorpora-  
ted.

3 v. 32 .

5 v. 198.

Annual days  
of meeting;place of mee-  
ting.Powers of  
the company  
at such mee-  
tings as to  
choice of trea-  
surer and  
managers;

SECTION I. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the owners of all the marshes and low-grounds, which are included or mentioned in or by the act to which this is a further additional supplement and the supplements to the said act, or which are or will be benefitted or improved by the ditch or ditches that have been cut in pursuance of the said act and supplements, shall compose a company to be called the "Tappahannah marsh company," and shall hold a meeting on the last Tuesday of March in the present year, and every year hereafter, at the house now occupied by Samuel P. Dunning, in Dover hundred and Kent county, or at such other place as may be determined by a resolution of the company adopted at a previous meeting; at which annual meeting, the said company shall choose, by ballot and by majority of votes, one treasurer and three managers, and may do and determine all such matters and things as the said company may deem requi-

site for effectually draining and reclaiming the said <sup>draining</sup> marshes and low-grounds, either by clearing out <sup>marshes;</sup> and scouring such ditch or ditches as has or have already been laid out and cut, or by altering or extending the same, or by cutting new ones or otherwise; and such annual meeting may be adjourned <sup>and adjourn-</sup> from time to time, and occasional meetings <sup>ing such mee-</sup> of the company may be called by the managers for the <sup>tings.</sup> time being or majority of them, or by the survivor <sup>Occasional</sup> or survivors of them, if any of them be dead, at <sup>meetings.</sup> such times and places as the said managers or a majority of them, or the survivors of them, may appoint, by giving ten days' public notice by advertisements put up at two of the most public places in Murderkill hundred, and two of the most public places in Dover hundred, and five days' written notice to such of the owners as reside in Kent county and to such persons as shall be the tenants in possession of the said marshes and low-grounds respectively; and if the managers and treasurer shall not all or <sup>What may be</sup> any of them be chosen at the stated annual meeting <sup>done at ad-</sup> for the current year, and if any manager or treas- <sup>joined or oc-</sup> urer shall die, resign, refuse or neglect to act, such <sup>casional</sup> vacancies may be filled at an adjourned or occasional <sup>meetings.</sup> meeting, in the same manner that the officers of the said company are elected at the regular annual meetings thereof; and if any manager or treasurer <sup>Place of man-</sup> shall remove from the neighbourhood of the said <sup>agers or trea-</sup> marshes and low-grounds, the said company at any <sup>surer remov-</sup> or its meetings may declare the place of such man- <sup>ing may be</sup> ager or treasurer vacant, and elect another to sup- <sup>filled;</sup> ply his place; and further, the said company, at an adjourned or occasional meeting, may do all such acts as may or might be done at an annual meeting, and at all meetings every owner and every guardian <sup>voting;</sup> to an infant owner of any of the marshes or low grounds within the company's boundaries may vote, if present, or if absent, may vote by proxy regularly constituted by a note in writing signed by such absent owner or guardian.

SEC. 2. *And be it enacted,* That every manager or treasurer chosen in pursuance of this act shall in <sup>Continuance</sup> office of

managers and  
treasurer

continue in office until the last Tuesday of the month of March next ensuing his election, and until a successor to him shall be elected.

Commission-  
ers to value  
marshes;

their duties;

their certifi-  
cate of apprais-  
ment

to be recor-  
ded etc.

and conclu-  
sive etc.  
copy thereof.

SEC. 3. *And be it enacted*, That the said company shall, at the first meeting thereof, or at some other meeting to be holden on some day prior to the first day of May next, choose by ballot, three substantial freeholders of Kent county aforesaid (having no interest in any of the aforesaid marshes or low-grounds) as commissioners to make a valuation of the said marshes and low-grounds; and the said commissioners, or a majority of them, are hereby authorized and empowered to go upon and view the said marshes and low-grounds, and shall ascertain all the owners and determine who will be benefitted by the aforesaid ditch or ditches, and the quantity held by each owner, or by joint owners, if any be held undivided; and shall appraise all the said marshes and low-grounds which, in their opinion or the opinion of a majority of them, are or will be benefitted or improved by the said ditch or ditches, and shall determine the value of the said marshes and low-grounds per acre, according to the situation thereof, and upon such principles as will do equal justice to all the owners thereof; which said appraisement shall be the rate of assessment for all the taxes levied under this act; and the said commissioners, or a majority of them, shall make a certificate under their hands, or the hands of a majority of them, containing the names of the respective owners of the said marshes and low-grounds, the quantity held by each owner and by joint owners, if any be held undivided, and the appraisement of the said several quantities or parcels (by the said commissioners to be made as aforesaid), and shall deliver said certificate into the recorder's office in and for Kent county aforesaid, to be there recorded by the recorder of deeds for said county; which certificate shall be final and conclusive upon all parties; and a copy of the record thereof certified by the said recorder under his hand and seal of office, shall be good and sufficient evidence in all courts.

of justice, and before all justices of the peace in this State, and each commissioner, before he enters upon the duties required of him by this act, shall be sworn or affirmed by some Judge of the State or justice of the peace in and for Kent county, to exercise the said duties faithfully and impartially according to the best of their skill and judgment; and if either of the said commissioners shall die, resign, remove from the county, or refuse to act, before all the duties required of said commissioners shall have been completed, then and in that case the owners of the said marshes and low-grounds may, at any annual, adjourned or occasional meeting choose a commissioner or commissioners to fill the vacancy or vacancies, and so from time to time, until the valuation shall be completed and delivered into the recorder's office as aforesaid.

SEC. 4. *And be it enacted,* That the said owners shall, at any of their meetings, have power to assign to the managers respectively such part or parts of the aforesaid ditch or ditches, for care and superintendence, as may be deemed expedient and proper, and to determine upon and give directions concerning all matters touching the interests of said company, and it shall be the duty of each manager to superintend and have care of such part of the said ditch or ditches as shall be, by the said owners assigned, care, and to keep the same cleared from obstruction and well scoured at the common expense of the company.

SEC. 5. *And be it enacted,* That for the purpose of raising the necessary sums of money, under this act and the original act and supplements to which this is a further additional supplement, for answering the purposes by the said acts intended, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorized and required and shall have full (after the appraisement and valuation aforesaid shall be made and the certificates aforesaid made and recorded as is prescribed in the third section of this

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1824.

act), to lay and assess upon the value of the said marshes or low-grounds mentioned in said certificate, such sum of money or tax as the company, at any of its meetings, may by a majority of the voters present at such meeting, determine ought to be levied and raised, and the said managers, or a majority of them, and the managers hereafter to be chosen in pursuance of this act, for the time being, or a majority of them, shall have power and authority, and they, or a majority of them, are hereby required, from time to time, to lay and assess upon the said marshes and low-grounds, all such sum and sums of money as a majority of the voters present at any of the meetings of the said company (held in pursuance of this act) shall determine ought from time to time to be levied and raised; that is to say, the said company having determined (in manner aforesaid) upon the sum of money necessary to be levied and raised at any particular time, the said managers, for the time being, or a majority of them, shall apportion and assess the same among the several owners of the said marshes and low-grounds which shall be mentioned in said certificate, according to and upon the value of the respective quantities or parcels of the said marshes and low-grounds which such owners respectively shall hold, according to a certain rate upon and for each and every dollar of said value and so *pro rata*: and the said managers, or a majority of them, shall from time to time make out duplicate lists under their hands of all the assessments and taxes by them to be made and laid as aforesaid, which lists shall also contain a minute of all changes of ownership and transfers of any of the said marshes and low grounds; and one of the said lists shall be delivered to the Treasurer for the time being and the other shall be retained by the managers; and such assessments and lists shall be final and conclusive upon all parties; and the said lists so delivered to the treasurer shall be a sufficient warrant to him or his successor in office for levying, collecting and making all and every the sums of money or taxes in said list mentioned: and furthermore it shall be the duty of the mana-

Managers to make duplicate tax lists.

one for treasurer,

the other for themselves;

Treasurer's list to be his warrant for collecting the taxes.

gers, and they are hereby vested with power and authority, to carry into full effect all the directions of the company that shall be given as aforesaid; for which purpose the said managers shall have power to employ workmen and contract for such materials as may be necessary for completing the work assigned to them, at the common expense of the company; and each manager shall have power to employ workmen at the common expense of the company, for the purpose of accomplishing such of the directions of the said company, in relation to the said ditch or ditches as are assigned to him in particular; and all hire, wages and expenses in and about said work shall be paid by orders drawn by the managers, or a majority of them, on the treasurer; <sup>Managers to carry into effect directions of the company.</sup> *Provided nevertheless,* that in defraying the wages and expenses of such part or parts of said ditch or ditches as is or are assigned to the care of a particular manager, such manager alone shall have power to draw the necessary orders; every order shall specify the services wages or expense for which it is drawn: and an exact account shall be kept by the managers of all orders drawn by them, or a majority of them, and by each manager, of all orders drawn by him, and such accounts shall be particular, specifying the services or expenses for which each order is drawn, and said accounts shall be laid before the annual meetings or other meetings of said company as said company may direct. <sup>expenses to be paid by orders of managers on treasurer provided etc., order to specify service; account to be kept of all orders drawn etc. and laid before company.</sup>

SEC. 6. *And be it enacted,* That the managers, laying the taxes, shall appoint the time for the payment of them, and it shall be the duty of the owners respectively to pay to the treasurer the taxes (which according to the lists aforesaid to be delivered to the said treasurer from time to time as aforesaid, they shall be liable to pay) at the time or times appointed for such payment by the managers as aforesaid: and in case of failure or neglect, on the part of any of the said owners, to pay his, her or their tax, by the time appointed for such payment as aforesaid, the owner or owners, so failing or neglecting, shall forfeit and pay the rate of fifteen per <sup>Managers to appoint time for payment of taxes; forfeiture or not paying.</sup>

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centum per annum upon the respective taxes so remaining unpaid, or any part thereof remaining unpaid; computing from the time fixed as aforesaid for the payment of the same.

Treasurer to  
collect taxes

his powers.

SEC. 7. *And be it enacted,* That the treasurer, for the time being, and every treasurer to be chosen as aforesaid, for the time being, shall have full power and authority to demand and receive, levy and make all and every the taxes, which shall be laid and assessed pursuant to this act by the managers or a majority of them, according to the certificate or the lists which shall be delivered to such treasurer; and in case any tax or taxes so laid and assessed or any part thereof shall remain unpaid for the space of ten days after the time appointed for the payment thereof, the treasurer for the time being, and every treasurer for the time being, may and shall proceed to make and levy all such taxes, so remaining unpaid, or any part thereof, remaining unpaid, in the same manner, and by the same means, and proceedings as are provided by the act of General Assembly of this State entitled "An act for raising county rates and levies," and by the twenty-fifth and twenty-sixth sections of the act of the General Assembly of this State entitled "An act for the valuation of real property within this State" for levying and recovering the rates and taxes in said acts mentioned.

Treasurer to  
give bond  
with surety  
e.c.

condition  
thereof.

SEC. 8. *And be it enacted,* That the treasurer for the time being, and every treasurer for the time being, shall, before he enters upon the duties of his office, give bond, with surety or sureties to be approved by the managers or a majority of them, to and in the name of the company aforesaid, in the penalty of two thousand dollars, upon condition to be void if he shall pay all orders drawn upon him by the managers for the time being; or a majority of them, or by one manager in those cases in which one manager is by this act authorized to draw orders upon the treasurer, as far as he (the said treasurer for the time being) shall have funds for that pur-

pose, and shall well and truly account for all monies that may come to his hands as such treasurer at every annual meeting of the company, or otherwise as the company may direct, and shall pay any balance or sum which shall be due from him on such account to his successor in office; or otherwise as the company shall direct, and shall perform all the duties of his office with fidelity: and every treasurer for the time being shall have the same power to collect and levy all taxes upon a list delivered to a former treasurer which have not been paid to such former treasurer as the treasurer had to whom the said list was originally delivered.

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Succeeding  
treasurer to  
collect on list  
of preceding.

SEC. 9. *And be it enacted*, That if any person shall wilfully fill up, or in any manner obstruct the ditches aforesaid, or any of them, every such person shall pay to the said company treble the amount of the damages so done, to be recovered before any justice of the peace in Kent county, if not exceeding in the whole fifty dollars; as debts above forty shillings and not exceeding fifty dollars are recoverable; and if exceeding that sum, in the supreme court or court of common pleas.

penalty for ob-  
structing  
ditches.

SEC. 10. *And be it enacted*, That suits may be instituted and prosecuted in the name of the said Tappahannah marsh company, upon any bond given to the said company, or for the recovery of damages as aforesaid.

Suits may be  
in the name of  
the company  
etc.

SEC. 11. *And be it enacted*, That every commissioner and manager shall, for every day's service in and about the business of the said company, under this act, be entitled to receive of the said company the sum of one dollar; and every treasurer shall be allowed a commission of five per centum on all monies by him collected.

Pay of offi-  
cers.

SEC. 12. *And be it enacted*, That the treasurer of said company next to be chosen, and every the treasurer for the time being, shall have full power and authority to demand and receive, levy and make

Treasurer to  
collect taxes,  
now in arrear.

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all the taxes which have been laid and assessed under or by virtue of the act to which this is a further additional supplement, or any of the supplements of the said act, which shall remain unpaid at the time of the coming into office of such future treasurer or treasurers.

PASSED AT DOVER, }  
January 29, 1824. }

## CHAPTER CCXXVII.

AN ADDITIONAL SUPPLEMENT to the  
act entitled "*An act for the better relief of the poor.*"

2 vol. 988.

Meetings of  
the trustees of  
the poor in  
Newcastle  
county

SEC. 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the trustees of the poor in Newcastle county shall, and they are hereby required to, meet at the poor-house of said county, on the last Wednesday of the months of January, April, July and October, in each year; and that so much of the act to which this is an additional supplement as directs and requires that the said trustees shall meet at the said poor-house in the first week in the aforesaid months, be and the same is hereby repealed, made null and void.

Repeal of  
part of sec.  
13 ch. 218. b.  
vol. 2. p. 994

Trustees may  
reimburse fu-  
neral expen-  
ses of poor  
persons dying  
out of the  
poor houses,  
&c.

SEC. 2. *And be it further enacted*, That in case any poor person not admitted into either of the poor-houses in this State, shall die insolvent, or without leaving sufficient estate to discharge his or her funeral expenses, then, and in such case, it shall and may be lawful for the trustees of the poor of the county where such person shall die, to make an order for the payment of said funeral expenses, or such part thereof as they, or a majority of them,

may deem right and proper, to such person or persons as shall have paid or incurred the same.

CHAP.  
CCXXVII.

1824.

PASSED AT DOVER, }  
January 30, 1824. }

CHAPTER CCXXVIII.

AN ACT to enable Benjamin Read to bring into this State, from the State of Maryland, a slave named Charles.

PASSED AT DOVER, }  
January 30, 1824. }

PRIVATE ACT.

CHAPTER CCXXIX.

AN ACT for receiving and appropriating a sum of money therein mentioned.

WHEREAS, it has been represented to this General Assembly, by the trustees of the town of Lewes, that there are, in the hands of one or more persons at Lewes, about one thousand dollars, received for services performed by the troops there during the late war, in saving the cargoes of a schooner called the Anna Maria, and of a schooner called the Adolphus: And whereas, the taxables of Lewes are subjected to the payment of taxes, on account of money expended in cutting a canal to improve Lewes creek, and for rebuilding a bridge over said creek, which is a public bridge used by the people without toll:—

Preamble,

SECTION 1. 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 in the name of the State of Dela-

State treasurer to sue for certain money

paid for sal-ware, to sue for, recover and receive all such sum  
 vage at Lewes or sums of money as have been received, for saving  
 town; the cargoes of the schooners called Anna Maria and  
 Adolphus, by the troops stationed at Lewestown,  
 during the late war, from the person or persons who  
 and to pay received the same; and upon receipt thereof, the  
 part thereof to State-treasurer is hereby authorized and required  
 treasurer of to pay to the treasurer of Lewestown, one third part,  
 said town, to be applied, by the trustees of said town, towards  
 payment of the expenses incurred in the construc-  
 tion of the bridge over Lewes creek, and towards  
 the improvement of the navigation of said creek: and  
 the residue of the sum or sums so recovered or re-  
 ceived by the State-treasurer, he shall apply to the  
 use of the State.

PASSED AT DOVER, }  
 January 30, 1824. }

## CHAPTER CCXXX.

### AN ACT for the relief of Lavinia Warner.

SEC. 1. BE IT ENACTED by the Senate and  
 House of Representatives of the State of Delaware,  
 in General Assembly met, That hereafter Lavinia  
 Warner of Kent county, wife of James Warner,  
 be able to have and hold property, real, personal  
 and mixed, by descent, devise, purchase, or other-  
 wise, in her own name, to sue and be sued, and in  
 all respects to act and manage for herself as a feme  
 sole, and that the property so hereafter to be pos-  
 sessed or acquired by her shall be free from all li-  
 ability for the payment of the debts of said James  
 Warner, any law, usage or custom to the contrary  
 notwithstanding.

SEC. 2. And whereas, it has been represented to  
 this General Assembly that the said Lavinia is the  
 owner of one undivided seventh part of a lot of  
 ground, with the appurtenances, situate in the bo-

rough of Wilmington, Newcastle county, and now in possession of John Gordon, of the said borough:

*Therefore be it enacted by the authority aforesaid,* that the said Lavinia shall have power in her own name, to sell and convey the same, and also in her own name to sell and convey all and every the estate, title and interest, whether in possession, reversion or remainder, which she the said Lavinia now has or may hereafter have, in, or to any lands, tenements or hereditaments whatsoever; and without the privity or consent of her said husband, by any of the legal forms of conveyance, to give to the purchaser or purchasers thereof a title thereto.

PASSED AT DOVER, }  
January 30, 1824. }

#### CHAPTER CCXXXI.

#### AN ACT to incorporate the Mechanics' benevolent society of Smyrna.

SEC. 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Israel Petersen, Daniel Megear, Samuel Green, George Woolls and Samuel Boyer, and their successors, be, and they are hereby declared to be, one body politic and corporate, to have continuance in office until the first Monday in April next, eighteen hundred and twenty-four.

SEC. 2. *And be it enacted,* That on the first Monday of April eighteen hundred and twenty-four, an election shall be held at Smyrna, by the members of the Mechanics' benevolent society of Smyrna for the purpose of electing five trustees for the management of the concerns for one year, and so on annually for ten years.

Trustees in-  
corporated :

SEC. 3. *And be it enacted*, That the trustees so elected shall be and they are hereby constituted a body politic and corporate, by the name of the 'Trustees of the Mechanics, Benevolent Society of Smyrna, and, by that name, shall have succession, may sue and be sued, plead and be impleaded, in any court of law or equity.

may hold  
lands,

SEC. 4. *And be it enacted*, That the said trustees, and their successors by name aforesaid, shall be capable in law to purchase, receive and hold any lands, tenements, rents, goods and chattels, which shall be given, conveyed or devised to them for the use of said society ; and to sell, rent or dispose of the same, in such manner as to them shall seem most beneficial to said society.

and sell the  
same,

make by-laws,

SEC. 5. *And be it enacted*, That the said trustees, or a majority of them, shall have power, from time to time, to make and establish such by-laws, rules and ordinances, not contrary to the laws and constitution of this State or of the United States, as they shall judge necessary and proper for the good government of said society ; and to appoint

and appoint  
officers.

Treasurer,  
his duties ;

a president, secretary and treasurer, the last of whom shall receive all monies accruing to the said society, and property delivered to his care, and pay or deliver over the same to the orders of the trustees, or a majority of them : the said treasurer, before he enters upon the duties of his office, shall give bond and security, in such sums as the said trustees, or a majority of them, 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, or a majority of them, render a true and just account of all monies, goods and chattels received by him on account of, and for the use of said society : which treasurer shall receive such salary as the said trustees, or a majority of them, shall allow.

this bond ;

his salary.

Trustees  
may take sub-  
scriptions,

SEC. 6. *And be it enacted*, That the said trustees shall have power to take and receive subscrip-

tions for the use and benefit of said society; and in case any person failing 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 said trustees herein named, the vacancy thereby occasioned shall be supplied by the remaining trustees, until the next annual election thereafter.

PASSED AT DOVER,  
January 30, 1824.

## CHAPTER CCXXXII.

### AN ACT *securing payment, by the banks of this State, of their notes in specie.*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the second section of the act entitled "An act for the continuance of certain banks therein mentioned, and for securing payments in specie, by the said banks, to persons holding their notes" passed at Dover, the eleventh day of February, eighteen hundred and twenty, and the twenty-first and twenty-third sections of the act entitled "An act to establish a bank and to incorporate a company under the name of the Bank of Smyrna" passed at Dover the fifth day of February, eighteen hundred and twenty-one, and the second section of the act entitled "A supplement to the act entitled An act for the continuance of certain banks therein mentioned, and for securing payments in specie, by the said banks, to persons holding their notes," passed at Dover, February fifth, eighteen hundred and twenty-one, be, and the said several sections are, hereby repealed.

SECTION 2. *And be it enacted,* That if any bank in this State shall, at any time, refuse or neglect to pay, in specie, on demand, any bill, note or obli-

CHAP.  
CCXXXII.

1824.

to forfeit 12  
per cent per  
annum from  
demand of  
payment

gation issued by such bank, if such note, bill or obligation shall be presented at the banking-house of such bank, or of the branch where such note, bill or obligation shall be made payable, then, and in every such case, the holder of any such note, bill or obligation shall be entitled to receive and recover interest on such note, bill or obligation, until the same shall be fully paid and satisfied, at the rate of twelve per centum per annum, from the time of the demand thereof.

This act to  
extend only to  
Banks accept-  
ing it;

SECTION 3. *And be it further enacted,* That if the president directors and company of the several banks in this State, or if any or either of them shall accept this act as a part of the charter of incorporation of such banks respectively, and shall certify such acceptance to the governour, by certificate under the seal of the bank and the hand of the president, then this act, from the time the acceptance thereof shall be so certified, shall become and be a part of the charter of incorporation of the bank, the president, directors and company of which shall so certify such acceptance, to all intents and purposes, as fully and effectually as if this act had been originally a part of such charter: and the governour shall communicate the tenour of such certificate to the General Assembly by message; and the printed journal of the Senate or the House of Representatives shall be conclusive evidence of such mes-

but not to  
those omitting  
to accept it;

sage, and of every part thereby communicated: but if the president, directors and company of any bank in this State, shall omit to certify their acceptance of this act to the governour, so that he shall not receive such certificate on or before the fifteenth day of January next, this act, so far as the same shall concern any bank the president, directors and company whereof shall so omit to certify, shall cease and be of no effect from and after said day; and the law which concerns such bank, and is hereby repealed, so far as it shall relate to the bank, the president, directors and company whereof shall so o-

and as to  
them, provis-  
ions repealed  
by first sec-  
tion, revived.

mit to certify, shall, from and after said last mentioned day, be and stand revived and in full force.

CHAP.  
CCXXXII.

1824.

PASSED AT DOVER, }  
January 30, 1824. }

### CHAPTER CCXXXIII.

AN ACT *to enable John Cary to remove certain negro slaves into this State from the State of Maryland.*

PASSED AT DOVER, }  
January 31, 1824. }

PRIVATE ACT.

### CHAPTER CCXXXIV.

AN ACT *to enable the persons therein named to raise a sum not exceeding one thousand two hundred dollars, by a lottery, for the purpose of discharging the balance due for erecting the Episcopal Church of St. James, in Mill-creek hundred, in the county of Newcastle.*

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 persons hereinafter mentioned, named and appointed managers, to institute, carry on and draw a lottery, for raising a sum not exceeding one thousand two hundred dollars; and the said sum when so raised, shall, after deducting the expenses growing out of or connected with the said lottery, be applied to the sole purpose of discharging the balance due for erecting the episcopal church of St. James, in Mill-creek hundred, in the county of Newcastle.

Lottery authorized.  
money raised to be for the use of St. James's church.

Managers of lottery, SEC. 2. *And be it further enacted, That Isaac Gibbs, Isaac Price, David Justis, Jeremiah Springer and Henry Litel, or a majority of them, shall be, and they are hereby appointed, managers of said lottery.*

to give bond, SEC. 3. *And be it further enacted, That the said managers, previously to selling any tickets in said lottery, shall enter into a bond to the governour, in the name of the State of Delaware, in the sum of three thousand dollars, conditioned for the faithful execution of this act, and due payment of all prizes that may be drawn in said lottery at the expiration of sixty days after the same shall be drawn, if demanded; and further conditioned, faithfully to apply all such sums of money, as may be raised by said lottery clear of all expenses, to the discharge of the aforesaid balance; 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 or persons, and bodies corporate, injured or aggrieved by said managers, and may put in suit by any person or persons or bodies corporate injured and grieved as aforesaid.*

take and sub- SEC. 4. *And be it further enacted, That each scribe an oath etc.; 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 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 said lottery each day; and when the said lottery shall be completed, they shall forthwith cause an accurate list of the fortunate numbers in said lottery to be published in two of the newspapers published in this State, and one in Philadelphia.*

attend the drawing;  
and publish list of fortunate numbers

SEC. 5. *And be it further enacted,* That all prizes <sup>Prizes not de-</sup> not demanded, within one year from the publica- <sup>manded etc.</sup> tion aforesaid, shall be retained by the said managers, and applied to the purposes aforesaid.

SEC. 6. *And be it further enacted,* That if the <sup>Managers</sup> said managers shall deem it expedient for effecting <sup>may sell</sup> the object of this act, to sell or dispose of the scheme <sup>scheme of lot-</sup> of said lottery, or of any class or classes thereof, <sup>tery,</sup> or to employ an agent or agents to sell or dispose <sup>or employ a-</sup> of the whole or any number of the tickets of any <sup>gents to sell</sup> class or classes of said lottery, it shall and may be <sup>tickets</sup> lawful for the said managers so to do, provided they <sup>provided they</sup> shall take such security, from the person or persons <sup>take security,</sup> to whom they sell or dispose of the scheme of the <sup>etc.</sup> said lottery, or of any class or classes thereof, or from the agent or agents who may be employed as aforesaid, for the faithful discharge of the trust that may be thus reposed in such person or persons, agent or agents, as shall be approved by the said managers.

SEC. 7. *And be it further enacted,* That if the <sup>If lottery be</sup> said lottery shall not be drawn within two years <sup>not drawn in</sup> from the passing of this act, the said managers shall <sup>two years.</sup> return and pay over, on demand, to every person <sup>money receiv-</sup> or body corporate the respective sums that may <sup>for tickets to</sup> have been received for tickets sold in said lottery. <sup>be returned:</sup>

PASSED AT DOVER, }  
January, 31 1824. }

CHAPTER CCXXXV.

AN ACT to enable Samuel Hyatt, junior, of Newcastle county, to pass to and from the State of Maryland, a certain manumitted slave named Jeremiah.

PASSED AT DOVER, }  
January 31, 1824. }

\*  
PRIVATE ACT.

CHAP.  
CCXXXVI.

## CHAPTER CCXXXVI.

1824.

AN ACT to vacate a part of the State road leading from the Maryland line to Milford, and to establish a new road in lieu thereof.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That so much of the State road leading from the Maryland line, over Marshyhope bridge, and thence through the late dwelling plantation of Nathan Clifton, deceased, and through the premises of Purnel Johnson to Milford as lies between the south end of a causeway on the said State road, about one hundred and eighty-five perches below or southward from the dwelling-house now occupied by the said Purnel Johnson, and a point in the said State road about three and a half perches above or northward from a bridge thereon called and known by the name of the Saw-pit Bridge, near the present place of residence of Daniel Allen, being a distance of about one hundred and eighty-seven perches, may be vacated and stopped by the said Purnel Johnson, as soon as the said Purnel Johnson shall have made and laid out, at his own proper cost and charge, another road, in manner following: that is to say; the said last mentioned road, so to be made and laid out by the said Purnel Johnson, shall begin at a point in the aforesaid State road, near the South end of a causeway, and at or opposite the north end of a new road lately cleared by the said Purnel Johnson, and shall run thence south twenty-seven degrees west, one hundred and sixty perches, more or less, to the above mentioned point in the State road, about three and a half perches above or northward from the said Saw-pit Bridge: and the said Purnel Johnson shall have power and authority to alter the State road in the manner above described.

Road vacated—

as soon as  
new road  
made.

PASSED AT DOVER, }  
January 31, 1824. }

CHAPTER CCXXXVII.

CHAP.  
CCXXXVII.

AN ACT to enable John Price to bring certain negro slaves into this State, from the State of Maryland; and retain them as such.

1824.

PASSED AT DOVER, }  
January 31, 1824. }

PRIVATE ACT.

CHAPTER CCXXXVIII.

AN ACT authorizing the persons therein named to raise a sum not exceeding six thousand dollars, by a lottery, for the purpose of erecting an academy &c. in the village of Middletown, in the State of Delaware.

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 persons hereinafter appointed managers, to institute, carry on and draw a lottery, in one or more classes, for raising a sum of money not exceeding six thousand dollars, clear of all expenses; and the said sum, when so raised, shall be applied to the erection of a building sufficiently large to contain rooms for an academy and for elementary schools, and also a room for public worship, with such other room or rooms as they may think proper and necessary: *Provided however*, that the room for public worship shall be free for all denominations of Christians.

Lottery authorized.

Appropriation of sum raised thereby.

SECTION 2. And be it enacted, That Richard Mansfield, Arnold Naudain, Outten Davis, William H. Crawford and Richard E. Cochran be and they are hereby appointed managers of the said lottery; and that they the said managers, before entering upon the duties required by this act, shall give bond jointly and severally to the governor of

Managers appointed:—

to give bond.

CHAP  
CCLXXXVIII,  
1824.

the State of Delaware, in the sum of ten thousand dollars, conditioned for the faithful discharge of the trust reposed in them by the several provisions of this act.

Drawing of  
lottery.

Payment  
of prizes.

subject to de-  
duction.  
Prizes not  
demanded,  
within a year  
—forfeited;  
provided no-  
tice of prize-  
be published  
etc.

SECTION. 3. *And be it enacted,* That the said managers shall proceed to the drawing and completion of said lottery, either by classes or otherwise as soon as the same can conveniently be done; and the holders of tickets against whose numbers prizes are drawn, shall be paid by the said managers, on demand at any time within twelve 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 purposes aforesaid; provided they shall, within thirty days after any day's drawing, or within thirty days after any class is finished drawing, have given public notice in one of the newspapers published in this State, in one published in the city of Philadelphia, and in one published in the city of Baltimore, of the fortunate prizes and numbers drawn in said lottery, or any of the classes thereof.

Managers of  
lottery to ex-  
pend money  
raised in erect-  
ing a build-  
ing, etc.;  
and invest sur-  
plus for use of  
academy.

SECTION. 4. *And be it enacted,* That the said managers shall superintend and direct the expenditure of the money that may be raised by the said lottery, or so much thereof as they may judge necessary, in erecting said building, and if, after the erection thereof, any money, raised by virtue of this act, shall remain in the hands of the said managers, the same shall be appropriated, and invested by them, as a fund for the endowment and support of said Academy.

Managers  
may sell  
scheme of lot-  
tery,  
or employ a-  
gents to sell  
tickets.

SECTION. 5. *And be it enacted,* That if the said managers shall deem it expedient for effecting the objects of this act, to sell or dispose of the scheme of said lottery, or of any class or classes thereof, or to employ an agent or agents to sell or dispose of

the whole or any number of the 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 person <sup>provided they take security</sup> or persons to whom they sell or dispose of the scheme of the said lottery, or of any class or classes thereof, or from the agent or agents who may be employed as aforesaid, for the faithful discharge of the trust that may be thus reposed in such person or persons, agent or agents, as shall be approved by the said managers.

SECTION 6. *And be it enacted,* That if the tickets in said lottery shall not be sold in three years <sup>if the tickets be not sold in three years,</sup> after the publication of the scheme of said lottery, the said managers shall, respectively, on demand, <sup>money received for tickets to be returned</sup> return and pay over to any person or persons who shall have purchased, or may hold, any ticket or tickets, the respective sum or sums which shall have been paid for such ticket or tickets to such manager, or to any agent by him appointed for the sale of tickets; each manager being responsible for <sup>Each manager authorized to appoint agents—and to answer only for himself and agents</sup> all sums of money received by him or his agent or agents on the sale of tickets, and no further; and the said managers shall each have power to appoint any agent or agents for the sale of tickets in said lottery.

SECTION 7. *And be it enacted,* That when any vacancy or vacancies shall happen by the death <sup>Vacancy among managers;</sup> resignation, inability, neglect or refusal to serve of any manager or managers herein before named, then and in every such case it shall and may be <sup>how to be filled</sup> lawful for the remaining managers to fill such vacancy or vacancies so happening.

PASSED AT DOVER, }  
January 31, 1824. }

CHAP.  
CCXXXIX

## CHAPTER CCXXXIX.

1824.

AN ACT to enable Major Lewis, of Sussex county, to bring into this State certain negro slaves and to hold them as such.

PASSED AT DOVER, }  
January 31, 1824. }

PRIVATE ACT.

## CHAPTER CCXL.

AN ACT to enable William D. Waples, the heir of Thomas C. Waples, deceased, and Robinson C. Waples, to bring into this State certain negro slaves and to hold them as such.

PASSED AT DOVER, }  
January 31, 1824. }

PRIVATE ACT.

## CHAPTER CCXLI.

AN ACT dissolving the marriage between William P. Baldwin and Caroline his wife, late Caroline Williams.

PASSED AT DOVER, }  
January 31, 1824. }

PRIVATE ACT.

## CHAPTER CCXLII.

§ v. 85, 240, 316. AN ACT for the payment of claims for the tuition of poor children.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the trust

the of the fund for establishing schools in the State of Delaware, be and he is hereby authorized and directed to pay, out of any monies belonging to the said fund and not necessary for the payment of the salaries of the chancellor and judges, nor appropriated for the subscription to the Chesapeake and Delaware canal by the act entitled "An act authorizing a subscription to the stock of the Chesapeake and Delaware canal," passed at Dover, on the fifth day of February, one thousand eight hundred and twenty-three, nor otherwise heretofore appropriated, the following claims for the education of poor children, under the provisions of the act entitled "An act for the encouragement and support of schools in this State," passed on the third day of February, one thousand eight hundred and twenty-one; that is to say, for the education of poor children in Newcastle county—to William Aspy, thirty-two dollars; to Maria C. Smith, for and on account of the Female Harmony Society of Wilmington, one hundred and ninety-three dollars and forty-nine cents; to Rebecca M'Ilvain, twenty-one dollars; to Joseph Thompson, administrator of George Main Warren, deceased, eight dollars; to Elijah Elwel, two dollars and twelve and a half cents; to William Pippin eleven dollars and fifty cents; and to Eliza Weaver, for and on account of the Female Benevolent Society of Newcastle, sixty-one dollars and thirty-seven cents; and for the education of poor children in Kent county—to Maria M'Natt, nine dollars and eighty-two cents; to George Clemons, twenty dollars and twenty-two cents; to Joseph Oliver, fourteen dollars and thirty-two cents; to Jerome Loring, five dollars; to Hill D. Stayton, seven dollars and ninety-seven cents; to Mary Farson, seventy-nine dollars and ninety-six and a half cents; to Charles Turner, four dollars and fifty cents; and to Charles Todd, four dollars and fifty-eight and a half cents: and for the education of poor children in Sussex county—to Jane Porter, eleven dollars; and to William Adams, eight dollars and thirteen and a half cents.

Trustee of school fund to pay claims.

(2 v. 1127, 1296, 1352.

6 v. 310.

6 v. 85.)

for the education of poor children—  
in Newcastle county—

in Kent county—

in Sussex county.

No teacher hereafter to receive pay for more than 20 poor children in one year.

**SECTION 2.** *And be it enacted,* That no teacher shall hereafter be entitled to receive payment from the school-fund, in any one year, for more than twenty poor children.

PASSED AT DOVER, }  
February 2, 1824. }

## CHAPTER CCXLIII.

**AN ACT** *to authorize the state-treasurer to pay the claims therein mentioned.*

**SECTION 1.** *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 Mendenhall and Walters, for publishing a resolution and the bill for the support of schools, six dollars; to Samuel Harker, for publishing proposals for printing the journals, the bill aforesaid, and the names of retailers, eighteen dollars and fifty cents; to James Gaskins, for cleaning and boxing public arms, five dollars; to Henry H. Wells, late secretary of State, for postage, and furnishing a digest of certain laws for the States of New York and Maryland, and for making an index to the laws of eighteen hundred and twenty-three, one hundred and thirteen dollars and fifty-six cents; to John M. Clayton, late auditor of accounts, for postage, four dollars and fifty cents; to John Caldwell, for an excess of taxes, six dollars and forty-five cents; to Ezekiel Cowgill, late State treasurer, for postage and travelling expenses to and from Philadelphia to subscribe for stock in the Chesapeake and Delaware canal for the school fund, and for services rendered this session, thirty one dollars and eighty cents; to Philip Rasin, as bailiff and cryer of the high court of errors and appeals up to the present year, forty one dollar; to Augustus M. Schee, for copying the laws for the press and printing marriage

State treasurer to pay certain claims to—

Mendenhall & Walters,

Samuel Harker,

James Gaskins,

Henry H. Wells,

John M. Clayton,

John Caldwell,

Ezekiel Cowgill,

Philip Rasin,

A. M. Schee,

and tavern licenses; fifty-six dollars and seventy-five cents; to William Saulsbury, sheriff of Kent county, for attending the court of appeals, five dollars; to the administrators of Joseph Haslett, late Governor, for postage, two dollars and sixty-three cents; to Caleb H. Sipple, clerk of the court of appeals, for a record book and fees in the case of the State against Elizabeth Batchelor, ten dollars and sixty-six cents; to William Hukill, for fees as a witness on inquiring into the conduct of William Johnson, a Justice of the peace, seventeen dollars and twenty-eight cents; to James Wilson, for publishing proposals for printing the Journals, the bill for the support of schools, and the names of retailers, eighteen dollars and fifty cents; to William Johnson, as surveyor, for running the boundary line between Kent and Sussex, and making plot, twenty dollars; to John Booth, chain carrier, three dollars; and to Roger H. Wright, chain carrier, three dollars.

SEC. 2. *And be it enacted*, That the State-treasurer be and he is hereby authorized to pay to the secretary of State the sum of one hundred and seventy dollars, for the use of the secretary's office, and for the purpose of providing stationary, and for paying all proper charges and expenses connected with and belonging to the said office: an account whereof shall be laid before the General Assembly at their session in January next.

PASSED AT DOVER,  
February 2, 1824.

## RESOLUTIONS.

### CHAPTER CCXLIV.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General As-

*Assembly met,* That the following persons be, and they are hereby appointed, directors of the Farmer's Bank of the State of Delaware, on the part of this State; that is to say: George Cummins, John Bell and Joseph G. Rowland, for the principal bank; Dover, William Warner, John Gordon and Cyrus Lamborn, for the branch bank at Wilmington; Samuel Newcastle, Meeteer, Levi Boulden and John Crow, for the branch bank at Newcastle; and David Hazzard, Georgetown, Jehu Stockley and Philip Short, for the branch bank at Georgetown,

ADOPTED AT DOVER, }  
January 12, 1824. }

### CHAPTER CCXLV.

*Resolved by the House of Representatives of the State of Delaware, with the concurrence of the Senate,* That William W. Green be, and he is hereby appointed, State-treasurer.

ADOPTED AT DOVER, }  
January 13, 1824. }

### CHAPTER CCXLVI.

*Preamble.* WHEREAS, it is deemed inexpedient to lay a tax upon the citizens of this State for the levying and raising so small a sum as is now necessary to be levied and raised for the support of government; and whereas the pecuniary embarrassments of the citizens of this State are now unusually great, owing chiefly to the low prices of our produce; therefore—

*Resolved 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 borrow, upon such terms as he may in his discretion deem proper, the sum of six thousand dollars, of the Farmers' Bank of the State of Delaware, to be applied and used for the support of government during the year eighteen hundred and twenty-four; and that the faith of the State be, and the same is hereby pledged for the repayment of said sum of money, with lawful interest, within two years from the date of the loan; and that the treasurer shall receive, for his services, one fourth of one per cent. out of the money so obtained.

ADOPTED AT DOVER, }  
January 14, 1824. }

## CHAPTER CCXLVII.

RESOLVED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the State-treasurer, for the time being, be, and he is hereby authorized and required to purchase, on the best terms that can be procured, for and in behalf of the "Delaware College," with the money in the treasury belonging to that institution, a part of the funded debt of the United States, or some kind of productive stock, at his discretion, and that the dividends on the same, together with any donations in money that may hereafter be made to said institution, be expended by him, annually or semi-annually, in similar purchases, as he shall judge most to its advantage; the whole to be placed to the credit of the same and to be denominated "the College fund;" of which fund he shall be the trustee, and shall receive as a commission on all his investments in behalf of the same one and a half per-centum, and no more.

ADOPTED AT DOVER, }  
January 28, 1824. }

CHAP.  
CCXLVIII.

## CHAPTER CCXLVIII.

1824.

Certain stat-  
utes to be re-  
vised;

*Resolved by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That to complete a digest of the laws of this State, it is expedient that the statutes, coming properly under the following general titles, to wit; Crimes and Punishments—Elections—Fees—Fence-viewers—Justices of the peace—Levy court, including all laws relative to the duties of that court and to county rates and levies—Negroes and Mulattoes—the Poor—Roads—and Servants and Apprentices—should be revised, and that the principles contained in these statutes should be embraced by a general act relative to each title.

N. Ridgely &  
W. Hall ap-  
pointed for  
that purpose;  
to have a gen-  
eral discre-  
tion;authorized to  
revise the stat-  
utes on other  
subjects,

*Resolved,* That Nicholas Ridgely, Esquire, and Willard Hall, Esquire, be appointed to carry into effect the foregoing resolution; but that herein they shall have a general discretion, to omit such existing provisions as they shall consider unnecessary, and to vary existing provisions whenever they may think a variance suitable to render the general system consistent, or more perspicuous, or better adapted to circumstances; and that they be further authorized to revise the statutes upon other subjects, and to apply to them the principles expressed in the first resolution, whenever they shall consider that the same can be applied with propriety.

*Resolved,* That the said Nicholas Ridgely, esquire, and Willard Hall, esquire, be requested to make report to the General Assembly, at their session in January next; and that they, at the same time report what English statutes are in force in this State, to the end that the same may be included in the revised code; also that they be requested to make such explanatory notes of adjudged cases, to accompany a digest, as may shew the construction that has been given to any statute therein

and to make  
report to the  
General As-  
sembly;  
to report also  
the English  
statutes in  
force in this  
State;  
to make ex-  
planatory  
notes of ad-  
judged cases  
under acts of  
assembly;

OF DELAWARE.

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to be included; and further, that if they shall con- and to consi-  
sider that any statutes should be repealed, that they der, and report  
shall report the same, with their reasons, what statutes  
should be re-  
pealed, &c.

ADOPTED AT DOVER, }  
January 31, 1824. }



## **SECRETARY'S OFFICE,**

**Dover, 8 March, 1824.**

In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes," I have collated with, and corrected by, the original rolls, and caused to be published, this edition of the laws of the said State, passed during the last session of the General Assembly. which commenced on Tuesday the sixth day of January, and closed on Monday, the second day of February, in the year of our Lord, one thousand eight hundred and twenty-four.

**H. M. RIDGELY,**

**Sec. of the State of Delaware.**



LAWS  
OF THE  
STATE OF DELAWARE.

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CHAPTER CCXLIX.

CHAP.  
CCXLIX.  
1825.

AN ACT *providing for the sale of certain mills, mill-seat messuage and tract of land in Cedar Creek hundred Sussex county belonging to Ann Haslet John Haslet Jemima M. Haslet and Joseph Haslet minors and children of the late Joseph Haslet.*

PASSED AT DOVER, }  
January 12, 1825. }

PRIVATE ACT.

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CHAPTER CCL.

AN ACT *to vest the title to a certain tract of land therein mentioned in Elizabeth Scrowden.*

PASSED AT DOVER, }  
January 17, 1825. }

PRIVATE ACT.

CHAP.  
CCLI.

## CHAPTER CCLI.

1825. AN ACT dissolving the marriage between Michael Duval and Mary his wife late Mary M. Alister.

PASSED AT DOVER, }  
January 21, 1825. }

PRIVATE ACT.

## CHAPTER CCLII.

AN ACT to authorize and empower Augustine H. Pennington the guardian of a certain Samuel Pennington a minor to purchase for said minor a certain piece or parcel of land therein mentioned.

PASSED AT DOVER, }  
January 25, 1825. }

PRIVATE ACT.

## CHAPTER CCLIII.

3 vol. ch. 126, p. 274. AN ACT to authorize John Bowers his heirs executors administrators or assigns to erect a toll gate across the public road running to Bowers's Beach or Mulberry point on Delaware Bay and for other purposes.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the said John Bowers his heirs executors administrators or assigns may, and they or any of them are hereby authorized and empowered to, build and erect a gate across the said road, running down as aforesaid to the Delaware Bay across the land of the said John Bowers, in such place as he or they may choose upon said road; Provided the same shall not be further dis-

John Bowers authorized to erect a gate across the road leading to Bowers's beach.

tant from said bay than the bridge across a certain ditch passing through said road from Murderkill creek to Dover River or St. Jones's creek.

CHAP.  
CCLIII.  
1825.

SEC. 2. *And be it enacted.* That after said gate shall be erected, the same shall be and remain a toll gate; so long as the said John Bowers his heirs executors administrators or assigns or any of them shall at his or their own proper charges keep the ditch aforesaid in good order and properly cleaned out and the bridge aforesaid in good repair, and all the emoluments and profits arising from said toll gate shall belong to the said John Bowers his heirs and assigns and be received by him or them and be applied to his or their own proper use and uses without accounting for the same or any part thereof to any person or persons whatever. Gate to be  
a toll gate.

SEC. 3. *And be it enacted.* That the said John Bowers, his heirs and assigns or his and their agent or agents shall take and receive, for toll at said gate after the same shall have been erected as aforesaid, the rates and prices following, to wit, for every single horse, with or without a rider, four cents, for every horse and chaise sulky or chair ten cents, for every four-wheel riding carriage drawn by two horses twenty cents, for every cart wagon or carriage (other than carriages for riding) drawn by mules horses or oxen at the rate of two cents for every mule horse or ox, and at the same rate for every mule or ox whether attached to any cart wagon or carriage or not: which rates shall be paid for passing through the said gate toward the said bay, but nothing shall be taken for repassing on their return home, and no foot passenger shall be subjected to any toll for passing and repassing said gate. Rates of toll,

SEC. 4. *And be it enacted,* That if any person or persons shall pass through the said gate, with any horse chaise sulkey chair cart carriage mule or ox, without having first paid the legal toll or having obtained leave so to do of the person entitled to receiving said toll, or if any person or persons shall wilfully Penalties—  
  
for not pay-  
ing tolls—

for injuring gate, &c. injure or destroy the said gate bridge or ditch, he she or they so offending shall for every such offence forfeit and pay any sum of money not less than five dollars and not exceeding fifty dollars, one moiety thereof to the person entitled to the toll as aforesaid at the time when the offence is committed and the other moiety to the treasurer of Kent county for the use of said county. And if any person having the care and keeping of said gate shall exact or demand, for passing through the same, more than the rates herein before specified and prescribed, or shall refuse to permit any person to pass through said gate with his her or their carriages carts wagons horses oxen or mules after he she or they shall have offered to pay the toll as fixed by this act, he she or they so offending shall for every such offence forfeit and pay any sum not less than one dollar and not exceeding forty dollars, one moiety thereof to the person so aggrieved and the other moiety thereof to the treasurer of Kent county aforesaid for the use of said County; and all the penalties and forfeitures incurred under the provisions of this act shall be recovered by indictment and conviction in the court of general quarter sessions of the peace in and for Kent county aforesaid.

for demand- ing illegal tolls—  
for not permitting persons to pass through gate, &c.  
to be recovered by indictment.

Oxen horses &c. for which toll has been paid may be turned loose within said gate &c.

SEC. 5. *And be it enacted,* That all persons, resorting to said Delaware bay and passing through said gate, shall be at liberty, free from any charge, to turn loose, upon any of the land and marsh of the said John Bowers his heirs or assigns not included within his or their fences, all such oxen horses and mules for the passing of which toll has been paid as aforesaid, for any time not exceeding forty-eight hours for each and every time of passing through the said gate to the said bay.

continuance of this act.

SEC. 6. *And be it enacted,* That this act shall continue in force until the first day of March which

will be in the year of our Lord one thousand eight hundred and thirty-nine and no longer.

CHAP.  
CCLIII.

1825.

PASSED AT DOVER, }  
January 26, 1825. }

### CHAPTER CCLIV.

**AN ACT** to provide for recording acts and resolutions of the General Assembly not of a public nature and for other purposes.

**SECTION 1.** BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That whenever any act or resolution shall be passed or adopted by the Legislature of this State, which shall not be of a public nature or printed or published as such, it shall and may be lawful for the person or persons, in whose favour such act or resolution shall pass or be adopted, to procure a copy of the same, attested by the Secretary of State under the seal of his office, to be recorded in the office for recording of deeds, in one of the counties of this State, within twelve months after the same shall pass or be adopted as aforesaid, in a book provided for that purpose; and the record thereof, or a copy of the same under the hand of the Recorder and seal of his office, shall be evidence in all Courts of law or equity in this State; and every such act or resolution, not recorded within the time aforesaid, shall be void and of no effect.

**SEC. 2.** And be it further enacted, That when any such act or resolution as aforesaid shall authorize any person or persons to bring into this State any negro or mulatto servant or slave, the person or persons, whose favour such act or resolution shall pass or be adopted, shall at the time of procuring a copy of the same from the Secretary of the State, pay to the said Secretary, for the use of the State, the sum of ten dollars to be paid for each slave authorized to be brought into this State by private act or resolution, etc. when and to whom to be paid.

CHAP. dollars for each and every slave mentioned in said act  
CCLIV. or resolution.

1825.

Fees of re. SEC. 3. *And be it enacted*, That the recorder shall  
corder for re. be entitled to receive, for the aforesaid services, the  
eording pri. same fees which are allowed by law for recording of  
vate laws. deeds.

PASSED AT DOVER, }  
January 27, 1825. }

### CHAPTER CCLV.

AN ACT authorizing *Maria K. Trump administratrix of Jesse Trump Junior John Harlin and Caleb Harlin executors of the last will and testament of William Ferris deceased to convey and assure by deed to John Quinby a lot or parcel of land.*

PASSED AT DOVER, }  
January 27, 1825. }

PRIVATE ACT.

### CHAPTER CCLVI.

AN ACT *providing for repairs on the State house in Dover.*

SECTION I. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That in case the commissioners of the Levy Court of Kent county shall and do at their Session to be held in the town of Dover on the first Tuesday of February next appropriate the sum of three hundred dollars to be applied to the repairs necessary to be done to the State house in the town of Dover, that a like sum of three hundred dollars be and the same is hereby appropriated to the repairing said State house, and that the State treasurer be and

300 Dollars  
appropriated  
for repairing  
State house  
in case Levy  
court of Kent  
appropriate  
the like sum

he is hereby required to pay that sum to the order of the commissioners of the Levy Court of Kent county to be by them or under their directions expended and laid out in repairing said State house.

CHAP.  
CCLVI.  
1825.

SEC. 2. *And be it further enacted*, That the commissioners of the Levy Court of Kent county be and they are hereby enjoined and required to report and render or cause to be reported and rendered to the General Assembly of this State at their next annual session a full and true account of all monies by them expended by virtue of this act and of the nature and extent of the repairs which they shall make or cause to be made on the State house aforesaid, and in case there should be a balance unexpended the same shall be paid over to the States treasurer.

PASSED AT DOVER, }  
January 28, 1825. }

## CHAPTER CCLVII.

### AN ACT regulating the general election.

SEC 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the general election in and for the several counties of this State, on the first Tuesday of October, shall be held, in the respective hundreds of the said counties, at the places respectively hereinafter appointed for that purpose, that is to say, in *Newcastle county*,—in Brandywine hundred at the house known by the name of the "Practical Farmer,"—in *Christiana* hundred at the town Hall in the Borough of *Wilmington*,—in *Mill Creek* hundred at the *Mermaid* tavern now occupied by *John Dixon*,—in *White Clay Creek* hundred at the house in the village of *Newark* now occupied as a tavern by *John Herdman*,—in *Pencader* hundred at the house in *Glasgow* now occupied as a tavern by *Ephraim Knowles*,—in *Newcastle* hundred at the

General elections, where to be held, in the hundreds—*Newcastle county*, viz : of Brandywine, *Christiana*, *Mill creek*, *White clay creek*, *Pencader*, *Newcastle*.

- CHAP. Court house in the town of Newcastle, *provided the*  
 CCLVII. Newcastle turnpike company shall on or before the  
 1825. fourth day of July next issue a license under the seal  
 of said company thereby exempting the electors of  
 Newcastle hundred from the payment of toll in going  
 to and returning from any general or special election  
 thereafter to be held at the court house aforesaid  
 and shall cause said license to be filed and recorded  
 in the office for recording of deeds in and for New-  
 castle county within the time aforesaid and also to be  
 published in two of the newspapers published in  
 Wilmington for one month after issuing the said  
 license, and if such license shall not be so issued filed  
 and recorded and published, then and in that case all  
 the general and special elections to be hereafter held  
 in said hundred shall be held at Clark's corner at the  
 house now occupied by Francis Sauden as a tavern,  
 Red Lion, —in Red Lion hundred at the house in the village  
 of St. George's now occupied as a tavern by John  
 St. George's, Ball, —in St. George's hundred at the house at the  
 'Trap now occupied as a tavern by Patrick M'Con-  
 naughey, and in Appoquinimink hundred at the  
 Appoquin- house at Black Bird now occupied as a tavern by  
 mink; William Williams: —in *Kent county* —in Duck creek  
 in Kent county viz; hundred at the house in Smyrna now occupied as a  
 of—Duck tavern by Comfort Lockwood, —in Little Creek  
 creek, hundred at the house now occupied as a tavern by  
 Little creek, Charles Hamm, —in Dover hundred at the Court  
 Dover, house in Dover, —in Murderkill hundred at the house  
 Murderkill, in Canterbury now occupied as a tavern by Levi  
 Walcott, —and in Mispillion hundred at the house  
 Mispillion, formerly "Dahmer's" now occupied as a tavern by  
 in Sussex Adam Marvel: —in *Sussex county*. —in Cedar Creek  
 county, viz; hundred at the house at the head of Cedar creek now  
 of—Cedar occupied as a tavern by Ansley White, —in Broad-  
 creek, kill hundred at the house in Milton now occupied  
 Broadkill, by Henry Benson, —in Nanticoke hundred at Bethel  
 Nanticoke, or Passwater's cross roads at the house now occu-  
 Northwest pied by Priscilla Coverdale, —in Northwest Fork  
 Fork, hundred at the house in Bridgeville now occupied as  
 Broad creek, a tavern by John Wilson, —in Broad Creek hundred  
 at the house now occupied by John Anderson, —in  
 Little creek, Little Creek hundred at the house in Laurel now

occupied as a tavern by Nancy Martin,—in Dagsboro Dagsborough  
rough hundred at the house now occupied as a tavern  
by James Robinson,—in Baltimore hundred at the Baltimore,  
house now occupied as a tavern by Mitchell Showell,  
—in Indian River hundred at the house near St. Indian Ri-  
George's now occupied as a tavern by John W. ver,  
Dean,—and in Lewes and Rehoboth hundred at the Lewes and  
house in Lewestown now occupied as a tavern by Rehoboth,  
Gideon Burton: *Provided always* that if it shall at provided that/  
any time be impracticable to hold the election in any in case of ne-  
hundred at the place appointed, the inspector of such cessity other  
hundred shall have power to appoint some other place places may  
in said hundred as near as can be conveniently ob- be appointed.  
tained to the place herein directed, and he shall give  
public notice of the place so appointed by advertise-  
ments posted in at least five of the most public places  
of the hundred if circumstances will admit of such  
notice being given, but if not then he shall give such  
public and general notice as the circumstances will  
permit.

SEC. 2. *And be it further enacted,* That the elec- Electors to  
tors shall give their votes in the particular hundreds vote in the  
in which they shall respectively reside at the time of hundreds  
the election and not elsewhere. where they  
reside.

SEC. 3. *And be it further enacted,* That the sheriff Sheriff to  
of each county shall, after the sixteenth and on or be deliver,  
fore the twentieth day of September in every year, de- and when,  
liver to the inspector of each hundred of his county, — to each in-  
a list of all the officers to be chosen at the then next spector,  
general election,—an alphabetical list of the names a list of offi-  
of all the white free male citizens of the age of twenty- cers to be e-  
one years and upwards residing and assessed in such lected,  
hundred,—two suitable ballot boxes with a piece of an alphabeti-  
tape and sealing wax,—written or printed forms, of cal list of  
talley lists, of certificates of election in such hundred, voters.  
of the oath or affirmation of the inspector and the of certificates  
freeholders to be taken as judges of the election, and of election;  
of the certificate of administering such oath or affir- (See sec. 7.)  
mation, with written or printed directions as to cor- of oath of in-  
recting completing and signing such oath or affirma- spector and  
tion, and certificate of administering the same: —the judges of the  
(See sec. 5.) election, etc;

*Alphabetical* said alphabetical list shall be made and certified, by  
*list of voters:* the clerk of the peace of the county under his hand and  
 how to be certified, seal of office, and as to every person, whose name shall  
 what to con- be contained in such list and who shall appear by any  
 tain in regard certificate recorded in the office of said clerk to be  
 to naturalized citizens, naturalized, the word "naturalized" shall be dis-

by whom and tinctly affixed to the name of every such person; and  
 when to be such alphabetical list shall be delivered by the clerk  
 delivered to of the peace to the sheriff on some day in the month  
 sheriff, (See sec 8) of August in every year:—the talley list shall consist  
 (See sec 8) of a margin on the left for the names of the persons  
 talley lists— consist  
 o' what to

voted for, and squares formed by parallel lines drawn  
 from left to right and from the bottom to the top of the  
 sheet, each square to be sufficient to contain five dis-  
 tinct rows of five distinct dots of a pen in each row,  
 and there shall be a sufficient number of squares, in  
 each row of squares, from left to right, to contain  
 more dots than any person will probably receive votes  
 in the hundred;—and the ballot boxes to be each of  
 their size. sufficient size to contain all the ballots of the hundred

with the talley list and certificate of election; in the  
 lid of one of the boxes there shall be a hole sufficient  
 only to admit with convenience one ballot, and it  
 shall be furnished with a lock and key for securing

the lid; the lid of the other box shall be without a  
 hole and it shall be so formed as to be secured with  
 tape and sealing wax. The inspector of each hundred  
 shall, within two days after receiving the aforesaid  
 list of officers, give public notice, of the time and  
 place of holding the then next general election in his  
 hundred, and of the officers to be voted for at such  
 election, by advertisements posted in at least five of  
 the most public places of his hundred.

*General e-* SEC. 4. *And be it further enacted,* That the general  
 election, election shall be opened, in every hundred, on the  
 when to be first Tuesday of October, between the hours of nine  
 opened, and ten o'clock in the forenoon, and shall be contin-  
 when to be and ten o'clock in the forenoon, and shall be contin-  
 closed, ued open until five o'clock in the afternoon, when it  
 shall be closed:—and if there shall be no inspector of  
 any hundred, or if he shall be absent from the place  
 of election at nine o'clock in the forenoon of the day  
 of the election, the electors there shall proceed forth-

with, without ballot, to choose from the freeholders qualified voters of the hundred there present; an inspector of the hundred; and in choosing such inspector, the justices or justice of the peace residing in the hundred who may be present,—and if no such justice of the peace shall be present, the constables or constable of the hundred who may be present,—and if no such constable shall be present, then two freeholders, qualified voters of the hundred to be nominated and appointed by the electors,—shall be the judge or judges.

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1825.

SEC. 5. *And be it further enacted,* That the inspector of the hundred shall be the presiding officer at the general election in his hundred, and, before opening the election shall take to his assistance two freeholders qualified voters of his hundred there present, who are required to serve; and if any freeholder so taken shall refuse to serve he shall forfeit and pay to the State for such offence fifty dollars; and the inspector and freeholders so taken shall be judges of the election in their hundred, and shall each take and sign an oath or affirmation according to the form herein after set forth, such form being corrected according to the directions herein after contained in this behalf before administering and signing the same; and if any such inspector or freeholder shall refuse or neglect to take or sign such oath or affirmation, he shall forfeit and pay to the State a fine of fifty dollars; and the form of said oath or affirmation shall be as follows, viz.; *I do solemnly swear (or affirm) that in the election to be this day held I will not knowingly or wilfully receive or consent to the receiving of the vote of any alien,—and also that I will not receive or consent to the receiving of the vote of any person whom I shall believe not entitled to vote unless my associates shall adjudge such person to be entitled to vote.—that I will not receive or reject nor concur in receiving or rejecting any vote through partiality or undue bias,—and that I will determine every matter that shall come before me, and perform every act and duty by law required of me, touching the said election, truly faithfully and impar-*

Inspector  
to be presi-  
ding officer  
of the elec-  
tion,  
and before o-  
pening elec-  
tion to take  
to his assis-  
tance two  
freeholders,  
etc.

penalty on  
freeholders  
refusing to  
serve;

(See sec. 23.)  
inspector and  
freeholders to  
be judges of  
the election  
and to take  
and sign an  
oath etc.

penalty for  
refusing to  
take or sign  
such oath etc.  
(See sec. 23.)  
form of said  
oath

(Sec. 3)

CHAP. *tially according to the best of my skill and judgment,—that I will cause the ballots that shall be taken at this election to be fairly read and ascertained and a true statement thereof to be made according to the best of my knowledge and ability.—and that if I shall discover any partiality unfairness or corruption in the conducting of the said election I will disclose the same to the attorney general to the end that the subject may be investigated; so help me God (or so I do*  
 CCLVII. *ment,—that I will cause the ballots that shall be taken at this election to be fairly read and ascertained and a true statement thereof to be made according to the best of my knowledge and ability.—and that if I shall discover any partiality unfairness or corruption in the conducting of the said election I will disclose the same to the attorney general to the end that the subject may be investigated; so help me God (or so I do*  
 1825. *ment,—that I will cause the ballots that shall be taken at this election to be fairly read and ascertained and a true statement thereof to be made according to the best of my knowledge and ability.—and that if I shall discover any partiality unfairness or corruption in the conducting of the said election I will disclose the same to the attorney general to the end that the subject may be investigated; so help me God (or so I do*

OATH, when solemnly affirm): which oath or affirmation shall, before the opening the election, be administered to the freeholders by the inspector, and by one of them to him. And to the end that such oath or affirmation

Three distinct forms of said oath on one sheet to be delivered by sheriff to inspector; (sec. 3.) printed on one sheet; which forms shall be numbered and distinguished by No. 1 No. 2 and No. 3; the form No. 1 shall be signed by the inspector his name being first inserted in the blank,—the form No. 2 shall be signed by one of the freeholders his name being first inserted in the blank,—and the form No. 3 shall be signed by the other freeholder his name being first inserted in the blank; but before signing it shall be ascertained whether the inspector or either of the freeholders conscientiously refuse to take an oath, and in case of such conscientious refusal, the form for the person so refusing shall be made correct by effacing the words "swear or" in the beginning and "so help me God" in the end of the form;—but as to the person who shall not conscientiously refuse to take an oath, the form shall be made correct by effacing the words "or affirm" in the beginning and the words "or so I solemnly affirm" at the end of the form; and upon the same sheet, and after the said form, shall be written or printed a form for a certificate as follows, to wit,

Three distinct forms of said oath on one sheet to be delivered by sheriff to inspector; (sec. 3.) printed on one sheet; which forms shall be numbered and distinguished by No. 1 No. 2 and No. 3; the form No. 1 shall be signed by the inspector his name being first inserted in the blank,—the form No. 2 shall be signed by one of the freeholders his name being first inserted in the blank,—and the form No. 3 shall be signed by the other freeholder his name being first inserted in the blank; but before signing it shall be ascertained whether the inspector or either of the freeholders conscientiously refuse to take an oath, and in case of such conscientious refusal, the form for the person so refusing shall be made correct by effacing the words "swear or" in the beginning and "so help me God" in the end of the form;—but as to the person who shall not conscientiously refuse to take an oath, the form shall be made correct by effacing the words "or affirm" in the beginning and the words "or so I solemnly affirm" at the end of the form; and upon the same sheet, and after the said form, shall be written or printed a form for a certificate as follows, to wit,

county and hundred ss. We the subscribers, judges for said hundred of the general election therein held on the first Tuesday of October in the year of our Lord one thousand eight hundred and , certify, that on said day, before opening the said election in said hundred, the forego-

certificate of oath to be on same sheet with oath

form of said certificate

*ing oath, or affirmation, was duly administered to each of us according to law; the blanks in which said certificate shall be filled by the sheriff or by his order before delivering the same to the inspector, and the inspector and freeholders judges of the election shall sign said certificate before opening the election; and also the said inspector and freeholders, or a majority of them, shall, before opening the election, appoint two clerks of the election; and the inspector, or one of the freeholders, shall administer to each clerk an oath or affirmation as follows, You do solemnly swear (or affirm) that, as clerk of this election, you will not use or assent to any falsehood fraud or deceit,—and that you will keep the polls, and perform all your duties, truly faithfully and impartially, so help you God (or so you solemnly affirm); and if, in reading the votes, and keeping the tally lists, it shall be necessary to appoint one or more additional clerks, the inspector and freeholders or a majority of them may do so, administering to each clerk to be appointed the foregoing oath or affirmation. And the election shall be opened by the inspector making proclamation that the same is open,—and also the inspector shall, one half hour before closing the election, make proclamation that the same will be closed in that time.*

to be delivered by sheriff,  
and signed by inspector and freeholders before opening election.  
(See sec. 8.)  
Clerks of election, by whom, and when, to be appointed;  
clerks' oath—  
(See end of sec. 7.)  
additional clerks.  
Election, how to be opened.  
and how closed.

**SEC. 6.** *And be it further enacted, That, before opening the election, the inspector and the freeholders, judges of the election, shall examine the ballot box, provided with a lock and key, and see that the same contains nothing; the box shall then be locked, and the key delivered to one of the freeholders who shall keep the same, and the box shall be kept by the inspector or the other freeholder, so that the person, having the key, shall not have the possession of the box till the same shall be opened as herein after directed. Each qualified elector shall deliver a single ballot, containing the names of the officers voted for to the inspector, who shall audibly pronounce the name of the elector, which shall be entered in words at length upon a list of polls to be kept by each of the clerks whom the judges shall direct to that duty,*

conducting the election:—  
ballot box to be examined etc.  
and locked, and key to be kept by one freeholder, and box by the other or the inspector.  
votes to be delivered to inspector etc.  
(See sec. 8.)

and one of the freeholders shall write against it on the alphabetical list, delivered to the inspector by the sheriff as aforesaid, the word "voted;" there shall be  
 (See sec. 8 )  
 not to be ex-  
 amined ex-  
 cept etc.  
 no examination of a ballot except to determine that it is single; and the inspector shall, immediately after pronouncing the elector's name, put the ballot into the box in his presence, unless the vote shall be objected to, in which case the matter shall be determined according to the opinion of a majority of the judges; but either of the judges may require the inspector to administer to a person, claiming to vote on the ground of his father's qualification, the following oath or affirmation, *You do solemnly swear (or affirm) that you are of the age of twenty-one years and not arrived to the age of twenty-two years,*—and to any person offering to vote, on the ground of his own qualification, the following oath or affirmation, *You do solemnly swear (or affirm) that you are of the age of twenty-one years and that you at this time reside in this hundred and that you have not voted and will not vote on this day in any other hundred, and that you have resided in this State two years next before this election, and that you have within that time paid a State or county tax which was assessed at least six months before this election;* and any person refusing to take such oath or affirmation, if so required, shall not be permitted to vote; but no person shall be required or permitted to take either of the said oaths or affirmations, if the judges or a majority of them shall, from their own knowledge or the circumstances appearing, consider that such person is not entitled to vote: and if any person shall, in taking either of said oaths or affirmations, swear or affirm falsely, he shall suffer the same punishment as shall at the time be provided by law against wilful and corrupt perjury.

votes object-  
ed to—

oath of voter,

claiming in  
his father's  
right—

claiming in  
his own right,

when not to  
be required  
or permitted

penalty for  
swearing  
falsely.  
(Sec. 23.)

reading out  
the votes;

SEC. 7. *And be it further enacted,* That when the election shall be closed, the inspector and freeholders, judges thereof, shall openly and publicly unlock the box containing the ballots, and shall remove the lid so far as that the ballots can be taken separately from the box; and one of the judges shall

keep in his custody the said box, while another shall publicly, in the presence of the other judges and such of the electors as shall think proper to be present, take the ballots one by one from the box and read the same: and when a ballot shall be read, it shall be put in the other box, delivered by the sheriff to the inspector as aforesaid, it being first seen that said box contains nothing, and the same being kept during the reading in the possession of one of the judges: and two clerks at least shall keep accurate count of the ballots as the same shall be read; which shall be done, upon such talley list as aforesaid, by writing the name of every person voted for in the margin under a designation of the office for which the vote is given to him, and making a distinct dot with a pen in the squares in the row against such name for every vote such person shall receive for the same office; and each square when full shall contain five rows of dots, each row consisting of five dots; and each clerk shall, upon the reading of the name, repeat it with the number of the dot in the row, pronouncing at the last dot in the square "*talley full*," and at the first dot of the succeeding square "*one of a new*:" and if the same person shall be voted for for different offices, his name shall be written in the margin for each office, and a just count kept of the votes given to him for each office:—but if, on reading the ballots, it shall be found that the part of any ballot for representatives in the General Assembly shall contain the names of more or less than seven persons,—or the part for sheriffs, or the part for coroners, shall contain the names of more or less than two persons,—or the part for levy court commissioners shall contain the names of more or fewer persons than ought to be voted for,—such part of the ticket shall be rejected, and the residue shall be read: and the reading and counting the votes shall be continued without interruption or adjournment until completed, and then the inspector and freeholders, judges as afore, shall make two certificates of the election in their hundred, under their hands, stating every office for persons to fill which votes shall have been given at said election,—the name of every

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tallying the  
votes;in what case  
part of a tick-  
et shall be re-  
jected;reading votes  
not to cease  
till comple-  
ted.Certificates of  
the election.

The tally lists, person to whom any vote shall have been given for one certificate of the election, and the ballots, to be deposited and secured in one of the ballot boxes— (Sec. 10.) the other certificate of the election and the ballot boxes to be kept by the inspector &c. (Sec. 9.)

such office,—and the number, in words at length, of votes given to such person for the said office: and the talley lists shall be signed by the judges and clerks and deposited, with one of said certificates in the box in which the ballots shall have been put when read, and the lid of said box shall be secured by tape crossed and sealed in sealing wax by one of the freeholders; the other certificate and the ballot boxes shall be kept by the inspector and produced at the court house as herein after required: such certificates may be according to the following from viz.

Form of certificate of election.

“ County and hundred ss.  
At the general election held in said hundred on the first Tuesday of October A. D. one thousand eight hundred and the votes stand as follows;

For the office of governour

received	votes
received	votes

For the office of representative in congress

received	votes
received	votes

For the office of senator in the general assembly

received	votes
received	votes

For the office of senator in the general assembly in lieu of

received	votes
received	votes

For the office of representatives in the general assembly

received	votes
received	votes

and so on.

For the office of levy court commissioners

received	votes for	hundred
received	votes for	hundred

and so on.

For the office of sheriffs

received	votes
received	votes

*For the office of coroner*

received

votes

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received

votes

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[omitting the offices not to be filled at the election and stating under each office the name of every person voted for for such office with the number of votes which he received.] *And we further certify that the clerks appointed by us were duly sworn or affirmed according to law and we were duly sworn or affirmed: In testimony whereof we the judges of said election for said hundred have hereunto set our hands the day and year aforesaid.* And in the written or printed forms of certificates, to be delivered by the sheriff to each inspector, the name of the county and hundred and the date of the year shall be inserted, before the same shall be delivered, in the blanks for said purposes in the foregoing form; and the offices to be filled at the election shall be inserted with blanks under each to contain the names of the persons who may be voted for with the number of votes, and the offices not to be filled at the election shall be omitted; and no other certificate need be made of the oath or affirmation administered to the clerks than that contained in the foregoing form.

(Certificate of  
clerks' oath  
See sec. 5.)

SEC. 8 *And be it further enacted,* That each inspector shall, on the Thursday next succeeding the day of the general election, deliver, into the office of clerk of the peace of his county, the oaths or affirmations that shall have been signed by the inspector and freeholders judges of the election in his hundred, and the certificate of said oaths or affirmations being administered, to be made and signed as before directed,—and the two lists of the polls kept at the election as before directed,—and the alphabetical list of the voters with the notes of “voted” as the polls kept at the election shall have been made thereon; all which shall be filed in the office of the said clerk and shall be public records and as such admissible as evidence.

Inspector to deliver to the clerk of the peace,—  
(See sec. 9)  
and when,—  
the oaths of  
judges of the  
election—  
(Sec. 5.)  
and the certificate of said  
oaths—  
(Sec. 5.)  
and the two  
lists of the  
polls kept at  
the election—  
(Sec. 6.)  
and the alphabetical list of  
voters—  
(Sec. 3, 6.)  
to be filed in  
his office.  
inspectors to  
meet at the

SEC. 9. *And be it further enacted,* That the inspectors of the several hundreds in each county shall meet, on the Thursday next succeeding the day of

court house on the Thursday after the election, and they and the sheriff to be a board of canvass; who to act in case of sheriff's non-attendance &c.

Board of canvass,—  
may appoint clerks,—  
shall publicly ascertain the state of the election throughout the county,—

and for this purpose each inspector to produce and deliver the certificate of election in his hundred, (Sec 7.) and the ballot boxes: (Sec 7. 10.) if certificate of election cannot be produced, how to be supplied:

In case of death or sickness of inspector, his certificate of election and ballot boxes to be sent etc.

the general election at twelve of the clock noon, at the court house of their county; and the sheriff of the county shall attend at the same time and place; and the said sheriff and inspectors shall be a board of canvass, of which the sheriff shall be the presiding officer; but if the sheriff shall be dead or shall not attend, then the coroner of the county shall be a member and the presiding officer of said board, in his place; but if the coroner shall not be in attendance, the prothonotary of the court of Common Pleas in the county shall be a member and presiding officer of said board; but if he shall not be in attendance, then the inspectors who may be present shall appoint one of said inspectors to be the presiding officer of said board; and the said board may appoint clerks, as they may deem proper; and the said board shall publicly, in the presence of such electors of the county as shall think proper to be present, ascertain the state of the election throughout the county, by calculating the aggregate amount of all the votes, for each office, that shall have been given, in all the hundreds of the county, for every person voted for for such office; and for this purpose each inspector shall, at the said time and place last mentioned, produce and deliver to the sheriff, or other presiding officer of the board, the certificate of election for his hundred so signed as aforesaid: at the same time each inspector shall produce and deliver to the sheriff, or other presiding officer of the board, the ballot boxes, the one being secured as aforesaid; and if the certificate of election for any hundred cannot be produced, the ballot box for that hundred may be opened and the certificate therein contained taken and used and again deposited in said box, which shall be secured as before; and if any inspector, after the election and before the meeting of the inspectors, shall die or be prevented from attending the meeting by sickness or accident, the certificate of election for his hundred and the ballot boxes shall be sent, by safe and secure conveyance, for the safety of which the inspector or his executors or administrators or heirs shall be responsible, on the said Thursday next succeeding the day of the general election, to the court house of

the county and there be delivered to the sheriff of the county or other presiding officer of the board of canvass by twelve of the clock noon, and at the same (Sec. 8.) time the other papers, returnable to the clerk of the peace, shall be transmitted to him; and if any inspector shall neglect or refuse to attend the meeting of inspectors hereby required, not being absolutely prevented as aforesaid, or if the certificate of election or the ballot boxes for any hundred shall not be produced or sent and delivered to the sheriff or presiding officer of the board of canvass as before required, the sheriff or other presiding officer of the board of canvass shall have power, and he is authorized, to issue his warrant, (under his hand, to any person or persons, whom he may appoint, commanding such person or persons, without any delay, to arrest and bring, to the meeting of inspectors, such inspector so neglecting or refusing to attend, and to obtain and produce to the board of canvass the certificate of election and ballot boxes which such inspector ought to have produced and delivered to the sheriff or presiding officer of said board; or if a command for an arrest shall in any case be improper, then such warrant may command the person or persons, to whom it shall be directed, without delay to obtain and produce to the board of canvass the certificate of election and ballot boxes for any hundred that shall not have been produced or sent and delivered as herein required; and the person or persons, to whom such warrant shall be directed, are required and strictly enjoined to execute the same, and to call and command any assistance which may be requisite, and after the state of the election shall have been ascertained, by calculating the votes as aforesaid, it shall be the duty of the sheriff, or other presiding officer of the board of canvass, and the inspectors present at said board, before adjournment or separating of said board, to make under their hands the following certificates, to wit, four certificates of the election for governor, certifying in words at length the number of votes given for every person voted for, for that office,—two certificates of the election of a representative or representatives, as the case may be, of this State in the

Inspector neglecting or refusing to attend,—  
 or certificate of election or ballot boxes not being produced,—  
 board of canvass how to proceed.  
 Sheriff and inspectors to make certificates of the election—  
 to wit, of the election of governor,  
 four—  
 representative in Congress, two—

- CHAP. House of Representatives of the United States in  
CCLVII. Congress, certifying in words at length the number  
1825. of votes given for every person voted for for that  
office,—two certificates of the election of senator or  
senators,—and two certificates of the election of re-  
representa-  
tives in Gene-  
ral Assembly, presentatives for the county, in the General Assem-  
bly of the State,—two certificates of the election of  
sheriffs,—and two certificates of the election of co-  
roners, certifying the persons chosen and the num-  
ber of votes given to each,—and one certificate of the  
election of levy court commissioners,—or of such of  
said officers as shall have been voted for at the said  
election; and it shall be the duty of the sheriff, cor-  
oner or other officer presiding at the board of canvass,  
to enclose and seal up each of said certificates, se-  
parately, in a paper, with an endorsement thereon  
describing the certificate enclosed; and in case of the  
certificates of senator or representatives in the Gene-  
ral Assembly, the names of the persons chosen shall  
be endorsed upon the paper enclosing the certificate;  
and it shall further be the duty of the sheriff, coroner,  
or other officer presiding at the board of canvass, ei-  
ther personally, or by a person by him to be deputed  
for that purpose, to deliver and lodge the said certi-  
ficates of the election for governour according to the  
directions of the constitution in this behalf, and to  
lodge one of said certificates of the election of senator  
or senators, and one of the said certificates of the  
election of representatives for the county in the Ge-  
neral Assembly of the State, in the office of the pro-  
thonotary of the court of common pleas in and for  
Kent county, and to deliver one of said certificates of  
the election of representative or representatives in  
the House of Representatives of the United States,  
and one of said certificates of the election of sheriffs,  
and one of said certificates of the election of coroners,  
to the governour, and to lodge the other of the said  
certificates, and the said certificate of the election  
of levy court commisssioners, in the office of the  
clerk of the peace of the county, all within five days  
next ensuing the day of calculating the votes and  
ascertaining the state of the election as aforesaid,—  
and further to deliver, on the first day of the meeting
- senator two—  
representa-  
tives in Gene-  
ral Assembly,  
two—  
sheriffs, two—  
coroners,  
two—  
levy court,  
one—  
each certifi-  
cate to be en-  
closed and  
sealed up se-  
parately,  
etc.—  
and how to  
be disposed  
of, and within  
what time—  
(See sec. 10)  
Art. 3, sec. 2.  
(See ch. 258)  
(See sees.  
16, 17.)

of the General Assembly after the election, the other certificate of the election of senator or senators, to the Senate, and the other certificate of the election of representatives for the county, to the House of Representatives; and the prothonotary for Kent county shall, on any day of meeting of the General Assembly, deliver, if required, the certificate of election of senator or of representatives, to the order of the house to which it belongs, or to any person named in the endorsement thereon: the aforesaid certificates may be according to the following form viz.

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*"The State of Delaware* county ss. Form of said  
*" Be it remembered that at the general election held* certificates.

*on the first Tuesday of October in the year of our Lord one thousand eight hundred and for*  
*county, according to the constitution and laws of the State of Delaware,"* [here insert, to wit, if the certificate be of an election of governor or of representative to congress, *the number in words at length of votes given for each person voted for for said respective offices,*—if the certificate be of an election of Senator or Representatives in the General Assembly or of levy court commissioners, *the names of the persons elected,*—if of sheriffs or coroners *the names of the persons elected and the number of votes given for each*], *"which is manifest by calculating and ascertaining the aggregate amount of the votes given for each person voted for according to the provision made by law in this behalf. In testimony whereof we the sheriff of the said county and the inspectors of the several hundreds of the said county, who have this day met and ascertained the state of the said election throughout the said county, as the law requires, have hereunto set our hands at the court house in said county on Thursday the*

*day of October being the Thursday next succeeding the day of the election aforesaid in the year aforesaid."* But if the sheriff shall not be present at the board of canvass, so that there shall be another person presiding officer of said board, then omit the words *"sheriff of said county"* and, in place thereof, use the words *"presiding officer of the board of*

CHAP. *canvass duly officiating because of the non-attend-*  
 CCLVII. *ance*" (or death, as the case may) be "*of the she-*  
 1825. *riff.*" And the manner of making the insertion  
 aforesaid may be as follows, to wit,

*In case of governour,—*

votes were given for                      for governour  
 votes were given for                      for governour  
 and so on naming each person voted for;

*In case of representatives to congress,—*

votes were given for  
 for representative to congress  
 votes were given for  
 for representative to congress;  
 and so on naming each person voted for;

*In case of senator or representatives in the General  
 Assembly,—*

was duly chosen senator for said county  
 in the General Assembly,  
 or                      was duly chosen senator for  
 said county in lieu of                      late senator  
 for said county in the General Assembly  
    were duly chosen representatives  
 for said county in the General Assembly;

*In case of sheriffs or coroners,—*

and                      were duly chosen sheriffs  
 [or coroners as the case may be]                      having  
 received                      votes, and                      having received  
 votes;                      votes;

*And in case of levy court commissioners,—*

was duly chosen levy court commis-  
 sioner for                      hundred                      was duly  
 chosen levy court commissioner for                      hun-

Want of free-  
 hold in the  
 judges not to  
 vitiate the  
 election.

Penalty for  
 acting as  
 judge of elec-  
 tion, not be-  
 ing a freehol-  
 der,  
 (Sec 23.)

dred, and so on; And the certificate or return of an  
 election shall not be rejected or questioned, because  
 any person who shall have acted as inspector of a hun-  
 dred, or any person who shall have been taken as  
 judge of an election, was not a freeholder; and an ob-  
 jection for each cause shall not deprive the electors  
 of any hundred of the benefit of their votes; but eve-  
 ry person, not being a freeholder, who shall act as  
 inspector of a hundred or as a judge of an election,  
 shall be guilty of an indictable offence, and shall,  
 upon conviction of such offence, be fined in a sum

not less than fifty dollars nor more than one hundred dollars at the discretion of the court, and shall pay the costs of prosecution. CHAP. CCLVII. 1825.

SEC. 10. *And be it further enacted,* That it shall be the duty of the sheriff to preserve the ballot boxes, containing the ballots certificate and tally list deposited therein as aforesaid, safely and secured in the manner in which the same shall have been delivered to him, until the last day of February next after the election; and if a sheriff shall not be presiding officer of a board of canvass, then the said ballot boxes shall be delivered, by the presiding officer of said board, to the sheriff of the county, safely and securely, as soon as circumstances will admit thereof. Ballot boxes, returns of election, tally lists and votes, to be kept until, etc. (Sec. 7)

SEC. 11. *And be it further enacted,* That the inspector and freeholders, judges of the election, and the clerks, shall, during the time of the election being open, be and continue in a room or place by themselves separate from the other electors; and no person, other than such inspector freeholders and clerks, during the time of the election being open, shall be admitted within such room or place. During the election, the judges and clerks thereof to be in a place by themselves and no other person to be admitted.

SEC. 12. *And be it further enacted,* That every sheriff or other officer, to whom a writ of election, issued by the speaker of either house, to fill a vacancy in such house shall be delivered, shall immediately appoint a day for holding a special election pursuant to such writ; which day shall not be more than five, nor less than four days, next after the day of receiving the writ, exclusive of that day; and the sheriff or other officer shall, on the day next after receiving said writ, except the same shall be Sunday, and then on the Monday next following, put up on the outside of the court house door of his county, and also in one of the most public places of each hundred of his county, a proclamation reciting the said writ and the day by him appointed for holding a special election pursuant thereto, and shall also deliver a written notice of such writ and of the day appointed for holding an election pursuant thereto to the inspector of Special elections— for members of the General Assembly— sheriff's duties therein—

(See last  
sentence of  
this section.)

inspector's  
duties  
therein—

where to be  
held;—

(Sec. 1.)  
and how  
conducted;

returns there-  
of from the  
hundreds,  
when and  
where to be  
made;—

certificate  
thereof for  
the county,  
how made  
and return-  
ed;—  
(Sec. 9.)

returns there-  
of from the  
hundreds,  
how com-  
pelled.

each hundred of his county who served at the preceding general election, or in case such inspector of any hundred shall be dead removed or unable to serve, then to the assessor of such hundred; and such inspector or assessor, receiving such notice, shall, on the next day at farthest, give public notice thereof by advertisements, posted in at least five of the most public places of his hundred, stating the day and place of the election and the officer or officers to be chosen; and the inspector of the hundred, who shall have served at the next preceding general election, or in case of his death removal or inability, the assessor of the hundred shall be the inspector for such special election; and if both inspector and assessor shall be absent from the place of election at nine of the clock in the morning of the day of holding the same, the electors present shall choose an inspector as prescribed by the fourth section of this act for choosing an inspector for the general election: and every special election shall be held in each hundred at the place appointed by law for holding the general election, and shall be carried on and conducted in the same manner and under the same regulations as the general election; and the inspectors of the several hundreds in the county shall, on the day next following the day of holding every special election at twelve of the clock noon, meet at the court house of their county, and the sheriff of the county shall then and there attend, and the certificates of the election in the several hundreds shall be produced, and the state of the election throughout the county shall be ascertained, and a certificate of the election shall be made and returned in the same manner and under the same regulations as afore prescribed in case of the general election; and in case of the death or absence of the sheriff, the coroner shall act,—and in case of his non attendance, the prothonotary shall act,—and in case of his non-attendance, a presiding officer shall be chosen by the inspectors present,—as in case of the general election: and the sheriff, or other presiding officer of the board of canvass, shall possess the same power for compelling the attendance of inspectors and obtaining the certificates of election as

in case of the general election: And writs of election <sup>Writs of election may be issued by either house after an adjournment of the General Assembly: Provided always, That in case of a writ of election issued by the speaker of the Senate, after an adjournment without day of the General Assembly, and before the first Tuesday of October, the same shall not be executed until the first Tuesday of October, unless a session of the General Assembly shall in the mean time be appointed or called by the governor: and in case the writ shall not be executed until the first Tuesday of October, the election to fill the vacancy pursuant to such writ shall be held by the same officers and in all respects as the general election: and that a writ of election issued by the speaker of the House of Representatives, after an adjournment of the General assembly without day, shall not be executed unless the governor shall issue a writ or order for convening the General Assembly. And the sheriff, or other officer appointing the day for a special election, shall, by writing under his hand, require each inspector or assessor, to whom he shall give notice of the writ and day appointed as aforesaid, to produce the certificate of such election in his hundred at the court house of his county on the day next after the day of holding the election by twelve o'clock noon.</sup>

SEC. 13. *And be it further enacted,* That every justice of the peace, and every collector, shall attend, on every day of holding a general election or a special election, at the place of election, in the hundred, in which he shall reside, from nine o'clock in the morning till the election shall be closed: and every constable shall attend, at the place of election in his hundred, on the day of every general election or special election, from nine of the clock in the morning, and shall there continue until all the votes shall be read and tallied, and the certificates of election in the hundred signed and the ballot box sealed; The collector shall have his duplicate and shall receive any tax or taxes offered; and it shall be the duty of every justice of the peace and constable to take care

<sup>Officers required to attend elections, viz. Justices of peace, — collectors, — constables, — collector to have his duplicate and receive taxes; justices and constables to preserve the peace, etc.</sup>

powers of in-  
specter in  
preserving  
the peace;

penalty for  
neglect of  
duty enjoined  
by this sec-  
tion.

that the peace shall be kept and that the election shall not be interrupted or disturbed: and every inspector, from the time of opening a general or special election, until the votes shall be read and tallied and the certificates signed and the box containing the ballots sealed, shall have power to command the peace, and to require sureties of the peace from any person interrupting or disturbing the election or the officers in performance of their duties, and to commit to prison for refusal or neglect to find such surety; and all officers and other persons are required to obey the lawful commands of an inspector in this behalf: and if any justice of the peace, collector, or constable, shall refuse to perform, or wilfully neglect, the duties by this section enjoined upon him,—or if any officer, or other person, shall wilfully neglect or refuse to obey the lawful commands of the inspector as above required,—every justice of the peace, collector, constable, or other person, so offending, shall, for every such offence, forfeit and pay to the State a fine of one hundred dollars.

Penalty for  
receiving etc.  
the vote of a  
person not  
entitled to  
vote.

SEC. 14. *And be it further enacted*, That if, at any general election or at any special election, any inspector of a hundred, or any freeholder taken by an inspector to his assistance, shall, knowingly and wilfully, take and receive, or advise and consent to the taking and receiving of, the vote of any alien or of any other person not entitled to vote, every such (See sec. 23) inspector and freeholder, for every such offence, shall forfeit and pay the sum of five hundred dollars to any person who will sue for the same to be recovered by action of debt in the supreme court or court of common pleas,—and shall further be liable to be indicted for having violated his oath or affirmation,—and shall, upon conviction on such indictment, be adjudged guilty of wilful and corrupt perjury, and shall incur and suffer all the pains penalties and disabilities to which a person, convicted of wilful and corrupt perjury, shall, according to the laws of the State at the time of committing such offence, be liable.

**SEC. 15.** *And be it further enacted,* That if, at any general election or at any special election, any inspector of a hundred, and the freeholders by him taken to his assistance, or a majority of them, shall, knowingly and wilfully, refuse to receive the vote of any person entitled to vote at such election and in such hundred, or if any such inspector or freeholder shall, knowingly and wilfully, advise and concur in such refusal, every such inspector or freeholder shall, for every such offence, forfeit and pay to the State a fine of fifty dollars. Penalty for refusing etc. the vote of a person entitled to vote. (Sec. sec. 23.)

**SEC. 16.** *And be it further enacted,* That if any inspector of a hundred, or assessor of a hundred, or freeholder taken by any such inspector or assessor to his assistance at any general election or special election, or if any clerk appointed at any such election, or if any clerk of the peace, sheriff, coroner, prothonotary, or other officer presiding at a board of canvass,—shall refuse, or wilfully neglect, to perform or do every or either of the duties matters or things, by this act enjoined upon or required of such inspector, assessor, freeholder, clerk, clerk of the peace, sheriff, coroner, prothonotary, or other officer presiding at a board of canvass, respectively,—or shall refuse, or wilfully neglect, to observe, follow and conform to all the directions and provisions of this act concerning such inspector assessor freeholder clerk at the election clerk of the peace sheriff coroner prothonotary or other officer presiding at a board of canvass,—or if using any any such inspector, assessor, freeholder, clerk of the election, clerk of the peace, sheriff, coroner, prothonotary, or other officer presiding at a board of canvass, shall use any falsehood fraud or deceit,—or be guilty of any corruption or misbehaviour in performing or doing any the said duties matters or things,—every such inspector, assessor, freeholder, clerk of the election, clerk of the peace, sheriff, coroner, prothonotary, or other officer presiding at a board of canvass, shall, for every such offence, forfeit and pay the sum of five hundred dollars to any person who will sue for the same: *provided*, that nothing, in this section contained, shall extend to any matter or thing, Penalty on officers,—refusing or wilfully neglecting— to perform the duties enjoined by,— or to observe the directions of this act;— falsehood, fraud or deceit,— or guilty of any corruption or misbehaviour etc.: (See sec. 23.) provided that such offence

be not otherwise punishable by this act.

Power of each house of assembly to compel a delivery of election returns

which is particularly made punishable, by any other section of this act, by any fine forfeiture pain or penalty expressly provided by such other section for such matter or thing: and furthermore, the Senate of this State shall have power to compel a delivery, to that body, of a certificate of the election of governor, and of a certificate of the election of any member or members of that body, and for that purpose to order and cause to be arrested, and brought before them, any sheriff, coroner, prothonotary, or other officer, presiding at a board of canvass, and to adjudge him guilty of a contempt for neglect or refusal to deliver any such certificate, and to proceed against him accordingly: and the House of Representatives shall have power to compel the delivery of the certificate or certificates of the election of any members of that body in like manner and by like proceedings.

Penalty for—

embezzling etc.  
altering etc.

or preventing from being duly returned etc.—  
any election certificate.

(Sec. 23)

SEC. 17. *And be it further enacted*, That if any inspector, sheriff, or other officer, or person whosoever shall destroy, secrete, purloin, conceal or embezzle, —or in any manner counterfeit, alter or vary,—any certificate of election either of a hundred or of a county,—or shall do any act or thing whereby to prevent or hinder any such certificate from being duly produced returned or delivered according to law,—every such inspector, sheriff, officer, or other person, shall for every such offence, forfeit and pay to the State a fine of five hundred dollars.

Penalty for calling out the militia on any election day etc.

(See sec. 23.)

SEC. 18. *And be it further enacted*, That if any officer, or other person, shall call out or order any of the militia of this State to appear exercise or muster, on any day of any general election, or of any special election, or within ten days before any general election, or three days before a special election, or within three days after either of such elections, except in case of invasion or insurrection, every such officer or other person shall, for every such offence, pay to the State a fine of one thousand dollars.

Penalty,—  
for voting or

SEC. 19. *And be it further enacted*. That if any alien, or other person not entitled to vote, shall vote,

or offer to vote, at any general election, or at any offering to special election, within this State,—or if any person <sup>vote,—</sup> shall vote, or offer to vote, in a hundred <sup>if not enti-</sup> in which he <sup>led,—</sup> shall not, at the time of such voting or offering to vote, <sup>or in a hun-</sup> reside,—or if any person, having voted once, shall <sup>dred where</sup> vote or offer to vote, a second time, at the same elec- <sup>voter does</sup> tion, either in the same or in another hundred,—or <sup>not reside,—</sup> if any person shall vote in two different hundreds at <sup>or a second</sup> the same election,—or if any person shall fraudu- <sup>time after ha-</sup> lently deliver or offer to an inspector more than a <sup>ving voted;—</sup> single ballot,—every such alien or other person shall, <sup>for voting in</sup> for every such offence, forfeit and pay the sum of <sup>different hun-</sup> one hundred dollars to any person who will sue for <sup>dreds at same</sup> the same. <sup>election,—</sup> <sup>or offering</sup> <sup>more than a</sup> <sup>single ballot.</sup> <sup>(See sec. 23.)</sup>

SEC. 20. *And be it further enacted,* That if any <sup>Penalty,—</sup> person shall, on the day of a general election, or of a <sup>for commit-</sup> special election or during the reading and tallying of <sup>ing assault</sup> the ballots, at any place where such election is held <sup>or battery at</sup> or within one mile thereof, commit an assault or bat- <sup>place of elec-</sup> tery,—or if any person shall interrupt or disturb the <sup>tion,—</sup> election, or the inspector freeholders and clerks or <sup>for disturb-</sup> any of them in performance of any of their duties <sup>ing the elec-</sup> either in receiving reading or keeping count of the <sup>tion,</sup> ballots,—or shall interrupt or disturb the inspectors <sup>or inspec-</sup> and sheriff or other presiding officer when assembled <sup>tor etc.</sup> as a board of canvass in performing any of the duties <sup>or board</sup> of such board,—every such person shall, for every <sup>of canvass.</sup> such offence, be liable to be held to surety of the peace, and, on failure to give such surety, forthwith to be committed to prison, and shall further forfeit <sup>(See sec. 23.)</sup> and pay to the State a fine of not less than ten dollars nor more than one hundred dollars.

SEC. 21. *And be it further enacted,* That if any <sup>Penalty,—</sup> person or persons, shall on the day of any general <sup>for having</sup> election, or of any special election, or on the day <sup>any conven-</sup> next before or after such day, make set up or have <sup>ence for sel-</sup> any booth stall or other temporary convenience for <sup>ling,—</sup> the purpose of selling spirituous or other liquors,— <sup>or for selling,</sup> or sell or expose to sale any brandy, rum, whiskey, <sup>or exposing</sup> wine, cider, perry, porter, ale, beer, metheglin or <sup>to sale,—</sup> other spirituous vinous or malt liquors, at any place <sup>any rum etc.</sup>

within two miles of election, or on any road leading thereto; (See sec 23.) and every such convenience within one mile of election to be abated etc.

and the person having the same to be held or surety of peace or imprisoned

This section not to extend to tavern keepers etc.

Penalty,—on masters for their negro slave or apprentice being at place of election etc;—

where such election shall be held, or within two miles thereof, or upon any highway or road leading to such place,—every such person shall, for every such offence, forfeit and pay to the State a fine of twenty dollars: and it shall be the duty of the justice, or justices of the peace, residing in any hundred, and of the constable or constables of any hundred, and every such justice of the peace and constable is required, to abate prostrate and remove any booth stall or other temporary convenience, set up or used for the purpose of selling spirituous or other liquors, that shall be at the place of election, or within one mile thereof, on the day of holding any general election or special election, or the day before or afterward, and to hold the person or persons, having or using such booth stall or other temporary convenience, to surety of the peace, and, in default of such surety not being immediately given, to commit him her or them to prison; and any justice of the peace or constable shall have authority to command the assistance of any citizen or citizens of this State in the premises; and no record need be made of any abating prostrating or removing any booth stall or temporary convenience as aforesaid; but this act and the truth of the case may, in any suit, be given in evidence, under the general issue: *Provided always*, that nothing, in this section contained, shall extend to any licensed tavern keeper, merchant, store keeper, or other person or persons, exposing to sale or selling any the liquors aforesaid in his her or their proper tavern store or other house, in the same manner as he she or they may lawfully do at other times.

SEC. 22. *And be it further enacted*, That if any negro or mulatto slave servant or apprentice, of any person not residing within the limits of any town in which an election shall be held, or within one half mile of the place of holding an election that shall not be held within the limits of any town, shall, on the day of the general election or of any special election, be found within the limits of such town or within one half mile of the place of holding any election that shall not be held within the limits of any town, the

master or mistress or masters or mistresses of every such negro or mulatto slave servant or apprentice shall forfeit and pay two dollars, to any person who will sue for the same, to be recovered with costs before any justice of the peace of the county. And that if any free negro or free mulatto, not residing within the limits of any town where an election shall be held or within one half mile of the place of election that shall not be held in any town, shall be found within the limits of such town or within one half mile of the place of election not held in any town, on the day of the general election or of any special election, every such free negro or free mulatto shall forfeit and pay the sum of two dollars, to any person who will sue for the same, to be recovered with costs before any justice of the peace of the county: and it shall be lawful for any justice of the peace to cause any negro or mulatto slave servant or apprentice or any free negro or free mulatto, that shall be found within the limits of any town in which an election shall be held or within one half mile of the place of holding an election that shall not be held within any town, on the day of any election, contrary to the foregoing provision, to be brought before him, and to be confined or imprisoned, in the gaol of the county, or other suitable and convenient place, for any time not exceeding forty eight hours, and until the costs of the commitment and detention shall be paid: *Provided* that nothing in this section contained shall extend to the case of any negro or mulatto slave servant or apprentice, or any free negro or mulatto, directly going to any such town or place for necessities for a sick person, or to a physician or surgeon for medical assistance or surgical aid, or on other necessary errand, and directly returning. And that if any negro or mulatto slave servant or apprentice, or free negro or free mulatto, shall be guilty of any riotous or disorderly conduct, to the disturbance of any election or persons going to or from the same, shall behave disorderly within any town where an election shall be held or within one half mile of the place of holding an election not held within the limits of a town, it shall be lawful for any justice of the

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on free negroes for being at place of election etc.;

and such negro slave or apprentice or free negro may be imprisoned.

exceptions.

Penalty on negro slaves apprentices or free negroes guilty of disorderly conduct at place of election, etc.

CHAP. peace to cause every such negro or mulatto slave  
 CCLVII. servant or apprentice free negro or free mulatto to  
 1825. be arrested and imprisoned for the space of twenty  
 four hours in the gaol of the county or other suitable  
 and convenient place, and at the expiration of that  
 time to be brought before the same or some other  
 justice of the peace and further dealt with as to law  
 may appertain.

Suits for pe-  
 nalties under  
 this act—

how and  
 where to be  
 brought—  
 special bail—

changing  
 venue—

costs.

Indictment  
 for offences  
 under this  
 act.

(Sec. 5, 6, 9,  
 13, 14, 15,  
 17, 18, 24)

SEC. 23. *And be it further enacted*, That every  
 forfeiture or penalty, which, under this act, shall be  
 incurred and be payable to the person who will sue  
 for the same, excepting cases expressly made cog-  
 nizable before a justice of the peace, shall be reco-  
 vered by action of debt in the supreme court or court  
 of common pleas; and upon every suit or action for  
 such forfeiture or penalty, it shall be lawful to require  
 the defendant to give special bail, in double the sum  
 of such forfeiture or penalty, upon affidavit, of the  
 person suing, or of any credible person for him, set-  
 ting forth the facts on the ground whereof such for-  
 feiture or penalty shall have been incurred;—which  
 affidavit the officer issuing the writ, or any judge of  
 any court in this State, may administer;—and it shall  
 be lawful for any court, in which such suit shall be  
 brought, upon it being made satisfactorily to appear  
 to such court, that a fair and impartial trial cannot  
 be had in the county where the forfeiture or penalty  
 was incurred or shall be alleged to have been incurred,  
 to change the venue to an adjoining county;—and in  
 such case the trial shall be had in such adjoining coun-  
 ty;—and in every such suit or action the plaintiff reco-  
 vering a penalty or forfeiture shall also recover costs  
 of suit. And that, for every offence, which, according  
 to this act, is punishable by a fine to the State, or  
 otherwise than by a forfeiture or penalty payable to  
 the person suing for the same, the offender shall be  
 proceeded against by indictment, in the court of ge-  
 neral quarter sessions of the peace and gaol delivery  
 within the county where the offence shall be commit-  
 ted, and shall, upon, conviction, besides the fine or  
 other punishment, be adjudged to pay the costs of  
 prosecution.

SEC. 24. *And be it further enacted,* That if any person shall give offer or promise, any reward gift favour or benefit, to any man, to hire bribe or influence him in giving his vote,—or if any candidate shall influence, or attempt to influence, any man in giving his vote, by any bribe reward or promise of favour or benefit,—or shall offer to serve for nothing, or for a less allowance than that prescribed by law,—every such person or candidate shall forfeit and pay to the State a fine, not less than fifty, nor more than two hundred dollars, to be recovered, with costs, by indictment in the court of general quarter sessions of the peace and gaol delivery within the county where the offence shall be committed,—and if any such candidate shall be elected his seat or place shall, for such offence, be vacated and he rendered incapable of serving for the term for which he shall have been elected.

Penalty for attempting, by undue means, to influence any man in giving his vote,—on candidate for offering to serve for nothing, etc.

SEC. 25. *And be it further enacted and declared,* That in all elections in this State, except where it is or shall be otherwise expressly provided, plurality or the highest number of votes do and shall make a choice, excepting where this principle is defeated by two persons having the same number of votes for the same office.

Plurality of votes to make a choice.

SEC. 26. *And be it further enacted,* That the act entitled “An act for annual elections of coroners and sheriffs within this government,”—and the act entitled “An act for regulating elections and ascertaining the number of the members of assembly,”—and the supplementary act to the said act passed June 13, 1772,—and the additional supplement to said act passed at Dover January 25, 1810,—and the act entitled “An act for the better securing elections within this State” passed June 5, 1779,—and the act entitled “An act to prevent the erection of booths or selling spirituous or other liquors in any county town on the day of the annual election and for other purposes” passed January 17, 1798,—and the supplement to the said act passed January 29, 1802,—and the act entitled “An act to prevent aliens from

Repeal of—ch. xxi. a. 1 vol 63, ch. lxi. a. 1 vol. 146, ch. ccvii. a. 1 vol. 300, ch. cxii. 4 vol. 313, ch. 44, b. 2 vol 665, ch. 3, 3 vol. 7, ch. 99, 3 vol. 231, ch. 4, 3 vol. 12,

ch. 118,  
3 vol. 253,

ch. clii.  
4 vol. 422,

ch. 26,  
5 vol. 44,  
chs. 33 and  
34, 6 vol.  
36, 37,  
ch. 157,  
6 vol. 254,  
ch. 207,  
6 vol. 335,  
ch. 121,  
5 vol. 207,

ch. 208,  
6 vol. 335,

ch. 233,  
6 vol. 424,

ch. 182,  
6 vol. 299.

voting at elections in this State and for other purposes" passed January 23, 1798,—and the act entitled "An act to prevent frauds at the general elections within this State" passed at Dover February 5, 1802,—and the act entitled "An act for regulating the general elections of this State" passed at Dover January 31, 1811,—and the supplement to the said act passed February 15, 1814,—and the two additional supplements to the said act passed January 19, 1821,—and the additional supplement to the said act passed 18 January, 1823,—and the additional supplement to said act passed January 19, 1824,—and the act entitled "An act to change and alter the site of the general and special elections in and for the hundred of Pencader being the fifth election district of Newcastle county" passed at Dover 27 January, 1817,—and the act entitled "An act to fix and establish the place of holding the general and special elections in Brandywine hundred" passed at Dover January 19, 1824,—and the act entitled "An act concerning the proof of the naturalization of electors" passed at Dover February 9, 1819,—and the act entitled "An act to change the place for holding elections in Newcastle hundred being the sixth election district of Newcastle county" passed at Dover February 3d, 1823,—be and the said several acts hereby are repealed.

PASSED AT DOVER, }  
January 28, 1825. }

## CHAPTER CCLVIII.

AN ACT *prescribing the times places and manner of holding elections for Representatives in the House of Representatives of the United States.*

(U. S. Con.  
art. 1, sec.  
2, 4.)  
Elections for  
representa-

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That an election for choosing a representative, or representatives, as

the case may be, for the people of this State, in the <sup>tives in Con-</sup> House of Representatives of the United States in <sup>gress,—</sup> Congress, shall be held, on the first Tuesday of Oc- to be held,— tober in the year of our Lord one thousand eight hundred and twenty-six, and on the first Tuesday when,— of October every second year thereafter, in the several counties of this State, at the same places, at <sup>where,—</sup> which the election for members of the General Assembly of this State shall, for the time then being, be held in the said counties respectively: and that <sup>how to be</sup> such election, for representative, or representatives, <sup>conducted,</sup> in the House of Representatives of the United States, shall be carried on and conducted, in the same manner and form, by the same persons, and officers, and <sup>and by whom:</sup> under the same regulations in all respects, as <sup>(ch. 257.)</sup> the election for members of the General Assembly: and <sup>Votes, how</sup> that the votes, given in each county, for representa- <sup>to be calcu-</sup> tive, or representatives, in the House of Representa- <sup>lated and as-</sup> tives of the United States in Congress, shall be cal- <sup>certained;</sup> culated and ascertained, at the same time and place, <sup>(ch. 257, sec. 7, 9.)</sup> in the same manner, and by and under the same means and regulations, as those for members of the General Assembly; and returns shall be made to the <sup>returns to be</sup> governor as the law directs: and the governor shall <sup>made to go-</sup> examine the returns without delay, and declare the <sup>vernour;</sup> person or persons elected, and shall issue certificates <sup>(ch. 257, sec. 9)</sup> under his hand and the great seal of the State, one <sup>Governour,—</sup> of which he shall transmit to the secretary of State <sup>to examine</sup> of the United States, and one to the person elected, <sup>returns,—</sup> or, if more than one, to each of them: the returns <sup>declare per-</sup> shall be preserved in the office of the secretary of <sup>sons elect-</sup> State: and the governor shall, by proclamation, <sup>ed,—</sup> make public the state of the vote, by causing the <sup>and issue cer-</sup> same to be published in one or more of the public <sup>tificates, etc.:</sup> newspapers of this State. <sup>returns to be</sup> <sup>preserved in</sup> <sup>secretary's</sup> <sup>office:</sup> <sup>governour to</sup> <sup>make public</sup> <sup>the state of</sup> <sup>the vote, etc.</sup>

SEC. 2. *And be it further enacted,* That when- <sup>Special elec-</sup> ever a vacancy shall happen, by death, resignation, <sup>tions for re-</sup> or otherwise, in the representation from this State in <sup>presentatives</sup> the House of Representatives of the United States, <sup>in Congress—</sup> an election shall be held, to fill such vacancy, on such <sup>to fill vacan-</sup> day as the governor shall appoint, in the several <sup>cies—</sup> counties of this State, at the same places which, at <sup>when to be</sup> <sup>held,—</sup> <sup>and where,—</sup>

the time, shall be prescribed by law for holding the general election in the said counties; and to this end, the governour shall issue writs of election to the sheriffs of the several counties respectively, reciting the vacancy, and commanding each sheriff to cause an election to be held in his county, on the day in said writ mentioned, at the places by law prescribed for holding the general election in said county. for choosing a representative, in place of him whose seat shall have so become vacant; which writ shall be delivered to each sheriff, at least seven days before the day therein appointed for holding the election; and each sheriff shall, on the day next after receiving such writ, except the same shall be Sunday, and then on the Monday following, put up, on the outside of the court house door of his county and also at one of the most public places in every hundred of his county, a proclamation reciting the said writ and requiring an election to be held pursuant thereto, and shall also deliver such a proclamation to the inspector of each hundred in his county, who shall have served at the general election then next preceding, or, in case of his death, removal or inability to serve, to the assessor of such hundred; and such inspector or assessor shall, on the next day at farthest, give notice of the election, by advertisements under his hand posted in at least five of the most public places of his hundred,—and such election shall be carried on and conducted, in the same manner and form, and by the same persons and officers, and under the same regulations in all respects, as a special election to supply a vacancy in either house of the General Assembly of this State: and the votes, given in each county, shall be calculated and ascertained, at the same time and place, and in like manner, and by the same methods and regulations, as in case of such special election; and returns shall be made to the governour, who shall declare the person elected, and grant certificates and issue proclamation, as prescribed by the first section of this act: *Provided always*, that it shall be in the discretion of the governour, whether to appoint a day, for holding such election, before the first Tues-

writs therefor, to be issued by governour,—(U. S. Cons. art. 1, sec. 2.)

and delivered to sheriffs etc ;

sheriffs duties thereon:

inspector's duties;

conducting the election:

(ch 257, sec. 12 )

votes to be calculated, etc.,

and returns made to governour, etc.—discretionary with the governour to hold such election before the first Tuesday of

day of October next after the happening of such vacancy; and if the first Tuesday of October shall be appointed, then the election shall be held and conducted, and all the proceedings touching the same had, according to the provisions contained in the first section of this act. October, — (U. S. Cons. art. 1, sec. 2) if that day be appointed, election how to be held and conducted.

SEC. 3. *And be it further enacted,* That if any sheriff, inspector, assessor, or other person, shall refuse or neglect to perform any duty, enjoined or incumbent upon him according to the form and effect of this act, such sheriff, inspector, assessor, or other person, shall, for every such offence, forfeit and pay to this State any sum, not less than two hundred dollars, nor more than five hundred dollars; to be recovered by indictment, in the court of general quarter sessions of the peace and gaol delivery, within the county, and for all other malfeasances, misfeasances, and misconduct, omissions of duty, and negligence, the same penalties and forfeitures shall be incurred, (ch. 257, secs. 16, 17, 23.) as are by law provided in respect to the general election in the several counties in this State, to be recovered in like manner.

SEC. 4. *And be it further enacted,* That the act entitled "An act directing the election of representatives for this State in the congress of the United States" passed October 26, 1790, and the supplement thereto passed January 27, 1794, be and the same are hereby repealed. Repeal of — ch. ccxiv. b. 2 vol. 984, ch. li. c. 2 vol. 1170.

PASSED AT DOVER, }  
January 28, 1825. }

CHAP.  
CCLIX.

## CHAPTER CCLIX.

1825.

AN ACT directing the time place and manner of holding elections for senators from this State, in the Senate of the United States.

(U. S. Cons.  
art. 1, sec.  
3. 4.)  
Senators in  
Congress to  
be chosen by  
the legisla-  
ture,  
at their annu-  
al meeting in  
January,  
etc.—

in the Senate  
chamber;—  
in joint  
meeting—  
by ballot—

and by a ma-  
jority of all  
the votes  
given;  
in what case  
speaker shall  
give casting  
vote;

in what case  
speaker may  
give casting  
vote.

SECTION 1. 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, at their annual meeting in January in the year of our Lord one thousand eight hundred and twenty seven, and at their annual meeting in January every sixth year thereafter, and at their annual meeting in January in the year of our Lord one thousand eight hundred and twenty nine, and at their annual meeting in January every sixth year thereafter, in the Senate chamber, in joint meeting of the Senate and House of Representatives, hold an election, by ballot, for the purpose of choosing a senator, from this State, in the Senate of the United States, for the constitutional term to commence on the fourth day of March next ensuing said session or sessions respectively; a majority of all the votes given shall be necessary to a choice; but if, upon any balloting, two persons only shall be voted for and receive all the votes, and each of them an equal number of votes, the speaker of the senate shall give an additional casting vote, unless he shall be one of said persons, in which case the speaker of the House of Representatives shall give an additional casting vote, unless he shall be the other of said persons; and further, if upon twice balloting, more than two persons shall be voted for, and one of said persons shall, on each balloting, receive one half the number of all the votes given, then, on the second balloting, the speaker of the Senate may give an additional casting vote to the person having one half the number of all said votes, unless he shall be such person, in which case, or in case the speaker of the Senate shall decline giving such additional casting vote, the speaker of the House of Representatives may, if he

deem proper, give an additional casting vote to the person having one half the number of all said votes, unless he shall be such person.

CHAP.  
CCLIX.  
1825.

SEC. 2. *And be it further enacted, That three certificates of every election of senator as aforesaid shall be made and signed by the speaker of the Senate and by the speaker of the House of Representatives and attested by the clerks of said houses respectively; and the speaker of the Senate shall transmit one of said certificates, by mail, to the president of the Senate of the United States, one to the senator elected, and one to the secretary of State of this State to be filed in the secretary's office: which certificate shall be according to the following form viz.—*

*Delaware ss. Be it known, that the legislature of the State of Delaware did, on the \_\_\_\_\_ day of \_\_\_\_\_ January in the year of our Lord one thousand eight hundred and \_\_\_\_\_ at an election, in due manner held according to the form of the act of the General Assembly of said State in such case made and provided, choose \_\_\_\_\_ to be a senator, from the said State, in the Senate of the United States, for the constitutional term to commence on the fourth day of March next. Given under our hands, in obedience to the said act of the General Assembly, the day and year aforesaid.*

SEC. 3. *And be it further enacted, That if the seat of a senator from this State in the Senate of the United States, shall become vacant, by death, resignation, or otherwise than by the regular expiration of the term, the legislature shall, at the next session of the General Assembly after the vacancy shall happen, and if the vacancy shall happen during a session, then at such session, hold an election for the purpose of choosing a senator to fill such vacancy; and such election shall be conducted and held, in the manner, and upon the principles, provided in the first section of this act in relation to the election therein mentioned; and certificates shall be made and transmitted in manner aforesaid; and the form of the certificate shall be the same as before provided, excepting only that,*

Certificates of the election, three to be made— and signed by the speaker, — and attested by the clerks, — and by whom, and to whom, to be transmitted:—

Form of certificate.

In case of vacancy happening, — senator to be chosen by legislature, — at their next, or then present session, in same manner as in first section of this act: certificates of such election.

CHAP. in lieu of the words "*for the constitutional term to*  
 CCLIX. *commence on the fourth day of March next,*" the  
 1825. words "*to fill the vacancy occasioned by the* of  
*lute a senator from said State*" shall be in-  
 serted.

Repeal of— SEC. 4. *And be it further enacted, That the act*  
 ch. xxxvi. entitled "*An act to establish the manner of choos-*  
 3 vol. 78, *ing a senator or senators to represent this State in the*  
 ch. cxxxv. *Senate of the United States,*" and the supplement  
 5 vol. 253, *to that act passed January 31, 1817, be and the*  
*same hereby are repealed.*

PASSED AT DOVER. }  
 January 28, 1825. }

## CHAPTER CCLX.

AN ACT *concerning the discharging of road taxes,*  
*in Sussex county, by work or materials.*

*Road taxes in* SECTION 1. BE IT ENACTED *by the Senate and*  
*Sussex Coun-* *House of Representatives of the State of Dela-*  
*ty, may be* *ware in General Assembly met, That,—to the end*  
*discharg. d by* *that every person, liable to pay a road tax in Sussex*  
*own. k and ma-* *county may have opportunity to discharge such tax,*  
*terials:* *by work and labour done or cause to be done, or by*  
*necessary materials provided for repairing or con-*  
*overseers of* *structing roads or bridges,—each overseer of roads,*  
*roads,—* *in the several hundreds of the said county, shall ap-*  
*to appoint* *point the days and places for working upon the roads*  
*days and* *within his district or limits, and shall select, from*  
*places of* *those liable to pay road taxes within his district or*  
*working,—* *limits, certain persons to work or to provide work-*  
*to select per-* *men or labourers or teams on every day so appoint-*  
*sons to work* *ed, and shall, at least two days before each day ap-*  
*e c. on such* *pointed, give notice in writing to each person selec-*  
*days,—* *ted for that day; which notice shall require such per-*  
*and to give* *son to work, or to provide a workman or labourer,*  
*them two* *upon the roads, on the day appointed, and shall specify*  
*days notice* *the hour and place of meeting on such day to begin*  
*in writing;—*  
*what the*  
*notice shall*  
*require and*  
*specify;*

work, and, if any person shall be allowed or required to provide more than one workmen or labourer or a team, the notice shall specify the number of workmen or labourers and the team which such person will be required or allowed to provide; and at the end of the day, the overseer shall give to each person, so selected as aforesaid and working or providing labour, a certificate under his hand setting forth, in words at length, the sum which such person shall be entitled to be allowed in or toward the discharge of road tax, and the cause for such allowance, specifying the particulars; and if any workmen or labourer shall not come to work in good season, or shall not work faithfully through the day or the part of the day required, the overseer shall make such deduction, from the usual allowance, as he shall consider just; and shall certify the fact and balance; and each overseer shall make so many and such appointments, for working on the roads within his district or limits, as shall afford to every person, liable to pay a road tax, within said limits or district, opportunity to discharge the same by work and labour before the fifteenth day of August in every year: but if any person, to whom notice shall be given as aforesaid, shall refuse or neglect to attend, or to provide a labourer or workman, pursuant to such notice, it shall not be incumbent on the overseer to afford to such person a second opportunity to discharge, by work and labour, the portion of the road tax which would have been discharged if work and labour had been rendered in pursuance of such notice; and it shall not be the duty of an overseer to give notice to any person, not residing within his district or limits,—but every person, liable to pay a road tax, within a district or limits wherein he shall not reside, shall apply to the overseer of roads within such district or limits, for directions when and where to work, within such district or limits, in discharge of said tax: *Provided always,* that if materials shall be necessary for repairing or constructing roads or bridges within the district or limits of any overseer, he may call upon such persons, liable to pay road taxes within his district or limits, as can, in his opinion, most conveniently fur-

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certificate for

work done,

etc.—

deduction

for unfaithful

work;

every person

to have an

opportunity

to discharge

his road tax

by work be-

fore the fif-

teenth Au-

gust;

person not

fied to work,

neglecting to

attend, etc.,

persons not

residing in

overseer's

limits,—

but liable to

tax therein,—

must apply

for work etc.

Materials for

repairs,—

by whom to

be furnished;

- CHAP. 1825: nish the same, for such materials to be furnished, in  
CCLX. discharge of such taxes; and shall give to each per-  
son, furnishing materials in pursuance of such call, a  
certificate, under his hand, specifying the materials  
furnished, and setting forth, in words at length, the  
sum allowed therefor; and if any person, who shall be  
called upon for materials as aforesaid, shall refuse or  
neglect to furnish the same in pursuance of such call,  
the road tax of every such person shall be paid in  
money and not discharged by work and labour. And  
every certificate, which shall be given by any over-  
seer in pursuance of this act, shall avail and be re-  
ceived in discharge of a part or the whole (as the  
case may be) of the road tax which the person, to  
whom the certificate shall be given, shall be liable to  
pay within the district or limits of the overseer giving  
the same; but in no case and on no account, shall an  
overseer give a certificate as aforesaid to any person,  
not liable to pay a road tax within his district or  
limits, or for a greater amount than the road tax;  
and any certificate given by an overseer to a person,  
not liable to pay a road tax within his district or li-  
mits, shall be absolutely void; and if a certificate  
shall be given to any person, for a greater amount  
than the road tax, which such person shall be liable  
to pay within the district or limits of the overseer  
giving the same, it shall be void for the excess; and  
that no difficulty may arise in ascertaining within  
what district or limits any persons shall be liable to  
pay their road taxes, the levy court and court of ap-  
peal, in Sussex county, when assigning to the over-  
seers of roads their respective districts or limits,  
shall determine all and every the persons, liable to  
pay road taxes within the district or limits of each  
overseer, with their respective road taxes payable  
within every such district or limits, and shall cause  
to be made, in pursuance of such determination, and  
certified, by the clerk of the peace under his hand  
and seal of office, two lists of the persons liable to  
pay road taxes within the district or limits of each  
overseer, with their respective road taxes within the  
said district or limits set down against them respec-  
tively; which lists shall duly set forth the name of
- certificate therefor,—
- neglects to furnish them.
- Every certi-  
ficate under  
this act to be  
taken in pay-  
ment of road  
taxes assess-  
ed within the  
overseer's li-  
mits—
- but no other.
- Levy court to  
determine  
every person  
liable to road  
taxes in the  
limits of each  
overseer,—
- and the a-  
mount of  
such tax,—
- and to cause  
two lists  
thereof to  
be made,—

the overseer, to whose district or limits the same shall appertain, and the hundred wherein the same district shall be; which determination shall be absolutely decisive and final; and the lists, made as aforesaid, shall be conclusive to all intents and purposes, and shall not be liable to be contradicted or called in question, and one of the said lists shall be retained by the said clerk upon the files of the said court, and the other shall be delivered to the overseer, to whose district or limits it shall appertain, together with his warrant; and the overseer shall deliver the said list, truly and accurately noting thereon the taxes or parts of taxes discharged by certificate or certificates by him given, on or before the fifteenth day of August of his year, to the collector of his hundred, who shall return the said list to the levy court when settling his accounts; and every overseer shall keep a true and accurate account of every certificate which he shall give, stating the date items and amount of such certificate, and render the same, with such other accounts as the levy court and court of appeal may prescribe, to that court; and every account, rendered by an overseer, shall be upon his oath or affirmation, according to the following form viz.: "I, A. B. do solemnly swear (or affirm) that all the work and labour, in this account stated, was truly performed, that all the materials in the same mentioned were truly provided, and that the said account, in all and every the items thereof, is just and true—so help me God (or so I solemnly affirm);" which oath or affirmation, any judge of the State, or any justice of the peace for Sussex county, or any commissioner of the levy court and court of appeal for said county, is hereby authorized to administer.

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one to be kept by the clerk of the court,—the other for the overseer,—overseer's list how to be noted and returned,—overseer's account,—what to contain,—to be rendered to levy court, by whom to be administered.

Sec. 2. *And be it further enacted,* That every overseer of roads in Sussex county shall, before entering upon the duties of his office, take an oath or affirmation, before some judge of the State, or justice of the peace for said county, or commissioner of the levy court and court of appeal for said county, according to the following form, viz.: "I, A. B. do

Oath of office of overseers of roads in Sussex county.

CHAP. "solemnly swear (or affirm) that, in requiring work  
CCLX. "and labour upon the roads or materials for repair-  
1825. "ing or constructing roads or bridges, I will con-  
"duct myself with fairness and impartiality, without  
"favour or prejudice to any person; that I will not  
"give a certificate for work and labour or, materials,  
"except the same shall have been faithfully and tra-  
"ly performed or provided according to the form of  
"such certificate; and that I will perform the duties  
"of my office with diligence and fidelity—so help  
"me God (or so I solemnly affirm)"

Penalty on  
overseer,  
for collusion—

or fraud—  
in giving cer-  
tificate, etc.

appropriation  
of the fine.

SEC. 3. *And be it further enacted.* That if any overseer of roads in any hundred in Sussex county shall collude with any person for the purpose of discharging his or her road tax by means of a certificate, or shall give to any person any false or fraudulent certificate, every such overseer shall, for every such offence upon indictment and conviction in the court of general quarter sessions of the peace and gaol delivery within Sussex county, forfeit and pay a fine not less than five nor more than fifty dollars, which shall be appropriated to the maintenance of the roads and bridges in said county and for that purpose paid to the county treasurer; and shall also pay the costs of prosecution.

Levy court  
authorized  
to make rules  
for the go-  
vernment of  
the overseers  
of roads in  
Sussex coun-  
ty.

SEC. 4. *And be it further enacted,* That the levy court and court of appeal, in Sussex county, shall have power, and they are hereby authorized, to make, from time to time, such rules and ordinances, as they may deem expedient, for the regulation and government of the overseers of roads in said county,—in prescribing the number of workmen or labourers that may be employed on any day,—in regulating wages,—in directing the form of accounts and the items which the same shall contain,—and in ordering the manner of performing the duties of the office: and such rules and ordinances shall be obligatory and imperative upon the overseers, provided the same shall not be repugnant to or inconsistent with the constitution or laws of this State or of the United States.

SEC. 5. *And be it further enacted,* That any road tax, or any balance of a road tax, which, on the fifteenth day of August in each year, shall not have been discharged, by work and labour or materials according to certificates duly granted, shall be payable in money and collected and levied by the collector.

Road taxes not discharged by work, etc., shall be paid in money.

SEC. 6. *And be it further enacted,* That the fourteenth section of the act entitled "An act for the better regulation of the roads in the county of Sussex," and the fourth and ninth sections of the supplement to said act passed January 23, 1798, and the first section of the additional supplement to the said act passed in 1799, and the additional supplement to the said act passed February 2, 1808, be and the same are hereby repealed: *Provided,* that said repeal shall not affect any the acts or matters that shall have taken place under said act or sections, but that the said acts and sections, so far as shall concern all such acts and matters and the settlement thereof, shall be in full force.

Repeal of sec. 14, ch. c. 2 v. 1277, sec. 4, 9, ch. 3, v. 20; sec. 1, ch. xxi. 3 v. 60; ch. lxxviii. 4 v. 221.

PASSED AT DOVER, }  
January 28, 1825. }

## CHAPTER CCLXI.

AN ACT *for the payment of a claim of the Newcastle female benevolent society for the tuition of poor children.*

WHEREAS by an act of assembly, passed in February one thousand eight hundred and twenty three, entitled "An act for the payment of claims for the tuition of poor children," the trustee of the fund for establishing schools in the State of Delaware was required, among other claims therein mentioned, to pay to Margaret Colesberry seventy six dollars and eleven cents; and whereas the said Margaret was then a teacher, in a charity school in the town of Newcas-

Preamble, ch. cxcii. p. 316.

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tle, instituted and supported by the Newcastle female benevolent society, and the said sum was to be paid to the said Margaret, solely for the use of the said society for the tuition of the children of poor white persons; *and whereas* the said Margaret died without having received the said sum, and the same still remains unpaid and is justly due to the said society:

Trustee of  
school fund  
to pay to the  
treasurer of  
the Newcas-  
tle Female  
Benevolent  
Society 76  
dolls. 11 cts.

SECTION 1. BE IT THEREFORE ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the trustee of the fund for establishing schools in the said State be and he is hereby authorized and directed, out of any monies belonging to the said fund and not otherwise appropriated, to pay to the order of Sally M'Callmont, treasurer of the Newcastle female benevolent society, or to her successor in office, the said sum of seventy six dollars and eleven cents, for the use of the said society for the tuition of the children of poor white inhabitants of the said town of Newcastle.

PASSED AT DOVER, }  
January 29, 1825. }

## CHAPTER CCLXII.

AN ACT *to incorporate the La Fayette asylum for indigent widows single women and orphan children in the borough of Wilmington.*

Company  
incorporated;

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That Mauda Caverly, Elizabeth Montgomery, Sibilla Stone, Susan H. Adams, Adriana Physic, Eliza P. Jaquet, Catharine M. Elbert, Mary M'Dowell, Mary Jones, Catharine M'Lane, Cora Garesche, Elizabeth Walker, Phebe Bradford, Esther Clement, Margaret Johnson, Elizabeth T. Starr, Eliza T. Sipple, Susan Hamilton, Maria J. Brobson, Maria Smith and Jane Coch-

ran, and such other persons as are, or hereafter shall become members of the La Fayette asylum for indigent widows single women and orphan children in the borough of Wilmington be and forever hereafter shall be, by virtue of this act, one body politic and corporate in fact and in law; and shall have continuance forever, by the name style and title of "*the name—La Fayette asylum for indigent widows single women and orphan children in the borough of Wilmington.*"

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CCLXII

1825

SEC. 2. *And be it further enacted,* That the said corporation and their successors shall forever hereafter be able and capable in law to purchase receive and hold any lands tenements rents goods or chattels or any property whatsoever, which may be given conveyed or devised to them, and also to give grant let sell or assign the same, and to do all other matters touching the same, by the name and title aforesaid, and they shall have a common seal, may sue and be sued plead and be impleaded, in any court of law or equity in this State, in all manner of actions suits complaints pleas causes and matters whatsoever and of what nature or kind soever.

may hold and  
dispose of  
property—

SEC. 3. *And be it enacted,* That females, of any religious society or denomination among christians, shall be capable of being elected members of this association.

who may be  
members

SEC. 4. *And be it enacted,* That it shall not be lawful for the said corporation, and it shall not have power, to have possess nor in any manner hold goods chattels rights or credits lands or tenements or property of any kind, the clear yearly income or revenue of which shall exceed three thousand dollars; and the said corporation shall not have or exercise any banking powers whatever.

limits of its  
early in-  
come:to have  
no banking  
powers.

PASSED AT DOVER, }  
January 29, 1825. }

CHAP.  
CCLXIII.

## CHAPTER CCLXIII.

1825. AN ACT *providing for the recovery of small debts.*

Justices of  
the peace,—  
of what  
causes of ac-  
tion to have  
jurisdiction,  
and to what  
amount—

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the justices of the peace of this State shall, severally, within their respective counties, have jurisdiction of all causes of action arising from obligation or express or implied promise or contract for the payment of money render of rent or delivery of produce chattels goods wares or merchandize, wherein the matter in demand shall not exceed fifty dollars; but a penalty exceeding fifty dollars, in any obligation or contract, shall not exclude it from this jurisdiction, if the sum actually due, upon such obligation or contract, shall not exceed that sum, and in such case judgment shall be given for the sum due, without respect to the penalty.

on complaint  
made,  
shall issue  
summons or  
capias—

SEC. 2. *And be it further enacted,* That a justice of the peace, upon a complaint made to him touching a cause of action within his jurisdiction as aforesaid, shall issue a summons or capias, under his hand and seal, bearing date on the day of issuing the same, directed to any constable of his county, mentioning the sum demanded, and expressing, in a summons, the day of the week and month and place for the defendant's appearance, and in a capias, the place of return: and the day for the defendant's appearance, expressed in a summons, shall not be less than five days, nor more than fifteen days, after the day of the date thereof.—A summons shall be according to the following form viz.—

form of sum-  
mons—

“ county ss. The State of Delaware,  
“To any constable of the said county greeting: We  
“command you to summon [the defendant's name]  
“to appear, on [the day of the week] the [the day  
“of the month] day of [the month], at [the place],  
“before [the name of the justice], one of our justices  
“of the peace for the county aforesaid, to answer to

"[the plaintiff's name] touching a cause of action, CHAP.  
 "wherein [the amount of demand] is demanded: CCCLXIII.

"And have you then there this warrant. 1825.

"{ L. S. } Witness the hand and seal of the said  
 "justice the day of A D 18 .

And the form of a *capias* shall be as follows,

" county ss. The State of Delaware to any form of ca-

"constable of the said county greeting: We com. pias--

"mand you to bring , forthwith, before

" , one of our justices of the peace for the

"county aforesaid, at , to answer to

"touching a cause of action, wherein

" is demanded: And have there this warrant.

"{ L. S. } Witness the hand and seal of the said

"justice the day of

" A. D. 18 ."

Against an executor or administrator, a summons against whom  
 shall be issued: if the defendant be a freeholder of summons to

the county, a summons shall be issued, unless the issue-- unless, etc.--

plaintiff, or one of the plaintiffs, or some credible per-

son for him or her, shall make solemn oath or affir-

mation, that the plaintiff (or plaintiffs) has (or have)

a just cause of action against the defendant [or defen-

dants], and that the defendants [or one of them] is

about to remove from the county as is verily believed;

which oath or affirmation the justice may administer,

and the same shall be reduced to writing, and signed

by the deponent or affirmant, and certified by the

justice, and filed; and thereupon a *capias* shall be is- against whom

sued: and if the defendant be not a freeholder of the capias may be

county, either a summons or a *capias* may be issu-

ed. issued:

SEC. 3. And be it further enacted, That a sum- service of  
 mons shall be served, by producing the warrant to summons, how made

the defendant and stating the substance thereof; or

by leaving a copy at the defendant's place of abode in

the presence of one or more of the family or neigh-

bours at least four days before the day therein ap-

pointed for the defendant's appearance before the

justice;—but service by leaving a copy, shall not be

made and shall not be of any effect, unless the defen-

dant shall at the time of such service be an inhabi-

return of,  
summons,  
and of ca-  
pias—  
how to be  
made,—  
what to state:

in what case  
to be verified  
by oath,  
(see sec.  
§. 1.)  
certified and  
annexed to  
the summons  
by justice  
and signed by  
constable,—

form of said  
oath of ser-  
vice:

tant of and have a known place of abode in the county where in the proceeding shall be. The constable, who shall serve a warrant of summons or of capias, shall duly return the same, endorsing thereon, under his hand, a note of the service, and the day of the same;—and in case of a summons, this note shall specify the manner of the service, to wit, whether it was upon the defendant personally, or by leaving a copy at his house, and if there be more than one defendant the note shall specify the manner of the service upon each of them: but if a defendant shall not appear upon a warrant of summons, judgment by default shall not be given against him or her until the constable, who served the warrant, shall verify his return by oath or affirmation, to be certified and annexed, by the justice, to the warrant, and signed by the constable;—which oath or affirmation may be according to the following form, viz —

“[the name of the county] county ss. [the name of the constable], one of the constables of said county, maketh solemn oath (or affirmation) and saith, that he did duly serve the annexed warrant, as the law directs, at the time and in the manner specified in the note of service thereon endorsed.

“[The signature of the constable] cons.  
“Sworn or affirmed the day of 182 before  
“[The signature of the justice] Jus. P.”

Days for hear-  
ing the par-  
ties:

adjourn-  
ments—

for what pe-  
riods—

SEC. 4. *And be it further enacted*, That in every case of summons duly served, the day appointed in such summons for the defendant's appearance, and in every case of capias, the day on which the defendant shall be brought before the justice, shall respectively be days for hearing the parties in said respective cases; but the justice may adjourn the proceeding in either case to some other day, and so from day to day, as shall be necessary in order to afford to the parties opportunity for a fair trial; but the first adjournment shall not be for a period of more than fifteen days, and no subsequent adjournment shall be for more than thirty days, to be determined by the justice according to the circumstances of the case and so as to bring the cause to as spee-

by a trial as the circumstances will admit; the first <sup>when shall</sup> adjournment, if the sum demanded exceed five dol- <sup>be granted—</sup> lars and thirty-three cents, shall be granted on the application of either party; but no subsequent ad- <sup>when may</sup> journment shall be granted, unless it shall appear to <sup>be granted</sup> the satisfaction of the justice, by the oath or affirma- <sup>for cause</sup> tion of the party applying for the adjournment, or <sup>shown—</sup> otherwise, that such party is not prepared to go into the trial with safety and that such want of preparation is not owing to design or to not using due diligence; and upon granting a second or subsequent adjournment, the justice may make an order that <sup>and on pay-</sup> the party, applying for an adjournment, shall pay the <sup>ment of</sup> costs of the summoning and attendance of the free- <sup>costs—</sup> holders and witnesses on the day of granting such adjournment, or any part of such costs as the said justice may, under all the circumstances, deem just and reasonable, and an execution may be issued for levying such costs. And in every case of *capias*, <sup>when may be</sup> wherein the sum demanded shall exceed five dollars <sup>granted on</sup> and thirty-three cents, the justice may refuse an ap- <sup>giving special</sup> plication of the defendant for an adjournment, unless <sup>bail—</sup> the defendant shall give sufficient special bail (to be approved by the justice) to the action;—an entry of such bail shall be made upon the docket of the action, and shall be signed by the bail, or it shall be void;—the entry may be made according to the following form, viz. “ [the name of the special bail] on the <sup>form of entry</sup> day of 182 becomes special bail <sup>of such bail:</sup> “ for the defendant (or defendants) in this action:” Bail shall be discharged, if the defendant shall sur- <sup>Bail, how</sup> render himself, or be surrendered by his bail, <sup>discharged,—</sup> to the justice, on the day of giving judgment in the action, wherein the bail was entered, or on any other day on which there shall be a constable in attendance before the justice,—or to a constable having an execution, authorizing the taking of the body, issued upon such judgment,—or if there shall be a stay of execution upon such judgment,—or if the defendant shall die, before the return of an execution authorizing the taking of the body on such judgment: but if there be no such discharge, and it shall appear, <sup>how proceed-</sup> by the return upon an execution, that goods suffi- <sup>ed against</sup>

CHAP. ccient to satisfy the judgment cannot be found and  
 CCLXIII. that the defendant cannot be found to be taken  
 1825. in execution, proceedings may be had against  
 the bail by scire facias, which must be delivered to  
 a constable at least five days, and served at least  
 four days, before the return thereof; but if the defen-  
 dant in such scire facias cannot be found and have  
 no known place of abode in the county, so that  
 such service cannot be made, the constable shall re-  
 turn the fact, and thereupon an alias scire facias  
 may issue, dated on the day of the return of the first,  
 and returnable on some day at least fifteen days  
 after the date thereof, which may be served on the  
 return day or any day previous thereto,—and if ser-  
 vice thereof cannot be made the fact may be again  
 returned as upon the first scire facias; and in case  
 service of a scire facias shall be returned, or in case  
 there shall be two returns, to wit; upon an original  
 scire and upon an alias scire facias, that service can-  
 not be made as aforesaid, the justice may proceed,  
 and, if the defendant in the scire facias shall not ap-  
 pear, give judgment against him by default; but be-  
 fore judgment by default shall be given, the consta-  
 ble shall verify the return, by oath or affirmation,  
 certified and annexed to the scire facias by the jus-  
 tice and signed by the constable, and made, in case  
 of service, according to the form herein before pre-  
 scribed in relation to the service of a summons;—but  
 if there cannot be a service, then the said oath or  
 affirmation shall state, in substance, that the consta-  
 ble has made diligent search for the defendant in the  
 scire facias and cannot find him nor hear that he has  
 any place of abode in the county, and this shall be  
 annexed to the alias scire facias;—but if the defen-  
 dant in the scire facias appear, the same proceedings  
 shall be had, as in other cases before the justice un-  
 der this act; but a judgment against bail may be for  
 the full amount of the original judgment inclusive  
 of interest and costs, although such amount shall ex-  
 ceed fifty dollars; and the bail shall also have privi-  
 lege, on the return day of any scire facias, to dis-  
 charge himself by surrendering his principal and  
 paying the costs of the proceedings against the bail.

(sec. 3)

Upon any surrender of a defendant to a justice in on surrender  
 discharge of his bail, other bail may be taken and by bail,—  
 entered according to the same form; but if a defen- other bail  
 dant surrendered cannot give bail to the satisfaction may be ta-  
 of the justice, the justice shall commit such defen- ken,—  
 dant by a mittimus according to the following form, of defendant  
 committed;  
 " (The name of the county ) county ss. form of com-  
 " (The name of the plaintiff ) plaintiff mittitur on  
 " vs Judgment by bail:

Debt \$  
 Costs \$  
 " (The name of the defendant) defendant  
 " [The name of the defendant surrendered] the de-  
 fendant, [or one of the defendants], having been  
 " surrendered in discharge of his bail, is committed  
 " to the common gaol of said county, from whence  
 " he is to be discharged at the end of four days from  
 " the date hereof unless he shall during that time be  
 " charged in execution, and [the constable's name]  
 " is ordered to deliver said defendant to the keeper of  
 " said gaol. Dated the day of 182

[The signature of the justice] Jus. P."

and special bail shall have full power to surrender Bail may ar-  
 his principal, and, for that purpose, to arrest him Test principal  
 wherever he can find him and detain him in custody to surrender  
 a reasonable time.

SEC. 5. *And be it further enacted*, That, in case defendant not  
 of a summons duly served, if the defendant shall fail appearing,—  
 to appear according to the appointment therein ex-  
 pressed, or, in case of the adjournment of a cause  
 whether the first process be summons or capias, if  
 the defendant shall fail to appear pursuant to such  
 adjournment, the justice may adjourn the cause to a justice may  
 further day, or he may hear the allegations and adjourn the  
 proofs of the plaintiff, in the absence of the defen- cause,—  
 dant, and give judgment against such defendant by or may give  
 default, the return of the summons, if there have judgment by  
 been no appearance, being first verified as by this default: (sec. 10.)  
 act required: but a defendant may, within fifteen (sec. 3.)  
 days after the day of giving such judgment, apply judgment  
 to the justice to take off the same and let the parties may be ta-  
 into a trial, and the justice shall hear such applica- ken off  
 tion, first giving to the plaintiff or his agent if in the  
 county notice of the time of such hearing; and if,

and a trial granted.

Plaintiff not appearing there shall be an adjournment or nonsuit, etc.

*Trial by freeholders, in what case,— and by whom, may be claimed; (see sec. 10) freeholders, to be appointed and sworn by justice,—*

*to hear the parties and their proofs,— to proceed in absence of a party wilfully neglecting to appear before them,— to make report to justice,— and judgment to be on such report: freeholder failing to serve, another may be appointed, etc.*

*In what cases there shall not be a trial by freeholders. (See Sec. 9.)*

upon hearing, the justice shall be satisfied that there ought to be a trial and that the defendant was not guilty of wilful negligence in letting judgment go against him by default, the application shall be granted, and a day appointed for trial whereof the plaintiff or his agent shall have notice. If a plaintiff shall fail to appear there shall be an adjournment or a nonsuit, which may be taken off in like manner as a judgment by default.

SEC. 6. *And be it further enacted,* That in every case, wherein the sum demanded shall exceed five dollars and thirty-three cents, coming before a justice of the peace under this act, either party may claim a trial by freeholders; and thereupon the justice shall appoint three judicious freeholders of the county, standing impartial and indifferent between the parties, to try the cause, and shall administer to them an oath or affirmation according to the following form, viz.—“You do solemnly swear [or affirm] that you will faithfully and impartially try the cause pending between plaintiff and defendant and make a true and just report thereupon according to your evidence:” and the freeholders shall hear the allegations of the parties and their proofs, and if either party shall refuse or wilfully neglect to appear before the freeholders, they may proceed in his absence; and the said freeholders, or any two of them agreeing, shall make a report under their hands, and return the same to the justice, who shall give judgment according to such report: and if any freeholder appointed, shall refuse or neglect to serve, or shall fail to try the cause, or to act till a determination shall be made by the freeholders, the justice may supply the place of such freeholder by appointing some other judicious and impartial freeholder, who shall take oath or affirmation as aforesaid and proceed in like manner and with like powers, as if he had been originally appointed. But there shall be no trial by freeholders, if the defendant shall not have appeared, nor unless the sum demanded shall exceed five dollars and thirty-three cents, nor unless such trial shall

be claimed by one of the parties: and when there shall be no trial by freeholders, the justice shall hear the case and give judgment according to the right of the matter and the law of the land. CHAP. CCLXIII. 1825.

SEC. 7. *And be it further enacted,* That a justice of the peace may require the attendance of freeholders, whom he shall appoint as aforesaid, and may issue a summons, under his hand and seal, directed to any constable of his county, for summoning the freeholders appointed to try a cause or either of them to appear before him, as he in such summons may direct; and any freeholder duly summoned, who shall refuse or neglect to appear pursuant to such summons or to take oath or affirmation as required, and also any freeholder duly sworn or affirmed, who shall refuse or neglect to proceed to try the cause and act till the determination by the freeholders or to make report and return the same to the justice, unless he shall dissent from the other freeholders, shall, if he shall not shew to the justice a sufficient excuse, be adjudged by the justice to be guilty of a contempt and ordered to pay to the State the sum of five dollars with costs, which sum and costs shall be levied by distress and sale of the goods and chattels of such freeholder by virtue of a warrant under the hand and seal of the justice directed to any constable of his county. Freeholders, may be summoned to try causes before justice, — (sec. 41.) neglecting to appear and serve, —

SEC. 8. *And be it further enacted,* That in every action before a justice of the peace under this act, it shall be incumbent upon the defendant or defendants, if he she or they shall have against the plaintiff or plaintiffs any account demand or cause of action cognizable before the justice according to the first section of this act, to bring forward and insist upon such account demand or cause of action and the justice shall enter on his docket the nature of the demand and the sum demanded; and any defendant or defendants neglecting to do so shall, if such action against him her or them shall be prosecuted to judgment, lose such account demand or cause of action and be forever barred from suing for or recovering Defendant, having a claim against plaintiff any cause of action cognizable before justice, must bring forward and insist on the same, or shall be forever barred from recovery thereon.

when defendant's demand exceed 50 dollars, it may be insisted on, but if not, shall not be barred:

Defendant to have judgment for such sum as plaintiff may be found indebted to him, not exceeding 50 dollars; if above 50 dollars, judgment for costs etc.

or the excess may be remitted and judgment taken for 50 dollars.

the same. And if the defendant or defendants shall have against the plaintiff or plaintiffs, in any action before a justice of the peace under this act, any cause of action, arising from obligation or express or implied promise or contract for the payment of money render of rent or delivery of produce chattels goods wares or merchandize, although the matter in demand shall exceed fifty dollars, such defendant or defendants may, in such action, bring forward and insist upon such cause of action; but if they shall not think proper to do so, they shall not lose such cause of action nor the benefit of any suit for recovering the same: and if it shall be found by the report of freeholders, or if it shall appear to the justice upon a trial before him, that there is a sum due from the plaintiff or plaintiffs to the defendant or defendants in an action, judgment shall be given in favour of such defendant or defendants for such sum, provided the same shall not exceed fifty dollars; and if the same shall exceed fifty dollars the fact shall be stated on the record, and judgment shall be given for costs for the defendant or defendants, who shall be at liberty to prosecute their cause of action in any court having jurisdiction thereof, or such defendant or defendants may remit the excess above fifty dollars and take judgment for that sum.

#### Costs—

to be recovered by party recovering judgment,

except etc.

(see sec. 6, 11.)

SEC. 9. *And be it further enacted,* That the plaintiff or plaintiffs, defendant or defendants, recovering judgment, shall in all cases recover his her or their costs of suit, which shall be allowed and included in such judgment; excepting only, that if, on a trial by freeholders, there shall be a report for the plaintiff or plaintiffs in the action, for a sum not exceeding five dollars and thirty three cent-, no costs shall be allowed to such plaintiff or plaintiffs for summoning or the attendance of freeholders, or for summoning or the attendance of witnesses: and if the plaintiff or plaintiffs shall be non suit or discontinue or withdraw the action, judgment shall be given for the defendant or defendants for costs.

Executors and

SEC. 10. *And be it further enacted,* That every

judgment before a justice against an executor or administrator as such shall be of assets; and shall not charge the executor or administrator absolutely, but only in case such executor or administrator, at the time of giving the judgment, or before, or afterwards, have assets, which according to law ought to be applied to the cause of action; and all cases, which the question of assets shall be determined, shall be tried by the justice and not by freeholders; and no judgment shall be given against an executor or administrator as such by default, until the plaintiff shall produce the obligation note or contract of the deceased, or a book of accounts regularly and fairly kept and verified by oath or affirmation or other sufficient proof, and a probate regularly made according to law; but a book of accounts shall not be received for cash entries or items not properly chargeable in account.

SEC. 11. *And be it further enacted,* That if, on a trial before freeholders, there shall be a report and judgment in favour of the plaintiff, for any sum exceeding five dollars and thirty three cents and not exceeding fifteen dollars exclusive of costs, the defendant may at any time, within fifteen days from the day of giving such judgment, demand a new trial, which shall be granted, and the plaintiff shall have due notice thereof; but the justice may require the defendant, if not a freeholder of the county, to give bail to the action before granting a new trial; and, if the demand of the plaintiff shall be of a sum exceeding five dollars and thirty three cents and not exceeding fifteen dollars, and there shall be a trial by freeholders and a report, for a sum less than five dollars exclusive of costs, or against such plaintiff, in either case, the plaintiff may demand a new trial, and it shall be granted to him. And in all cases of new trials the proceedings shall be the same as upon the original trial; but if a judgment, on the first trial, be given against the plaintiff, he may be required to give bail before a new trial granted, if he be not a freeholder of the county; and if a plaintiff, upon a new trial claimed by him, shall recover less than five dollars and thirty three cents exclusive of costs, the de-

defendant shall be allowed his costs in such new trial.

Warrant to  
enter judg-  
ment—

judgment  
may be enter-  
ed thereon—

provided the  
judgment ex-  
ceed not 50  
dollars, etc.  
and the obli-  
gation and  
warrant be  
filed with  
justice:—  
in what case  
defendant  
may be let in-  
to a trial;

judgment and  
execution to  
stand until  
trial,

unless defen-  
dant give se-  
curity;

entry of such  
security

SEC. 12. *And be it further enacted*, That to an obligation, for the payment of any sum not exceeding fifty dollars, there may be subjoined or annexed a warrant, duly executed either as a part of the obligation or otherwise, authorizing any justice of the peace to enter judgment upon such obligation without process; and by virtue of such obligation and warrant, whether executed before or after the passing of this act, any justice of the peace may, without any process, enter an action at the suit of the obligee or obligees, or his her or their executors or administrators, or (if the obligation be assignable) assigns, against the obligor or obligors, and give judgment, against the defendant or defendants, for the amount due for principal and interest on such obligation, with costs; *provided that* no such judgment shall be given for an amount exceeding fifty dollars, exclusive of costs; and *provided also*, that the obligation and warrant shall in every case be filed with the justice and be a part of the record of the action: and that if the defendant, or either of the defendants, or his her or their executors or administrators, shall, upon oath or affirmation to be reduced to writing and signed by the deponent or affirmant and filed with the justice, deny the obligation and warrant, or set forth any just defence, a trial shall be granted, which shall proceed in all things in the same manner as if action had been regularly commenced upon the obligation; but if there have been a levy on an execution, the same shall not be set aside, nor shall the judgment be vacated, until there shall be a trial and a determination made against the obligation and warrant, but such levy shall be a security for what may be found due to the plaintiff, the proceedings thereupon being stayed, unless the defendant or defendants shall give security, to the satisfaction of the justice, to pay to the plaintiff or plaintiffs the sum justly due in the action; which security shall be entered in the action according to the following form; “on the day of A. D. 18 .”

"[the name of the surety or sureties] become surety (or if more than one, sureties) for the defendant or defendants for the payment of whatever is justly due to the plaintiff (or plaintiffs) in this action;" and the surety or sureties shall sign the said entry, or it shall be void; and upon such entry being made and (sec sec. 18.) signed the judgment and execution shall be set aside.

SEC. 13. *And be it further enacted,* That upon every judgment; given by a justice of the peace, against a freeholder of the county, for a sum exceeding five dollars and thirty three cents, exclusive of costs, there shall be a stay of execution for six calendar months, unless such freeholder shall waive his privilege, or unless the creditor in the judgment, or one of them, in case of several, or some credible person, shall make oath or affirmation "that he (or she) has good grounds to apprehend, and does verily believe, that if the stay of execution for six months be allowed, the sum due by the judgment will be lost;"—which oath or affirmation shall be administered by the justice, and the same shall be reduced to writing, and shall be signed by the deponent or affirmant, and certified and filed by the justice; and upon such oath or affirmation being made, execution may forthwith issue: and if either of several persons, against whom a judgment may be given, be a freeholder of the county, the foregoing provision shall extend to the case: and if a freeholder, in relation to whom oath or affirmation shall be made as aforesaid, or if a person, not a freeholder of the county, against whom a judgment shall be given for a sum exceeding five dollars and thirty three cents exclusive of costs, shall, within two days after the day of giving such judgment, give sufficient security, to the acceptance of the justice, to pay the judgment, there shall be a stay of execution upon such judgment for nine calendar months from the day of giving the same; such security shall be entered upon the docket of the judgment according to the following form, viz—  
 "on the                      day of                      18—  
 "[the name of the surety or sureties] become surety (or sureties) that this judgment shall be fully satis-

Stay of execution—  
 where defendant be a freeholder—

where one of several defendants be a freeholder—  
 where security, shall be given—

(see last clause of this section;)

(entry of such security,

"fied," and the said entry shall be signed by the surety or sureties or it shall be void: which entry, and the entry prescribed in the last preceding section, shall be an obligation of record, and shall oblige the surety or sureties or his her or their executors or administrators jointly or severally to pay the judgment to which such entry refers, given or to be given; and an action of debt may be sustained on such entry at suit of the creditor or creditors in the judgment or his her or their executors or administrators in any court having cognizance of the sum, or the same may be proceeded on by scire facias before the justice, either jointly with the original defendant in the judgment, or separately, or execution may be issued, against the goods and chattels and bodies of the sureties, in every case in which such entry shall, either according to this section or the next preceding section, be made, for levying or satisfying the debt interest and costs in the judgment according to the form hereinafter prescribed. If either of the persons, against whom a judgment as aforesaid against several shall be given, shall not be a freeholder of the county, the foregoing provision, in relation to giving security and allowing nine months stay of execution, shall extend to it, altho' other of the debtors in the judgment shall be a freeholder or freeholders of the county. And if, in cases to which the foregoing provision relative to giving security shall be applicable, the security shall not be given immediately on rendering the judgment or on making oath or affirmation as aforesaid, execution may issue, but shall be superceded and the proceedings thereon quashed, if security shall be given within the two days allowed as aforesaid.

force thereof,

remedies thereon;

where one of several defendants be not a freeholder;

execution superceded etc on giving security.

Execution—  
by whom to  
be issued—

date—

SEC. 14. *And be it further enacted,* That upon every judgment given by a justice of the peace, execution may be issued by the justice, who shall give such judgment, or by any other justice of the same county, with whom the docket containing such judgment shall be deposited or a duly certified transcript of all the docket entries touching the judgment shall be filed. Every such execution shall bear date of the day of issuing the same, and shall

be returnable on some certain day of the week and return day—  
month therein to be specified, not more than six cal-  
endar months nor less than fifteen days from the date  
thereof: and such execution shall be according to  
the following form, viz—

“ county ss. The State of Delaware, to and form  
“ any constable of said county greeting. We com- thereof—  
“ mand you, that you levy and make, of the goods  
“ and chattels of in your bailiwick, the sum of  
“ which on the day of  
“ 18 by the judgment of one of  
“ our justices of the peace for the said county, reco-  
“ vered against him, (or her or them) with legal inter-  
“ est from the and the further sum of  
“ for costs of suit, with your fees upon  
“ this process; and that for want of such goods and (clause  
“ chattels sufficient for said purpose, you levy and against se-  
“ make said sums, interest and fees, or any unsatis- curity:—)  
“ fied balance thereof, of the goods and chattels of  
“ surety (or sureties) of record for the payment  
“ of the judgment aforesaid, in your bailiwick; and  
“ that for want of goods and chattels sufficient for the  
“ purpose aforesaid, to be found within your baili-  
“ wick, you take and convey the said  
“ to the common gaol of the county aforesaid,  
“ and commit him (or her or them) to the keeper of  
“ said gaol, to be detained in safe custody, until the  
“ aforesaid sums and interest and all legal fees shall  
“ be satisfied, or other discharge from such impri-  
“ sonment shall be directed according to law; and that  
“ you return this execution, with your doings hereon  
“ plainly set forth, to one of our jus-  
“ tices of the peace for the county aforesaid, on  
“ the day of (next or instant).

{ L.S. } Witness the hand and seal of the justice  
last named the day of  
18

But whenever the sum recovered shall exceed fif-when may  
teen dollars, exclusive of costs, the execution may be directed  
be directed to the sheriff of the county, instead of to the she-  
riff—  
a constable. And if there be no surety entered upon clause there-  
the record, the clause, in the foregoing clause, rela- in against  
tive to levying on the goods and chattels of a sure- surely when

to be omitted—

clause for imprisonment not to issue against executors.

ty or sureties, shall be omitted; and said clause shall also be omitted, if the creditor in the judgment, or the person having the beneficial interest therein, shall so direct; and in no case, shall the debtor or debtors in the judgment be allowed to make any objection to the process, on account of the omission of said clause: and in all cases against executors or administrators, the clause for taking and imprisoning the defendant or debtor shall be omitted.

Goods executed—  
to be inventoried—  
and appraised—  
(sec. 18 )  
when to be sold—  
not bound by execution till appraised—  
public notice of sale—

notice of sale to party.

SEC. 15. *And be it further enacted,* That all goods and chattels, taken in virtue of such execution as aforesaid, shall be inventoried by the officer, and appraised by two freeholders of the county to be appointed and sworn or affirmed by him, and no sale shall be made till ten days after such appraisement, nor shall the execution bind the goods and chattels until such appraisement; and public notice shall be given of every sale, at least ten days before the day thereof, by advertisement, posted in at least four of the most public and convenient places to the place of sale, setting forth the goods to be sold and the day hour and place of sale, also one such advertisement shall be delivered to the person or persons whose goods are to be sold at least ten days before the day of sale.

Docket of suits—  
entries to be made therein:

SEC. 16. *And be it further enacted,* That every justice of the peace shall make a fair entry, in a docket by him to be kept, of every action commenced before him, therein setting down the names of the parties, the cause of action, and the sum demanded, the day of issuing the process, the day of the return if it be a summons, and the day when returned if it be a capias, the return of the constable, every adjournment, and the day to which the same shall be, any demand which the defendant shall bring forward and insist upon and the sum thereof, in case of trial claimed by freeholders, the names of the freeholders appointed, the sum of the report made and for which party, the amount of the judgment and for which party, the costs regularly taxed, entries of bail or of security as before provided, and

the issuing of execution and the day thereof. And <sup>Docket of ex-</sup> further, every justice shall make a fair entry, in ano- <sup>utions—</sup> ther docket, of every execution by him issued, set- <sup>entries to be</sup> ting down the names of the parties, the day of issu- <sup>made therein;</sup> ing the execution, and the day when the same shall be returnable, the debt therein, and the costs, the direction whether to any constable or to the sheriff, the officer or person to whom the same shall be delivered, the day of the same being returned by the officer, a true copy of the return made, and, if an inventory and appraisement be returned, the amount thereof, and, if any further proceedings shall be after such return, the justice shall make a fair entry thereof in his execution docket; and there shall be a plain <sup>reference</sup> reference, upon the docket of the judgment, to the <sup>from one</sup> page of the execution docket where the execution shall be entered, and to the number of the execution, and the entry of the execution shall contain a <sup>to the other</sup> plain reference to the page of the docket of the judg- <sup>docket:</sup> ment, and, if the proceedings shall be carried to any other page of the execution docket, a reference shall be made thereto; and every justice shall make and <sup>two indexes</sup> keep two alphabetical indexes, to wit, a direct index <sup>to be kept</sup> and a reversed index, to each docket: and whenever <sup>for each</sup> it shall appear, by the return or the proceedings u- <sup>docket:</sup> pon an execution, that a judgment is satisfied, <sup>satisfaction</sup> shall be the duty of the justice, in whose hands the <sup>of judgment</sup> docket containing the judgment shall be, to make an <sup>by whom to</sup> entry to that effect upon the entry of such judgment, <sup>be entered</sup> provided such return or proceedings be regularly <sup>on docket.</sup> before him.

SEC. 17. *And be it further enacted,* That the <sup>Return of</sup> sheriff, or constable, to whom an execution issued <sup>execution—</sup> by a justice of the peace shall be duly delivered, shall return the same according to the command <sup>how it shall</sup> thereof, with a certificate thereon, under his hand, <sup>be made:</sup> of all his proceedings by virtue thereof, and of his fees stating the several items; if no levy shall have been made, the return shall contain the reason why there shall have been no levy; if there shall have been a levy made, an inventory and appraisement of the goods and chattels shall be returned, and the

in case of  
levy but no  
sale,  
venditioni ex-  
ponas may  
issue—

inventory shall state as whose property the goods and chattels were taken in execution; and in case of a sale the amount thereof shall be returned; and if there shall have been a levy made, but no sale, then an execution of venditioni exponas shall be issued, upon the request of the creditor or creditors or either of them in the original execution or any party entitled to the judgment, according to the following form, viz.—

form of  
vend. exp.

“ county ss. The State of Delaware, to  
“ any constable of said county, greeting: We com-  
“ mand you, that, after giving due notice, you sell, at  
“ public vendue, the goods and chattels specified in  
“ the schedule hereunto annexed, for the purpose of  
“ satisfying a judgment recovered on the  
“ day of 18 before  
“ one of our justices of the peace for the county a-  
“ foresaid by against  
“ for the sum of on interest from  
“ the and the further sum of  
“ costs of suit, and the sum of fees on  
“ the former execution, and your fees on this process,  
“ or so much of said goods and chattels as shall be  
“ sufficient for said purposes, after discharging prior  
“ liens if any; which goods and chattels have been  
“ levied upon by virtue of an execution issued on  
“ said judgment and dated the day of  
“ 18 ; and that you return this  
“ execution, and your doings hereon plainly set forth,  
“ to one of our justices of the  
“ peace for the county aforesaid, on the  
“ day of (next or instant)  
“ { L.S. } Witness the hand and seal of the justice  
“ last named the day of  
“ 18”

Vend. exp. to  
have annexed  
to it a copy  
of the inven-  
tory, etc —  
in what case  
it may be direc-  
ted to the  
pill—  
issuing vend.  
exp. not to

And to the said execution the justice shall annex a true copy of the inventory and appraisement returned on the preceding execution: if the original execution were directed to the sheriff, the execution of venditioni exponas may be so directed: the issuing of an execution of venditioni exponas shall not discharge the officer, to whom the former execution was delivered, from any liability incurred by

neglect or default in respect to his duties under the former execution: and after one execution of venditioni exponas has been issued, no fees shall be taken or charged by the justice or any officer for issuing any subsequent execution of venditioni exponas or for any proceeding thereupon, in respect to the defendant, but the plaintiff may be charged with and required to pay the legal fees for issuing and for all services under such subsequent executions; provided always, that if the sheriff, or constable, to whom the first execution of venditioni exponas shall be delivered, shall not use due diligence and all proper means to effect a sale, he shall be charged with the amount of the execution, in the same manner, as if he had returned a sale sufficient to satisfy the same.

SEC. 18. *And be it further enacted,* That if any sheriff or constable, to whom an execution shall be duly delivered, shall refuse or neglect, to return the same according to the command thereof, or to return his doings thereon plainly set forth, or to observe in such his return the directions of this act, or to annex an inventory and appraisement of the goods and chattels, levied upon by virtue of an execution, to such execution, as herein before required in that particular, such sheriff or constable shall, for such refusal or neglect, be liable for the full amount of the money, which he shall have been commanded by the execution to levy and make, in the same manner and as effectually as if he had levied and received the same.

SEC. 19. *And be it further enacted,* That a copy, certified by a sheriff or constable, of an execution in his hands, shall be delivered to the gaoler, upon committing to his custody any person or persons by virtue of such execution, and shall be as sufficient warrant for the commitment and detainer, as the original execution.

SEC. 20. *And be it further enacted,* That if a sheriff or constable shall levy or receive any sum of

money, re-  
ceived on  
execution,

to be liable  
therefor, and  
20 per cent.  
per annum  
thereon  
and double  
costs, etc.

for want of  
goods to sa-  
tisfy execu-  
tion,

transcript  
may be en-  
tered in com-  
mon pleas

and shall be  
a lien on  
lands

money, by virtue of an execution issued by a justice of the peace, and shall not pay the same, upon demand, to the person or persons entitled to receive the same, or his, her or their lawful agent or attorney, such person or persons so entitled, or his her or their executors or administrators, may charge against, and shall have right to receive and recover from, such sheriff or constable, besides the full sum so levied or received, the rate of twenty per centum per annum upon said sum, to be computed from the time of making the demand, and also double costs of suit, which rate shall be assessed and added to the principal sum in any suit brought to recover such sum.

SEC. 21. *And be it further enacted*, That if it shall appear, by the return upon an execution, that goods and chattels, sufficient to satisfy the same, cannot be found to be levied upon by virtue thereof, the creditor or creditors in the judgment, whereon such execution issued, may obtain a transcript, duly certified by the justice, of the docket entries of such judgment and of the execution thereupon, and may deliver such transcript to the prothonotary of the court of common pleas for the county wherein such judgment was given, and the said prothonotary shall file the said transcript, and enter the sum for which judgment was rendered, from what time interest commences thereon and the amount of the costs, and the name of the person in whose favour and against whom entered, in his judgment docket, among the judgments confessed, setting down truly the day of the filing and entering of such transcript as aforesaid; and such judgment, a transcript whereof shall be so filed and entered, shall, from the date of such entry, become and be a lien upon the lands tenements and hereditaments of the debtor or debtors in such judgment in the county, in the same manner and as effectually as judgments rendered in the said court of common pleas in and for such county; and the same writs and proceedings shall be awarded and had for executing such judgment as, according to law, are or shall be awarded and had for executing the

judgments of the said court; but this section shall not extend to any judgment, upon which there shall not be due, exclusive of interest and costs, fifteen dollars or upwards, after the proper application of whatever sum may be levied by virtue of the execution thereon issued, in which application what shall be due for interest and lawful costs shall be first satisfied; and if any judgment shall be assigned, according to law, to joint debtor or debtors, or to surety or sureties, the assignee shall have the full benefit of this section.

except in cases where principal sum due is less than fifteen dollars.

Assignee being a surety or joint debtor, to have benefit of this section.

Sec. 22. *And be it further enacted, That ap-* Appeals—  
 peals shall be allowed of right, from judgments given by justices of the peace, to the supreme court, or to the court of common pleas, at the election of the appellant, in the cases herein after mentioned, that is to say;—from every judgment given by a justice of the peace without the report of freeholders for a sum exceeding five dollars and thirty-three cents exclusive of costs,—and from every judgment given by a justice of the peace upon the report of freeholders for a sum exceeding fifteen dollars exclusive of costs,—the party against whom judgment shall be given shall have the right of appeal;—also, if the demand of the plaintiff, or the demand of the defendant, brought forward as herein before directed, shall exceed five dollars and thirty-three cents, and there shall be, without the report of freeholders, judgment, in which such demand or a part thereof exceeding five dollars and thirty-three cents shall be disallowed or defalked, such plaintiff or defendant shall have the right of appeal; also, if the demand of the plaintiff, or the demand of the defendant, brought forward as aforesaid, shall exceed the sum of fifteen dollars, and there shall be, upon the report of freeholders, judgment, in which such demand or a part thereof exceeding fifteen dollars shall be disallowed or defalked, such plaintiff or defendant shall have the right of appeal: and there shall not be an appeal in any other case than those afore-specified.

to supreme court or common pleas—

in what cases—

(sec. 8.)

Appeals—  
within what  
time to be  
allowed—

on giving  
security:—

entry of ap-  
peal and se-  
curity—

to be signed  
by surety—  
its obligation

proceedings  
thereon

**Sec. 23.** *And be it further enacted,* That an appeal shall be allowed by the justice, at any time within fifteen days from the giving of the judgment; and not after, counting the day of giving the judgment as one of said days, upon the party entitled to the appeal or his agent or attorney praying it, and offering sufficient security, to be approved by the justice, in such reasonable sum as the justice shall deem fully sufficient to cover the amount of the judgment appealed from with all additional costs on the appeal; and the justice shall make an entry of the appeal, and of the security, in his docket, succeeding the entry of the judgment, according to the following form viz.—

“ On the                      day of                      18                      the said  
“    appeals, and    becomes  
“ surety [or (if more than one surety) become sure-  
“ ties] in the sum of                      that the said appeal  
“ shall be prosecuted with effect, and also that any  
“ judgment, which shall be rendered against the said  
“    or his [or her or their] execu-  
“ tors or administrators upon said appeal, shall be  
“ satisfied;

which entry shall be signed by the surety or sureties, or it shall be void: and such entry, duly made and signed, shall be an obligation of record, and shall, to the extent of the sum therein expressed, bind the surety or sureties and his her or their executors and administrators jointly and severally, to satisfy any judgment which shall be rendered upon the appeal against the party appealing or his her or their executors or administrators in the court in which the appeal shall be entered, and, if the appeal shall not be duly entered in the supreme court or court of common pleas as herein after prescribed, or if the same shall be dismissed, then to satisfy the judgment appealed from with all additional costs of the appellate upon the appeal: And an action or actions of debt may be sustained upon such entry, at suit of the appellate or his her or their executors or administrators, against such surety or sureties or his her or their executors or administrators, before a justice, if the demand shall not exceed fifty dollars, or, if above that sum,

then in any court having cognizance of such cause of action; or if the appeal shall not be entered, or shall be dismissed, execution may issue against the defendant and surety as hereinafter provided. But an appeal shall be allowed to executors or administrators without security. (sec. 25) executors to have appeal without security—

SEC. 24. *And be it further enacted,* That it shall be the duty of the party or his her or their executors or administrators to cause the appeal to be entered, in the supreme court, or the court of common pleas, in the county wherein the judgment appealed from shall have been given, on or before the first day of the term of such court next after the date of the appeal, and, for this purpose, to deliver a transcript, duly certified, of all the docket entries in the case, wherein the appeal shall have been taken, to the clerk or prothonotary of the court in which the appellant shall elect to enter the appeal: and such clerk or prothonotary shall file the transcript so delivered to him, first endorsing thereon the day and time of receiving the same, and shall set down the appeal upon his docket with a statement of the date of the appeal and of the day and time of filing the transcript, and shall immediately issue a summons directed to the sheriff of the county, or if he be a party interested to the coroner for summoning the appellee to appear and answer to the appeal; which summons, if issued in vacation, shall be returnable on the first day of the next term, if issued in term time, shall be returnable forthwith. And the court, in which an appeal shall be entered, shall have jurisdiction and take cognizance thereof: and the appeal shall be proceeded in by declaration pleadings and trial, to judgment and execution, in the same manner and form, under the same rules and by the same process, as are had and used in actions originally instituted in such court, but the trial shall be had at the first term, unless the court shall, for good cause shewn, continue the case: And if a judgment appealed from shall be for a defendant in the action, for a sum found due to him, such defendant shall stand as plaintiff in the appeal and file the declaration; and

appeals—  
in what court—  
and within what time—  
to be entered: (sec. 40.)  
duty of the clerk of the court on entering the appeal:  
appeal how proceeded in:

CHAP. in the appeal each party may make demands against  
 CCLXIII. the other, and the jury by their verdict may find a

1825. sum either for plaintiff or defendant according to the evidence before them, in the same manner as freeholders before the justice could report, and judgment shall be rendered in favour of the party, for whom a verdict shall be given, for the sum found for him. And upon every case of appeal, costs shall be awarded, against the party failing in the appeal, to the opposite party; subject to the following modification, that is to say,—in case the judgment appealed from shall have been given by the justice, without the report of freeholders and shall not have been for a sum exceeding five dollars and thirty-three cents exclusive of costs, against the party appealing, but the appeal shall have been on the ground that the demand or a part thereof of the party appealing exceeding five dollars and thirty-three cents was disallowed,—or in case the judgment appealed from shall have been given upon the report of freeholders and shall not have been for a sum exceeding fifteen dollars exclusive of costs, against the party appealing, but the appeal shall have been on the ground that the demand or a part thereof of the party appealing exceeding fifteen dollars was disallowed,—and also if in either of the said cases it shall not be found, upon the determination of the appeal, that there was due to the party appealing a sum exceeding what was allowed to him before the justice by at least the smallest sum, on the ground of the disallowance of which he would have been entitled to appeal from the judgment given by the justice,—in every such case the party appealing shall pay to the appellate his her or their costs on the appeal, and shall recover judgment for any sum that may be found due to such party appealing [if such shall be the case] with his costs before the justice, and without other costs; and at the same time judgment shall be rendered for the appellate to recover his her or their costs on the appeal, and such costs may be deducted from any judgment in favour of the party appealing, or execution may be issued for the same or any balance thereof after such deduction: and

costs on the  
 appeal.

also if a party appealing, being entitled to such appeal on the ground of such disallowance as afore-  
 said, shall, upon the appeal, establish a demand exceeding what was allowed to him before the justice by at least the smallest sum on the ground of the disallowance of which he would have been entitled to appeal, in every such case the appellee, although still a balance shall be found due to him, shall recover no costs on the appeal, but only the costs before the justice; nor in such case shall costs be allowed the appellant.

SEC. 25. *And be it further enacted,* That if the party appealing shall not cause the appeal to be entered in the supreme court or court of common pleas as herein before prescribed, the appeal shall be abated; and the certificate of the clerk and the certificate of the prothonotary, under the hand of the officer and seal of the court, duly shewing that the appeal has not been regularly entered in either court, being made after the expiration of the first term of that one of the said courts which shall at the date of the appeal have been the most remote, and produced to the justice, he shall file such certificates and strike off the appeal: also if the party appealing, after the appeal shall be duly entered, shall neglect to prosecute the same to a final determination, or shall fail to comply with any rule, or make other default, so that in an original action in a like case a non suit or judgment of non pros or judgment by default would be entered, in every such case, instead of a non suit or judgment of non pros or judgment by default, there shall be entered an order of court, that the appeal be dismissed and the record remitted to the justice from whom the appeal came, and a judgment that the appellee recover costs against the appellant; and upon such record being remitted with the proceedings in the court duly certified, the justice shall strike off the appeal. And in every case in which an appeal shall be stricken off pursuant to this section, the justice shall add the costs of the appeal to the original costs before him, and shall, upon application of the creditor in the judgment, is-

CHAP.  
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not entered  
in time,  
to be abated—  
and on certificate of clerk,  
to be stricken off by justice—

when duly entered,  
but not prosecuted—

to be dismissed  
and record remitted to justice, etc.—  
and appeal struck off.

in case of appeal struck off—  
the costs—

CHAP. "cution should not be had, against the said  
 GCLXIII. "administrator [or administrators or execu-  
 1825. "tor or executors] as aforesaid of the said  
 "who was bail as aforesaid, of a judg-  
 "ment recovered by against  
 "the aforesaid before  
 "one of our justices of the peace for the coun-  
 "ty aforesaid, on the day of 18 for the  
 "sum of with costs and have then there  
 "this warrant.  
 " { L.S. } Witness the hand and seal of the last  
 " { L.S. } named justice the day of  
 " 18

4. against  
 ex. cutors of  
 surety.

Death of par-  
 ty not to a-  
 bate action,  
 &c.

4th against executors or administrators of a surety,  
 —observe the last form in all respects, excepting  
 that instead of the word "bail" where it occurs, use  
 the word "surety." And the death of the party  
 shall not abate any action pending before a justice  
 or any appeal or right of appeal under this act, or  
 any certiorari; but if there be several plaintiffs or  
 defendants and one die, the action or proceeding  
 shall continue and be prosecuted for or against the  
 survivors or survivor; if the sole or only remaining  
 plaintiff or defendant die, the executor or adminis-  
 trator of the deceased party may become or be  
 made a party and prosecute or defend in place of the  
 deceased party; to make an executor or administra-  
 tor of a defendant a party before the justice, he  
 must issue a summons, according to the form here-  
 in first prescribed for a summons, with this addi-  
 tion after the words "is demanded," to wit, "and  
 "on which cause of action an action was commenc-  
 "ed against the said [the name of the deceased de-  
 "fendant] deceased in his life time and was pending  
 "at his death to which the said [name of executor]  
 "executor [or administrator] is required to be-  
 "come a party;" which summons shall be returna-  
 ble as other original summons, and on service made  
 the executor or administrator shall be made a party  
 and the same proceedings had either for hearing  
 or judgment, by default as in other cases.

SEC. 28. *And be it further enacted, That a scire*

facias may be issued by the justice who gave the *Scire facias*—  
 original judgment, or by any other justice of this <sup>by whom to</sup> State; in either county, with whom a transcript of <sup>be issued,—</sup>  
 the judgment or the docket containing it may be  
 lodged: and it shall bear date of the day on which <sup>date—</sup>  
 it is issued, and the return day shall not be less than <sup>return day—</sup>  
 five days nor more than sixteen days after the date,  
 and it shall be served in the same manner as a sum- <sup>service—</sup>  
 mons, and judgment by default may be given on <sup>judgment by</sup>  
 the service being verified as in case of a summons, <sup>default—</sup>  
 and all the proceedings adjournment trial judgment <sup>and proceed-</sup>  
 execution and appeal shall be in the same manner <sup>ings thereon:</sup>  
 and under the same regulations as hereinbefore con-  
 tained, and provided for causes and proceedings be-  
 fore a justice of the peace; but there shall be no stay <sup>no stay of</sup>  
 of execution on a judgment on a *scire facias*, nor <sup>execution on</sup>  
 shall any provision in the fourth section of this act <sup>a judgment</sup>  
 relative to proceedings against bail be altered or <sup>on sci. fa.</sup>  
 contradicted by this section; and the justice shall en- <sup>what shall be</sup>  
 dorse upon every *scire facias* the name of the party <sup>endorsed by</sup>  
 at whose suit he issues it, and if such party be an <sup>justice on sci.</sup>  
 executor administrator or assignee it shall be so sta-  
 ted in such endorsement, which shall also express  
 the name of the person whose executor administra-  
 tor or assignee such party is: and the justice shall <sup>Justice to</sup>  
 make and keep fair entries in his docket of every <sup>keep docket</sup>  
 case of *scire facias*, containing the name of the party <sup>entries of</sup>  
 at whose suit the *scire facias* is issued, and whether <sup>scire facias</sup>  
 such party be an executor administrator or assignee <sup>what they</sup>  
 and of whom, the name of the party against whom it <sup>shall contain.</sup>  
 is issued and his character whether bail executor  
 administrator or otherwise, and of or for whom the  
 judgment, the name of the justice who gave it, the  
 date of it, and the sum and costs, and the names of  
 the parties in the judgment, and all other particulars  
 and matters touching the proceedings which are re-  
 quired in other cases: but there shall be no assign- <sup>assignee of a</sup>  
 ment of a judgment so as to authorize the assignee <sup>judgment not</sup>  
 to proceed thereon in his own name, except in the <sup>to proceed in</sup>  
 case of sureties or joint debtors as herein before <sup>his own name:</sup>  
 provided. <sup>except etc.</sup>  
 (sec. 21, 26.)

SEC. 29. *And be it further enacted, That an ex-*

Scire facias to revive judgment:—

if execution be not taken out in three years etc.

none shall issue, till judgment be revived:

form of scire fac. (sec. 27.)

proceedings thereon.

(Sec. 4.)

Scire facias not necessary to make an executor or assignee of a plaintiff etc. a party to judgment; suggestion of death or assignment etc. sufficient.

execution may be issued upon a judgment (unless the defendant or debtor therein shall die so as to require process against an executor or administrator) at any time within three years, from the time when execution could have first regularly issued, without any scire facias; and after the expiration of that time without an execution, none shall be issued, until the judgment shall be revived by scire facias; which shall be according to the form first above prescribed for a scire facias, omitting the word "administrator" and the word "deceased" wherever the same occur and the words "as aforesaid": and a judgment may be revived against the original defendant or debtor therein, without service of the scire facias, in the same manner and under the same regulations as are provided herein in relation to bail when no service can be made: and it shall not be necessary in any case to issue a scire facias to make an executor administrator or an assignee as aforesaid of a plaintiff or creditor in a judgment a party to it, but the death of the plaintiff or creditor and the name of the executor or administrator and his being such, being suggested upon the docket of the judgment, or the assignment being thereon suggested, such executor administrator or assignee shall thereby become and be a party to the judgment with all rights as such.

Garnishees—  
clause for  
summoning  
them may be  
added to execution  
(sec. 33.)

SEC. 30. *And be it further enacted*, That if a plaintiff or creditor, in any judgment upon which an execution can be issued, shall request it, a clause may be added to the execution for summoning the garnishees of said defendant to appear before the justice at the return of the execution: which clause shall be according to the following form, "and we further command you to summon the garnishees of the said and every of them to be found within your bailiwick to appear before one of our justices of the peace for the county aforesaid at on the day of next [or instant] to answer what goods chattels rights credits monies or effects of the said may be in the hands of such garnishees or either of them respectively."

SEC. 31. *And be it further enacted,* That if any *Attachment-* person or persons, having a cause of action within <sup>in what case</sup> the jurisdiction of a justice of the peace, or any cre- <sup>to issue,</sup>- dible person for him her or them, shall before a justice make oath or affirmation (to be reduced to writing signed by the person making it and certified and filed by the justice), "that the debtor or defendant is "justly indebted to such person or persons in the "sum of [specifying the amount of "the demand] and does not reside in the State, or "has absconded from his or her usual place of abode, "or as is believed has gone out of the state with "an intent to defraud his or her creditors,"—in every such case the justice shall, instead of a sum- <sup>instead of</sup> mons or capias, issue an attachment according to <sup>summons or</sup> <sup>capias;</sup> the following form,—

" county ss. The State of Delaware <sup>form thereof</sup> " To any constable of said county greeting: " We command you that you attach the goods and "chattels rights and credits of a non "resident [or absconding] debtor, in order to make "good to a cause of action wherein "the sum of is demanded; and that you (sec. 33.) "summon the garnishees of the said "and every of them to be found within your baili- "wick to appear before one of our "justices of the peace for the county aforesaid, at " on the day of "next [or instant] to answer what goods chattels "rights credits or effects of the said "may be in the hands or possession of said garni- "shees or either of them respectively; and have you "then there this warrant, with your doings hereon "duly certified.

{ L.S. } Witness the hand and seal of the said  
 { } justice the day of  
 18 "

SEC. 32. *And be it further enacted,* That if any *Proceedings* goods or chattels shall be taken upon an attachment, <sup>on warrant of</sup> issued instead of a summons or capias, an inventory <sup>attachment—</sup> of such goods and chattels shall be made, and the <sup>goods to be</sup> <sup>inventoried</sup> same shall be appraised by two judicious freeholders, <sup>and apprais-</sup> <sup>ed,</sup>

and inventory  
returned and  
filed;—  
goods to be  
at risk of  
constable,  
(s. c. 35.)  
and after  
judgment to  
be sold on  
execution:—

but perish-  
able goods  
may be sold  
on order of  
justice,

and money  
not applied  
till judg-  
ment:—

notices of at-  
tachment,  
by whom and  
when to be  
made,—

what to  
state,—

where to be  
posted:

judgment  
when to be  
rendered,  
on notices  
aforesaid be-  
ing proved:—

of the county upon oath or affirmation, and such inventory and appraisement shall be returned and filed with the attachment; and the constable shall be responsible for the safe care and keeping of such goods and chattels; and after judgment against the defendant the said goods and chattels or such part as may be necessary shall be sold by virtue of an execution to be issued on such judgment as in other cases; but if any of the goods or chattels be of so perishable a nature, or in such condition, that the same cannot be kept, without spoiling or considerable injury, till a sale can be so effected, the justice may make an order for a prior sale; which shall be made in like manner as sales on execution; and the constable shall hold the money to be applied to the judgment or restored to the debtor, as to right may ap-  
pertain; and if any goods or chattels shall be taken or any garnishee summoned upon an attachment, then the justice shall, within one week after the return there-  
of, make out and certify under his hand and seal at least five notices stating—the names of the parties in the attachment,—the sum demanded by the plain-  
tiff—the attachment, to wit, the issuing thereof, and the date, and the return, and whether the oath or affirmation states that the defendant does not reside in the State or has absconded or has gone out of the State to defraud his creditors;—and shall cause one of said notices to be posted in some public place in his office, and one other to be posted in one of the most public taverns in the place of holding the courts in his county, and the others in three of the most public places of the hundred wherein the defendant had his last place of abode in the county, or, if he had no such place of abode within two years, then of the hundred where the justice shall reside; and proof of such notice being made, judgment may be rendered at the expiration of five weeks from the return of the attachment; and the justice shall have authority to order the constable or the plaintiff to set up said notices; but if the plaintiff shall be so ordered, he shall make proof of his compliance by a credible witness: and in every case the plaintiff shall be held to make proof of his demand, if the same be

under five dollars and thirty-three cents, before the proof of plaintiff's demand, justice, if the same exceed that sum, before freeholders, to be appointed and summoned as in case before justice, before freeholders, of a claim of trial by freeholders, and who are to be sworn or affirmed and report as upon a trial pursuant to such claim:—but nothing in this section shall extend to an execution attachment. (sec. 30.)

SEC. 33. *And be it further enacted,* That if any garnishee summoned on execution attachment, or other attachment, (which summons may be made by the constable either upon the garnishee personally or by a copy left at his place of abode at any time before the return of the attachment) shall refuse or neglect to appear according to the requirement of such summons, the justice shall have full power to issue an attachment against such garnishee and thus compel his appearance: which attachment shall be in the form of the capias herein before prescribed, omitting the words "touching a cause of action wherein the sum of \_\_\_\_\_ is demanded," and using, in place thereof, the words "as garnishee of" [the debtor] : but service of the summons shall be proved before issuing the attachment. (sec. 30, 31.)

SEC. 34. *And be it further enacted,* That the plaintiff, in his election, may require a garnishee to answer on oath, or, if conscientiously refusing to take an oath, on affirmation,—or to plead: and if the plaintiff shall not be present, when the garnishee shall duly attend pursuant to the summons, the answer of the garnishee shall be taken by the justice: if the garnishee shall in his answer upon oath or affirmation declare, that at the time of serving the attachment or at any time after there were not in his [or her] hands or possession any goods or chattels rights credits monies or effects of the defendant, such garnishee shall be discharged: and the answer of a garnishee admitting a sum shall be conclusive in the case, and judgment shall pass against him accordingly: A garnishee being required to answer and refusing, shall for such refusal be deemed guilty of a con-

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plea:

stay of execution:

judgment,—  
when to be  
rend. rec,—  
and for  
what sum.

suit against  
original debt-  
or may be de-  
fended by  
garnishee.  
When garni-

tempt, and shall be committed till answer shall be made: and a garnishee swearing or affirming falsely, shall be deemed guilty of wilful and corrupt perjury, and shall be liable to indictment and punishment accordingly. A garnishee required to plead, may deny that there is any thing of the defendant in his hands or possession, or he may admit specific goods rights credits or a particular sum of money, and deny any thing more; and in the last case the trial shall proceed as to the balance: and every plea of a garnishee shall be entered by the justice, and thereupon the cause shall be proceeded in after like manner as other causes before the justice instituted by summons,—and the rights, as to trial and the manner thereof, as to new trial, as to appeal, as to judgment, as to stay of execution, as to costs, and the form and course of proceeding, shall be the same as in other causes, and agreeably to the provisions of this act in such cases: and if on trial, more shall not be found against a garnishee than shall be admitted by his plea, there shall be judgment against him for that sum; but he shall recover against the plaintiff his costs; and in order to determine the plaintiff's right of appeal, he may declare the sum which he demands against the garnishee, and the demand shall be entered upon the docket of the justice. There shall be stay of execution upon a judgment given upon the answer of a garnishee as in other cases; and if, by the answer plea or trial, it shall appear that the garnishee owes a sum payable at a future day beyond the stay in such case, there shall be a stay until such future day without security; and in any case there may be a stay without security, merely until the day when the sum admitted or found will according to contract be payable. But in no case shall judgment be rendered against a garnishee, till there shall be judgment against the original debtor or defendant, nor for a greater sum than the plaintiff shall recover in such judgment inclusive of his costs; and a garnishee shall, upon request, be admitted to defend the suit against the original debtor or defendant. And if more shall be due from a garnishee than there shall be judgment for against him in any

case, he may be required to answer as garnishee in <sup>he may be</sup> another case, and so on until the sum due from <sup>required to</sup> him shall be fully applied. And if there shall be <sup>answer in</sup> several garnishees in any case, and more than the plain- <sup>other cases.</sup> tiff can recover due; he may elect against whom he <sup>several gar-</sup> will take judgment, and the others shall be discharg- <sup>nishees in</sup> ed from that attachment, and may be held to answer <sup>one case—</sup> in other cases: And the day for a garnishee to adjourn- <sup>day for gar-</sup> answer or plead may be adjourned by a justice, in <sup>nishee to an-</sup> order to ascertain the determination of prior cases, <sup>swer.</sup> or other reasonable cause, and the appearance of the garnishee required or if necessary compelled by at- <sup>Garnishee</sup> tachment pursuant to adjournment. And a garni- <sup>may deliver</sup> shee summoned on an attachment may, either at the <sup>goods in his</sup> time of summons or on the return of the attachment <sup>hands to</sup> or on such reasonable day afterward as the justice <sup>constable—</sup> shall appoint, deliver any specific goods or effects <sup>who shall</sup> in his hands to the constable; who shall make an <sup>make inven-</sup> inventory thereof, and cause the same to be appraised <sup>tory and ap-</sup> as aforesaid, and the inventory and appraisement, <sup>praisement</sup> stating by whom the same were delivered, shall be <sup>thereof etc.</sup> annexed to the attachment.

Sec. 35. *And be it further enacted,* That if any <sup>Garnishee,</sup> suit shall be instituted, by the defendant in any at- <sup>sued by de-</sup> tachment issued pursuant to this act, against a gar- <sup>endant in</sup> nishee summoned upon such attachment, touching <sup>attachment,</sup> any matter which such attachment shall concern, the garnishee shall be allowed in such suit, for any <sup>to be allowed</sup> goods or effects delivered by him to the constable or <sup>for goods de-</sup> for any sum of money for which judgment shall be <sup>livered to</sup> rendered against him exclusive of costs, in the same <sup>constable</sup> manner and to the same effect, as if the garnishee at <sup>and money</sup> the time of the service of the summons upon him <sup>for which</sup> had delivered said goods or effects or paid said sum <sup>judgment</sup> of money to the defendant in the attachment. And <sup>shall be ren-</sup> the constable, to whom any goods or effects shall up- <sup>dered against</sup> on any attachment be delivered, and the sureties in <sup>him.</sup> his bond, shall be held, by force of his bond, to <sup>And the con-</sup> keep safely all such goods and effects and to have <sup>stable and his</sup> the same forthcoming to be taken in execution upon <sup>sureties to be</sup> the judgment that shall be rendered against the de- <sup>severable</sup> fendant, or, if no such judgment shall be rendered, <sup>for such</sup> to the own- <sup>goods,—</sup>

er,— and to account for money arising from sale thereof. to be restored to the owner, and to account for all monies arising from the sale of any such goods or effects, and to pay the same to the persons entitled.

On offering bail in attachment,— goods to be discharged,—

and garnishers dismissed:— if offered within a year — judgment to be set aside entry and liability of the bail.

after entry of bail, cause how to proceed.

execution attachment excepted— (sec. 30.)

Persons suing in either of the courts, for a cause of action cognizable before a justice, shall not recover costs;

SEC. 36. *And be it further enacted,* That if the defendant in attachment or his agent or attorney shall appear and offer sufficient bail therein, the goods chattels rights credits monies or effects that shall have been taken by virtue thereof shall be discharged therefrom, and restored to the defendant, and the garnishers summoned by virtue thereof shall be dismissed, and all proceedings against them annulled; also if the defendant in an attachment or his agent or attorney shall, within one year after judgment, appear and offer sufficient bail to the attachment, the judgment shall be set aside: and in each of said cases bail shall be entered in the same manner as upon a capias, and shall be liable in all respects as bail entered in the case of a proceeding by capias and according to the provisions herein contained in that respect; and after entry of bail the cause shall proceed in the same manner as if it had been commenced by capias; and any sum which the plaintiff shall have received by force of his judgment shall be allowed to the defendant on the trial in like manner as another demand; but the plaintiff shall recover all his costs in such proceeding, unless a sum shall be determined to be due to the defendant and judgment rendered for him therefor; so that if it appear that the plaintiff received on his judgment no more than he ought to have received he shall recover costs. But this section shall not apply to an execution attachment.

SEC. 37. *And be it further enacted,* That if any person or persons shall commence or prosecute any suit or action, in the supreme court or court of common pleas or otherwise than before a justice of the peace, upon or for any cause of action of which a justice of the peace shall according to this act have jurisdiction, such person or persons shall not in such suit or action recover any costs whatever, and if the nature of the cause of action be within the jurisdic-

tion of a justice of the peace according to this act, and if the plaintiff shall not thereupon recover more than fifty dollars, exclusive of costs, the recovery shall be conclusive and costs shall be disallowed, except—<sup>excepting only when oath is made that the cause of action is just and exceeds in value 50 dollars, etc.</sup>—that if the plaintiff or one of the plaintiffs shall make oath or affirmation, before issuing the writ, before the clerk of the court or prothonotary or the deputy of the clerk or prothonotary or some judge of either of the courts, “that the person or persons to be named as plaintiff or plaintiffs in the writ has or have a just cause of action against the person or persons to be named defendant or defendants therein and that such cause of action does exceed in value fifty dollars,” and such oath or affirmation shall be reduced to writing, signed by the party making, certified by the officer or judge, and filed in the cause,—then the foregoing provision depriving the plaintiff of costs shall in such case be dispensed with.

SEC. 38. *And be it further enacted,* That it shall <sup>Satisfaction of</sup> be the duty of a creditor, in every judgment before a justice, receiving satisfaction thereof in any manner <sup>judgment,—when to be entered by creditor,—</sup> than from an officer in pursuance of an execution, to cause satisfaction of such judgment to be entered on the docket thereof, within ninety days after receiving the same: and any officer, who shall receive <sup>when by</sup> the amount of a judgment after execution returned or <sup>officer:—</sup> so that such receipt does not appear by his return, shall, within ninety days after the receipt, cause the same to be entered upon the docket of the judgment and of the execution. And every person, who shall <sup>forfeiture for</sup> refuse to perform or neglect the duty hereby enjoined, <sup>neglect.</sup> shall forfeit and pay to the debtor or debtors in the judgment or his her or their executors or administrators any sum not exceeding one half of the judgment, as may be determined in the case, to be recovered with costs of suit before a justice of the peace in like manner as other debts under this act.

SEC. 39. *And be it further enacted,* That it shall <sup>Dockets and</sup> be the duty of every person, who shall have been a <sup>records of per-</sup>

*sons ceasing to  
be justices,—  
within what  
time,—  
by whom,—  
and to  
whom,—  
to be deliver-  
ed over.*

*penalty for  
neglect:*

*and the deli-  
very to be  
enforced.*

justice of the peace and whose term of office shall expire and who shall not be reappointed, to deposit, within ninety days after the expiration of his term of office, his dockets and all his records with his successor in office if appointed within that time and within three miles of his place of abode, and if not then with one of the nearest justices of the peace in the same county; and also upon the decease of a justice of the peace, it shall be the duty of his executors or administrators or any person into whose hands his dockets and records shall come, to deposit, within thirty days after the decease of such justice, his dockets and all his records with his successor in office if appointed in that time and within three miles of the place of abode of the deceased justice, and if not then with one of the nearest justices of the peace of the same county: and any person, who shall neglect or refuse to perform the duty above enjoined, shall for every such refusal or neglect be liable to indictment in the court of general quarter sessions of the peace and gaol delivery, and shall on conviction be sentenced to pay a fine not less than twenty dollars nor exceeding one hundred dollars with the costs of prosecution; and the court shall make an order for the delivery of such dockets and records according to the true intent of this act, they naming the justice to whom the delivery shall be made, and may enforce the execution of this order by authorizing and requiring the sheriff to carry it into effect, and may punish disobedience of the party, as a contempt, by fine and imprisonment.

*Copies of pro-  
ceedings be-  
fore justices.—  
on request of  
any person  
concerned,—*

*and tender of  
the fees,—*

SEC. 40. *And be it declared and enacted, That* it is the duty of a justice of the peace,—upon application to him made by any party to an action or judgment, commenced or given before or by him or contained in any docket or records of a former justice deposited with him, or by the executor or administrator of a party, or by any person interested or concerned in such action or judgment, the proper fee being first paid or tendered,—to make and certify a true transcript of all the docket entries as well

on the execution docket as the original docket of <sup>to be made</sup> and touching such action or judgment,—or it spe- <sup>and certifi-</sup> cially required a full and true copy of the entire re- <sup>ed;—</sup> cord and proceedings embracing all warrants process returns reports executions returns inventories pro- ceedings and entries of and touching such action or judgment, as fully and amply as the same are before him or in his possession; and such transcript, as well as such copy, shall be certified under the hand and seal of the justice, and shall be received as evidence <sup>and to be re-</sup> in any court: and if any justice of the peace shall re- <sup>ceived as</sup> fuse or neglect to perform the duty above declared, <sup>evidence;</sup> he shall be deemed guilty of a misdemeanor and shall <sup>penalty on</sup> be liable to indictment therefor and on conviction <sup>justice refu-</sup> shall be sentenced to pay a fine not less than twenty <sup>sing copies,—</sup> by fine.— nor more than one hundred dollars and the costs of prosecution; and further such justice shall, for such <sup>and by suit</sup> neglect or refusal, be answerable to any person or per- <sup>to party ag-</sup> sons aggrieved, for all damages which such neglect or <sup>grieved:</sup> refusal may occasion, with costs of suit, in an action on the case; but the fees for making such transcript or copy must be paid or tendered at the time of the ap- plication, or the justice shall not be bound to com- ply therewith. Upon an appeal, the justice shall <sup>copies,—</sup> make out a transcript of the docket entries as above <sup>on appeal.—</sup> specified, unless a full copy shall be specially request- ed: upon a certiorari, the justice shall make out a <sup>on certiorari.</sup> full copy of the entire record and proceedings as above described. And if any justice shall falsely <sup>Justice, false-</sup> certify any transcript or copy of the docket entries <sup>ly certifying</sup> or of the entire record of or touching any action or <sup>copy—</sup> judgment,—or shall practice or use any fraud false- <sup>or using</sup> hood or deceit in making or certifying any copy or <sup>fraud</sup> transcript of the docket entries or of the record of or <sup>therein—</sup> touching any action or judgment,—or shall, in ma- <sup>or omitting</sup> king any transcript or copy, omit any matter mate- <sup>any material</sup> rially affecting or concerning what shall be contain- <sup>matter,—</sup> ed in such copy or transcript,—every justice so of- <sup>the penalty,—</sup> fending shall be adjudged guilty of a high misde- meanor in office, and shall be liable to indictment <sup>indictment—</sup> in the court of general quarter sessions of the peace and gaol delivery, and shall on conviction be senten- ced to pay a fine not exceeding one hundred dollars, <sup>fine—</sup>

suit to party aggrieved—  
and removal from office.

with costs of prosecution;—and shall further pay to the party aggrieved double damages and costs, to be recovered in an action on the case;—and the record of such conviction upon indictment being transmitted to the governor by order of the court, whose duty it shall be to make such order, the governor may remove such justice from office.

*Witnesses neglecting to attend or to give evidence etc.*

SEC. 41. *And be it further enacted,* That if a

how proceed-  
ed against.

affirmed, or to give evidence, the justice shall have full power to issue an attachment against such witness, to adjudge him guilty of a contempt and to fine and commit him, and to proceed against him in all things for a contempt; and any costs shall be paid by the witness if the justice shall so order; but no attachment shall issue for non attendance until the summoning of the witness be proved, nor shall any witness be liable to be fined for non attendance nor committed in such case except for payment of costs. And the form of a subpoena for witness shall be as follows.

Forms—

of subpoena  
for witness:—

“ county ss. The State of Delaware  
“ to any constable of said county greeting. Sum-  
“ mon [the names of all the witnesses mentioned to  
“ the justice on one side] to appear before  
“ one of our justices of the peace for  
“ the county aforesaid, at on the  
“ day of next, [or instant] to give evi-  
“ dence in a cause between plaintiff  
“ and depending before our said jus-  
“ tice; and this they may not omit at their peril.

{ L.S. } Witness the hand and seal of the said  
justice the day of  
18 ”

of summons  
for freehol-  
ders:—  
(sec. 7.)

and a summons for freeholders shall be in the same form as the above, omitting the words “ to give evidence in,” and substituting therefor the words “ to try.”

The form of an attachment shall be as follows.

“ county ss. The State of Delaware of attachment  
 “ to any constable of said county greeting: Bring for witness.  
 “ [the names] before  
 “ one of our justices of the peace for said coun-  
 “ ty, at on the day of  
 “ instant, [or next] to give evidence in a cause be-  
 “ tween plaintiff and  
 “ defendant, the subpoena having not been obeyed:  
 “ Witness the hand and seal of the said  
 “ { L.S. } justice the day of  
 “ { 18 } .”  
 or an attachment may be returnable forthwith, in  
 which case omit the part “ on the day of  
 “ instant,” and in place thereof use the  
 word “ forthwith.”

SEC. 42. *And be it further enacted,* That if a *Depositions*  
 material witness in any cause before a justice, shall of witnesses,—  
 reside without the county, and it shall not be practi- in what  
 cable for the party to procure the attendance of such cases,—  
 witness before the justice to give evidence in the may be ta-  
 cause, upon this being made to appear by oath or ken,—  
 affirmation to the satisfaction of the justice, he may by whom,—  
 make a rule that the deposition of such witness  
 shall be taken before some person or officer by him  
 to be appointed or mentioned; and, unless it shall be and how:—  
 otherwise agreed, the party applying for such rule  
 shall file in writing with the justice all the questions  
 to be proposed to such witness, giving at least four  
 days' notice to the opposite party of such filing, and  
 the opposite party may file other questions; and the  
 rule shall be forwarded to the person or officer nam-  
 ed to take the depositions with a copy of the ques-  
 tions filed on both sides; and neither party shall be  
 present at the taking of a deposition; and no other  
 questions than those filed as aforesaid shall be pro-  
 posed to the witness, which shall be answered on  
 solemn oath or affirmation; and the deposition shall  
 be signed by the witness, and certified by the person  
 taking it, and returned sealed up to the justice: and  
 the justice shall transmit with every rule to the person  
 or officer mentioned or appointed to take the depo-

sition a copy of so much of this section as prescribes the mode of taking the deposition.

*Suits for taxes not cognizable under this act;*  
6 vol. 196,  
sec. 3, ch. 122

exceptions.

SEC. 43. *And be it further enacted,* That this act shall not be construed to authorize a justice of the peace to commence an action at the suit of a collector his executors or administrators for the recovery of any tax or taxes; excepting only in the following cases, to wit,—in case the person liable to pay the tax or taxes shall have removed from the county,—and also in case the person liable to pay the tax or taxes shall have died without paying the same, and his executors or administrators shall have refused or neglected to pay the same for ten days after demand made.

*Insolvent debtors,—imprisoned under this act,—*

to be entitled to benefit of the insolvent laws.  
1 vol 196,  
282, 444,  
4 vol 215.

SEC. 44. *And be it further enacted,* That any person, who shall be imprisoned by virtue of execution or other civil process issued pursuant to this act, whatever may be the sum in such execution or process, and who shall be an insolvent debtor or poor person, shall be entitled to the benefit of the laws of this State touching the discharge of insolvent debtors or poor persons from imprisonment or adjudging them to serve their creditors, provided such person shall come within the provisions of such laws.

*Fees under this act:—*

of the justices,—

SEC. 45. *And be it further enacted,* That the following fees, and no other, shall be allowed for services under this act viz:—

To a justice of the peace,—	\$ cts.
For issuing a summons, capias, scire facias or attachment (except execution attachment)	0 13
For one subpœna for witnesses	0 10
For a second do. for same party in same case, but more than two subpœnas shall not be taxed for the same party in any case, if more be issued at the request of a party the same shall be at his proper charge, and at the allowance of \$0 5 cents each subpœna:—	0 5

For appointing summoning and administering oath or affirmation to freeholders to try a cause	20	CHAP. CCLXIII. 1825.
But only one fee of this kind shall be allowed in any case, except there be a new trial and then only two fees:—		
For entry of bail or surety—but only one fee shall be allowed although there are several bails or sureties	10	
For entering judgment	10	
For entering judgment by virtue of an obligation and warrant and filing the same	25	
For every oath or affirmation certified and filed in a cause pursuant to this act	13	
For entering rule for taking depositions	10	
For a transcript of all the docket entries in a cause duly certified	20	
For a full copy of the entire record and proceedings in a cause duly certified	37½	
For copying interrogatories one cent for every line of twelve words		
For every execution, whether with clause of attachment or otherwise	13	
For receiving filing and entering the return of each execution	12	5 vol. 333.
To a constable,—		Constables,—
For serving and making due return of a summons, capias, scire facias, whether there be one or several defendants, including mileage and all other services in the cause previous to judgment, excepting summoning witnesses and freeholders	33	
If a defendant cannot be found so that no service can be made no fee shall be allowed, except in case of scire facias whereupon judgment shall be rendered, and then the above fee shall be taxed;		
For summoning the freeholders for the trial of a cause	20	
one fee only to be allowed in a cause, excepting in case of a new trial and then only two fees;		
For summoning each witness	10	

CHAP.  
CCLXIII.  
1825.

For mileage in summoning witnesses at the rate of two cents per mile out and in, to be computed from the place where the subpoena shall be returnable to the residence of the witness, but if there be more than one witness for a party then to the residence of the most remote witness; adding thereto such distance as it shall be necessary to travel to summon the other witnesses for the same party proceeding in the most direct way; and the computation of mileage in summoning all the witnesses for the same party shall be made in the same manner and upon the same principles as if they were all named in the same subpoena and summoned at the same time, although they may be named in different subpoenas and summoned at different times.

For summoning garnishees, whether upon an execution-attachment or other attachment including mileage and whatever number of garnishees may be summoned 33

For serving an attachment for bringing the body, but if such attachment shall issue through any fault of an officer he shall be ordered to pay this fee and the fee for issuing the attachment. 25

For taking or receiving goods upon an attachment issued as original process and not an execution attachment, and making and returning inventory and appraisement, including mileage, if the goods shall not exceed in value \$15 40

If they shall exceed that sum 80

But if the goods shall be sold on execution no fee shall be charged for taking or appraising on such execution.

On execution;—

For taking goods 20

Summoning and qualifying appraisers and making inventory appraisement and return, including mileage, 20

Advertising and selling	20	CHAP.
in all cases in which the sum contained in the execution shall not exceed fifteen dollars, exclusive of costs: but if the sum contained in the execution shall exceed fifteen dollars, exclusive of costs, then double the said fees shall be allowed for the same services:—in no case shall there be a fee charged for a service not performed:—		CCLXIII.
For conveying a person to gaol under execution or other commitment	20	1825.
and mileage, at the rate of two cents per mile from the place of arrest to the gaol and returning to the office of the justice:—		
But mileage shall not be allowed in any case in which it is not expressly given:—		
A sheriff shall receive, upon an execution directed to him, the same fees, as above allowed to a constable, for the same services.		sheriff's:—
To a witness, —		witnesses:—
For each days attendance	20	
and mileage, at the rate of two cents per mile from the residence of the witness to the place of trial and returning, but no mileage shall be allowed if the demand be under \$5. 33; —		
To the freeholders trying causes, —		freeholders:—
To each of them	30	4 v. 592
per day (and mileage as is provided by law for jurors) but no fee shall be allowed to any freeholder, who shall not act till the determination of the cause by the freeholders:		
To the parties respectively, —		parties, for depositions:—
For each deposition taken	25	
but more than one dollar shall not be allowed to any party for depositions in any case.		
Upon the appeal; —		Fees, upon appeal, —
To the clerk or prothonotary, —		of clerks:—
For entering the appeal issuing summons entering return and all continuances	1 00	
For every subpoena for witnesses	20	
For every attachment issued	40	

CHAP.	For every commission to take depositions	40
CCLXIII.	For entering final judgment or order dis-	
1825.	missing appeal with judgment for costs	50
	For certificate under hand and seal, that ap-	
	peal has not been entered	25
	For a copy duly certified of record of an or-	
	der dismissing an appeal with judgment	
	for costs and the bill of costs duly taxed	50
	For a copy in other cases the rate of one cent	
	for every line of twelve words, and twen-	
	ty-five cents for the certificate.	
	For every writ of execution	20
	Bills of costs to be taxed, satisfaction of	
	judgment entered, and returns of execution	
	docketed, without fee;—	
attornies;—	To attornies at law,—	
	For appearance for plaintiff or defendant	2 67
sheriffs;—	To the sheriff or coroner,—	
	For serving summons or subpoena, the same	
	fees as herein before allowed to a constable	
	for summoning witnesses before a justice,—	
	For serving execution of judgment given by	
	the court on an appeal, the same fees as	
	herein before allowed to a constable on an	
	execution before a justice.	
witnesses;—	To a witness,—	
	For attendance and mileage, the same fees	
	as herein before allowed therefor before a	
	justice;	
justices;—	To a justice,—for transcript of record	20
parties;—	To each party,—	
for deposi-	For depositions—each deposition	50
tions;—	but more than five dollars shall not be al-	
	lowed for depositions:—	
	Upon a certiorari	
Fees, upon	To the clerk, for issuing the writ, taking	
certiorari;—	recognizance with surety, and certifying	
of clerks;—	the same and receiving and filing record	50
	For issuing citation	25
	For a second or subsequent writ of certiorari,	
	to be paid by the justice if occasioned by	
	his default	50

For entering judgment 50

For a copy of record, the rate of one cent for every line of twelve words, with twenty-five cents for certificate:—

justices;—

To a justice,—

For full copy of the entire record and proceedings

37½ sheriffs;—

To sheriff,—

For serving citation, the same fees as for serving summons on appeal:—

attornies;—

To attornies at law,—

For appearance for plaintiff or defendant 2 67

And upon the reversal of a judgment given by a justice, the plaintiff in the certiorari shall recover his costs; and upon affirmance of such judgment, costs shall be awarded to the defendant in the certiorari; and a party or his attorney, applying for a writ of certiorari to be directed to a justice of the peace, shall offer, before the clerk of the supreme court, sufficient surety or sureties, to be by him approved, to enter into a recognizance to the defendant or defendants in such writ in a reasonable penalty, with condition to be void if such writ shall not be allowed; or if the plaintiff therein shall prosecute said writ to effect, and pay the condemnation money and all costs or otherwise abide the judgment of the supreme court in the case if he fail to make his plea good: Which recognizance shall be entered by the clerk in his docket succeeding the entry of the certiorari: but surety shall not be required a second time in the same proceeding, altho' other writs may be issued to complete the record; but the court may order better security:—upon a writ the clerk of the supreme court shall endorse these words "Recognizance taken and approved." or the justice shall not obey it. And the act "to prevent the removal of suits into the supreme court in certain cases," passed January 29, 1791, shall be and hereby is repealed, from and after the first day of May next. And furthermore, the following fees shall be allowed to justices of the peace for the following services.

For taking the acknowledgment of a deed,

security to be taken by clerk of the supreme court from party applying for certiorari;

recognizance of such surety to be entered by the clerk in his docket. Court may order better security,—endorsement to be made on certiorari. chap. 227, b. 2 v 1012, repealed.

*Fees to justices for services not within this act—*

	whether there be one or more persons making the acknowledgment, to each justice	§ 50
	For taking an indenture of apprenticeship or servitude (one justice acting alone) for all the services touching said indenture including the drawing the same and acknowledgment thereof	1
1 vol. 210.	For approving writing and certifying an assignment of an indenture, pursuant to the "act for the better regulation of servants and slaves within this government"	20
	For taking the acknowledgment of a manumission, whether one or more slaves be named therein	20
	For a probate against the estate of a deceased person, if drawn by the justice if not, without fee:—	7
	For taking a deposition or affidavit, not herein before provided for	20
	For binding an apprentice by two justices, or by one justice and a trustee of the poor, to each justice, for all services touching the same, to be paid by the master	50
no fees to be charged, in any proceedings under this act, except those herein expressly allowed; officer on receiving his fees to give a bill of particulars and a receipt thereon:— no constable to receive his fees till taxed by justice:— penalty, — for taking greater or more fees than allowed:— for refusing bill of particulars and receipt thereon, —	And no justice of the peace, clerk, prothonotary, constable or sheriff shall, on making out a bill of fees in any cause commenced before a justice pursuant to this act or on any appeal from a judgment given in such cause or in any certiorari of such judgment, either generally or for the service of any process or other particular services in such cause or on such appeal or certiorari, add any item not herein before expressly allowed; and it shall be the duty of each of the said officers, upon receiving any fee or fees, to make a bill specifying the items and the case and to give a receipt thereupon: and no constable shall receive a bill of fees, till the justice shall have taxed it: and if either of the said officers, or his executors or administrators, — shall take any greater or more fees than are herein before allowed for the services or duties afore specified or any of them, — or shall refuse to make a bill specifying the items as aforesaid and to give a receipt thereupon upon receiving any fee or fees, — or shall add any	

item not herein before expressly allowed in such for adding bill,—every such person, so offending, shall be li- any item not able to indictment in the court of general quarter expressly allowed sessions of the peace and gaol delivery, and shall, on conviction, be sentenced to pay a fine not exceeding sixty dollars and the costs of prosecution.

SEC. 46. *And be it further enacted*, That every A printed list justice of the peace shall keep posted or hung up in of justice's and constables fees etc. his office, for the inspection of all persons, a printed list of the fees of a justice and constable for all ser- and a printed copy of the thirty 38th section of this act, eighth section of this act, to be kept posted in

SEC. 47. *And be it further enacted*, That this justice's of act shall commence in operation on the first day of ect. operation of May next;—and from and after that day the act en- this act, titled "An act for determining debts under forty to commence 1 May next, shillings," and the twenty sixth section of the "act Repeal of— ch lxxiii a. to regulate certain proceedings in the court of chan- 1 v. 188— sec. 26, ch. cery, in the orphans' court, and in the register's court, sec. 26, ch. and to compel justices of the peace to furnish copies xxi. 4 v. 47,— of their records" passed at Dover Feb. 1, 1806,— and the tenth section of the "act obliging persons re- sec. 10, ch. turned and appointed for constables to serve accord- ccv a 1 v. ingly and for ascertaining their fees" passed Novem- 4:9. ber 3, 1770,—And the act entitled "an act for Ch. clxxix. the more easy and speedy recovery of small debts," 5 v. 320, passed at Dover Feb. 3, 1818,—and the supplement Ch. cccxxxix. thereto, passed at Dover 10 February 1819, (the 5 vol. 431, ex- cept the 8th eighth section thereof excepted and saved from this section there- of.— repeal)—and the additional supplement thereto, pas- ch. lvi 6 v. sed at Dover February 1, 1821,—and the second 77. third and fourth sections of the further additional Sec. 2, 3, 4, supplement thereto, passed at Dover February 5, 192, ch. cxix. 6 v. 1822.—and the third section of the act to repeal the Sec. 3, ch. "act enjoining certain duties on collectors and va- cxxii. 6 v. rying their compensation" passed at Dover Februa- 196. ry 5, 1822,—and an act entitled "An act concern- Ch. clxi. ing appeals from justices of the peace" passed at 6 v. 260. Dover January 25, 1823,—shall be and are hereby repealed:—*Provided* that the said several acts and sections,—as to and concerning every action and But said re- pealed acts to be in force,

to complete  
all proceed-  
ings com-  
menced un-  
der them be-  
fore 1 May  
next;—

proceeding which before the first day of May next shall have been commenced before a justice of the peace and the proceeding therein to judgment and execution or other final termination thereof, and as to every judgment which before the said first day of May next shall have been given by a justice of the peace and the executing of such judgment, and as to and concerning rights of new trial and of appeal in case of such judgment and of every judgment to be given in such action or proceeding as aforesaid, and as to every appeal which before the said first day of May shall have been taken from a judgment given by a justice of the peace, and as to all matters incidental to actions which shall as aforesaid have been commenced before the first day of May next or to the judgments or the executing of the judgments therein, or to judgments that shall have been given or to appeals that shall have been taken before the said day, or to rights of new trial or of appeal as aforesaid,—shall be and remain unrepealed and in the same force as if this act had not been passed: and also that any person,—who before the first day of May next shall have committed any offence or misdemeanor within the true intent and meaning or against the form or effect of the said acts or sections or any part thereof,—may be prosecuted convicted and punished as if the same were not repealed; and no offence before that day incurred by any violation of the said acts or sections shall be affected by said repeal: *and provided further* that no act nor part of an act, repealed by the aforesaid acts or sections hereby repealed, shall by this repeal be revived; but that the act, entitled “An act for the more easy and speedy recovery of small debts” passed February 4, 1792, with all the acts therein mentioned to be repealed, and the second section and clauses following the second section or in the same of the act entitled “A supplement to an act entitled an act for the better regulation of distresses for rent and for other purposes therein mentioned” passed at Dover January 26, 1803, with the other acts and parts of

and for pro-  
secuting all  
offences com-  
mitted  
against them.

And this re-  
peal not to  
operate as a  
revival of  
other repeal-  
ed acts.  
Ch. ccl. b.  
2 v. 1041.

Ch. cxxxii.  
3 v. 289.

acts heretofore repealed as aforesaid by the acts hereby repealed, shall be and continue repealed.

CHAP.  
CCLXIII.  
1825.

PASSED AT DOVER, }  
January 29, 1825. }

#### CHAPTER CCLXIV.

A SUPPLEMENT to the act entitled "*An act to*<sup>5 v. ch.</sup>  
*incorporate the Cherry Island marsh company.*"<sup>ccxxii. p. 393.</sup>

PASSED AT DOVER, }  
January 31, 1825. }

PRIVATE ACT.

#### CHAPTER CCLXV.

A SUPPLEMENT to an act entitled "*An act for the relief of distressed and decayed pilots their widows and children.*"

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met. That every ship or other vessel arriving from or bound to any foreign port or place, and every ship or other vessel of the burden of seventy-five tons or more sailing from or bound to any port in the State of Delaware, excepting ships or other vessels belonging to citizens of this State, shall be obliged to receive a pilot, in the same manner and as is provided and enacted in the act to which this is a supplement, respecting ships and other vessels of the burden of one hundred tons or more; and every provision and clause in the act, to which this is a supplement, shall extend to and be in force, after the passage of this act, as it respects such ships or other vessels of the burden of seventy-five tons or more, and the master thereof, and certain duties enjoined upon the collector of the port of Wil.

Certain vessels of 75 tons burden, to receive pilots.  
provisions of original act extended to the above vessels.

CHAF. mington or other person appointed to receive such  
CCLXV. pilotage.

1825.

PASSED AT DOVER, }  
January 31, 1825. }

### CHAPTER CCLXVI.

8 v. ch. xcix. A SUPPLEMENT to the act entitled "*An act to*  
p. 194. *authorize the owners and possessors of the*  
*swamps and low-grounds, situated upon a branch*  
*leading into Assawamanna bay, to cut a ditch or*  
*drain through the same.*"

PASSED AT DOVER, }  
February 1, 1825. }

PRIVATE ACT.

### CHAPTER CCLXVII.

AN ACT to authorize and empower *Thomas D.*  
*Bailey, of Somerset county in the State of*  
*Maryland, to carry out of the State of Dela-*  
*ware, from Sussex county, a certain negro*  
*girl and hold her as a slave.*

PASSED AT DOVER, }  
February 1, 1825. }

PRIVATE ACT.

### CHAPTER CCLXVIII.

AN ACT to authorize and empower *Thomas T.*  
*Moore, of Sussex county, to bring into this*  
*State, from Worcester county in the State of*  
*Maryland, a certain girl and to hold her as a*  
*slave.*

PASSED AT DOVER, }  
February 1st, 1825. }

PRIVATE ACT.

## CHAPTER CCLXIX.

AN ACT *for the relief of the Borough of Wilmington* <sup>v. 275.</sup>  
*and for other purposes.*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That the burgesses <sup>Borough council.</sup> and borough council of the Borough of Wilmington <sup>cil.</sup> may have full power and authority to borrow such <sup>authorized to</sup> sum or sums of money, as may be necessary to ena- <sup>borrow money,</sup> ble the said burgesses and borough council to dis- <sup>for the pur-</sup> charge a debt or debts now due from the Borough;— <sup>poses,—</sup> <sup>of discharg-</sup> *Provided*, that every such loan or loans shall be <sup>ing debts now</sup> made by an ordinance, which shall be adopted by <sup>duc;—</sup> the votes of two-thirds of all the members of the council.

SEC. 2. *Be it further enacted*, That the bur- <sup>and of impro-</sup> gesses and borough council of the Borough of <sup>ving the Bo-</sup> Wilmington may have further power and authority <sup>rough,</sup> to borrow such sum or sums of money, as may be necessary for the improvement or advantage of the said Borough of Wilmington;— *Provided* that every such loan or loans shall be made by an ordinance, which shall be adopted by the votes of three-fourths of all the members of the council.

PASSED AT DOVER, }  
 Feb. 2, 1825. }

## CHAPTER CCLXX.

AN ACT *dissolving the marriage between Chris-*  
*topher Weldon and Sally Ann his wife, late*  
*Sally Ann Dougherty.*

PASSED AT DOVER, }  
 February 3, 1825. }

PRIVATE ACT.

CHAP.  
CCLXXI.

## CHAPTER CCLXXI.

1825.

AN ACT to enable Samuel Johnson to remove,  
from the State of Maryland into this State, a  
certain manumitted negro slave.

PASSED AT DOVER. }  
February 3rd, 1825. }

PRIVATE ACT.

## CHAPTER CCLXXII.

U.S. con.  
art 2, sec. 1.

AN ACT directing the manner of appointing elec-  
tors of President and Vice-President of the  
United States.

Electors to be  
appointed by  
the General  
Assembly,  
and in what  
manner.

SECTION 1. BE IT ENACTED by the Senate and  
House of Representatives of the State of Dela-  
ware in General Assembly met, That in this State,  
electors, for the election of a President and Vice-  
President of the United States, shall be appointed  
by the General Assembly, in joint meeting of the  
Senate and House of Representatives, by ballot:—  
there shall be a distinct balloting for each elector;  
—and a majority of all the votes given shall be ne-  
cessary to an appointment;—but if, upon any ballot-  
ting, two persons only shall be voted for and each  
of them shall receive an equal number of votes, the  
speaker of the Senate shall give an additional cast-  
ing vote, unless he shall be one of said persons,—in  
which case, the speaker of the House of Representa-  
tives shall give an additional casting vote, unless he  
shall be the other of said persons;—and further if  
upon twice balloting in succession, more than two  
persons shall be voted for, and one of said persons  
on each balloting shall receive one half the number  
of all the votes given, then on the second balloting,  
the speaker of the Senate may give an additional  
casting vote to the person having one half the num-  
ber of all the said votes, unless he shall be such per-

son,—in which case, or in case the speaker of the Senate shall decline giving such additional casting vote, the speaker of the House of Representatives may, if he deem proper, give an additional casting vote to the said person having one half the number of all the votes given; unless he shall be such person.

CHAP.  
CCLXXII.  
1825.

SEC. 2. *And be it further enacted*, That for the purpose of appointing electors as aforesaid, the General Assembly shall meet at Dover on the second Monday of November next preceeding the day, on which, according to the constitution and laws of the United States, it shall be required that electors, appointed in each State for the election of a President and Vice-President of the United States, shall meet to give their votes.

General As-  
sembly to  
meet to ap-  
point electors.  
U. S. con. art.  
2, sec. 1,  
clause 4.  
U. S. laws,  
2 v. ch. cix,  
p. 253—1  
Mar. 1792.

SEC. 3. *And be it further enacted*, That the electors, to be appointed in this State as aforesaid, shall meet and give their votes at Dover on the day determined by Congress for that purpose.

Electors,  
where and  
when to meet.  
U. S. laws,  
2 v. ch. cix,  
p. 253, 1 Mar.  
1792.

SEC. 4. *And be it further enacted*, That certificates of the appointment of electors shall be made and signed by the speaker of the Senate and by the Speaker of the House of Representatives and attested by the clerks of the said Houses respectively, and shall be transmitted by the speaker of the Senate as follows, viz,—one to the governour, in order that lists may be made and certified and delivered according to the act of Congress,—and one to each of the electors; and that said certificates shall be made according to the following form viz.—

certificates of  
the appoint-  
ment of elec-  
tors,—  
by whom to  
be made—  
by whom and  
to whom to  
be transmit-  
ted.  
2 vol. U. S.  
laws p. 253—  
1 Mar. 1791.  
Form of the  
certificates.

“Delaware ss. Be it known that the General Assembly of the State of Delaware, on the  
“day of                    in the year of our Lord one thou-  
“sand eight hundred and                   , did in joint  
“meeting of the Senate and House of Representa-  
“tives, in due manner according to the form of the  
“act of the General Assembly in such case made and  
“provided appoint  
“to be electors for the election of a President and

CHAP. "Vice-President of the United States:—Given un-  
 CCLXXII. "der our hands, by order of the Senate and House  
 1825. "of Representatives of the State of Delaware, the  
 " day of in the year aforesaid."

Compensa-  
 tion of elec-  
 tors.

6 v. 32.

5 v. 392.

SEC. 5. *And be it further enacted*, That the electors respectively shall receive the same compensation for attendance and travel, that shall be allowed by law to members of the General Assembly for like attendance and travel; and the State treasurer shall pay to each elector his compensation, on warrant signed by the electors, out of any money not otherwise appropriated.

Repeal of—  
 ch. 31 3 v. 70.

ch. 58, 3 v.  
 143.

SEC. 6. *And be it further enacted*, That the act entitled "An act for the payment of the wages of electors heretofore and hereafter to be appointed to choose a President and Vice-President of the United States," and the act entitled "An act for the appointment of electors for the election of a President and Vice-President of the United States;" be and the same hereby are repealed.

PASSED AT DOVER, }  
 February 3, 1825. }

## CHAPTER CCLXXIII.

AN ACT to enable the persons therein named to raise by lottery the sum of two thousand dollars, for the purpose of enabling Abel Jeans, of Mill-creek hundred in Newcastle county, to pursue his researches in exploring his farm in said county for stone coal.

Lottery au-  
 thorized—

sum to be  
 raised—

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 persons hereinafter named and appointed managers, to institute carry on and draw a lottery for raising the sum of two thousand

dollars, clear of all expenses, to enable Abel Jeans<sup>and for what purpose.</sup> of Mill creek hundred in Newcastle county to pursue his researches in exploring his farm for stone coal.

SEC. 2. *And be it enacted,* That George Platt,<sup>Managers—</sup> Samuel Meter, Thomas W. Handy, Isaac Gibbs,<sup>appointed—</sup> Frederick Holtzbecker, or a majority of them, shall be and they are hereby appointed managers of said lottery.

SEC. 3. *And be it enacted,* That the said managers, previously to selling any tickets in said lottery, shall enter into a bond, to the governour, in the name of the State of Delaware, in the sum of five thousand dollars,—conditioned for the faithful execution of this act,—and due payment of all prizes that may be drawn in said lottery, at the expiration of sixty days after the same shall be drawn, if demanded,—and further conditioned faithfully to apply all such sums of money as may be raised by said lottery, clear of all expenses, to furnishing the said Jeans with the aforesaid sum of two thousand dollars for the purpose aforesaid,—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 or persons and bodies corporate injured and aggrieved as aforesaid.

SEC. 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 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 said lottery each day; and when the said lottery shall be completed, they shall forthwith cause an accurate list of the fortunate numbers in said lottery to be published<sup>to publish list of prizes;—</sup>

in two of the newspapers published in this State and one in Philadelphia.

may sell  
scheme of  
lottery,—

or employ  
agents to sell  
tickets;—

provided they  
take security.

SEC. 5. *And be it enacted*, That if the said managers shall deem it expedient, for effecting the object of this act, to sell or dispose of the scheme of said lottery or of any class or classes thereof, or to employ an agent or agents to sell or dispose of the whole or any number of the tickets of any class or classes of said lottery, it shall and may be lawful for the said managers so to do: *provided* they shall take such security, from the person or persons to whom they sell or dispose of the scheme of the said lottery or of any class or classes thereof, or from the agent or agents who may be employed as aforesaid, for the faithful discharge of the trust that may be thus reposed in such person or persons agent or agents, as shall be approved by the said managers.

If lottery be  
not drawn in  
two years,  
money received  
for tickets  
to be refunded  
on demand.

SEC. 6. *And be it enacted*, That if the said lottery shall not be drawn within two years from the passing of this act, the said managers shall return and pay over on demand to every person or body corporate the respective sums that may have been received for tickets sold in said lottery.

Unexpended  
balance of the  
money raised  
to be paid to  
State-treasurer;—

to secure  
which bond  
to be taken  
by the managers.

SEC. 7. *And be it enacted*, That in the event of said Jeans' succeeding in the object of his pursuit, or desisting from his researches, should, in either case, a balance of the aforesaid sum of two thousand dollars remain unexpended, he, the said Jeans, shall pay such balance to the State treasurer for the use and benefit of the State;—to secure which payment, he is hereby required to enter into a bond, with sufficient security, to be taken and approved by the managers aforesaid.

PASSED AT DOVER, }  
February 3, 1825. }

## CHAPTER CCLXXIV.

A SUPPLEMENT to the act entitled, "*An act for improving the navigation of Murderkill creek and Spring creek, in Kent county.*" v. ch. cvii. p. 300.

WHEREAS the commissioners, appointed by the Preamble. said act to which this is a supplement, did lay out and partially cut, through the marsh adjoining to Murderkill creek aforesaid, two canals, thereby intending to cut off and avoid the two worst of the shoals in said creek, to wit, Walker's shoal and Warren's shoal, and at the same time to shorten the distance very considerably, but never completed either of the said canals, and altogether failed to render any benefit or advantage to the navigation of the said creek, the said canals having remained wholly useless for a considerable time:—and whereas Major Townsend, of the Village of Frederica, undertook the completion of one of the said canals, after the work had been abandoned by the said commissioners, and completely succeeded in making the said canal, which cut off Walker's shoal, navigable for all vessels using the said creek, thereby rendering to the public essential service in saving great delay and expense in the navigation of the said creek:—and whereas the said Major Townsend has been put to great inconvenience trouble and expense, in completing the said canal and rendering the same navigable as aforesaid, for which expense and trouble the said Major Townsend has not been reimbursed or paid:—and whereas it is just and proper that the said Major Townsend should be reimbursed and paid for his services trouble and expenses aforesaid.

SEC. 1. BE IT THEREFORE ENACTED, by the Commissioners appointed Senate and House of Representatives of the State to fix a fair of Delaware in General Assembly met, That Samuel compensation Warren Joseph Burchinall and Peter Lindall be, to Major and they are hereby appointed, commissioners Townsend for to improve the navigation of ascertain settle and fix what sum of money will be

Murderkill creek: a fair full and ample compensation to the said Major Townsend for his services trouble and expenses their award,—aforesaid, and what is justly due thereon: and when the said commissioners or a majority of them shall have ascertained settled and fixed the compensation aforesaid and the sum justly due, they or a majority of them shall make out and sign three awards in writing shewing the amount of the said compensation and the sum due as aforesaid so ascertained settled and fixed by them as aforesaid, one of which said awards the said commissioners shall deliver or cause to be delivered to the said Major Townsend, another to the secretary of State to be filed in his office, and the third to the recorder of deeds in and for Kent county to be recorded in his office and afterwards to be delivered by him to the prothonotary of the court of common pleas in and for Kent county to be filed and preserved in his office; and the said award shall be final and conclusive.

how to be made,—

to whom and where to be delivered and filed,—

to be final—

sum awarded  
how to be re-  
covered.

SEC. 2. *And be it further enacted,* That, until the amount of the said award with its interest and all costs thence arising or thereunto belonging shall be fully satisfied and paid to the said Major Townsend his executors administrators or assigns, it shall and may be lawful, to and for the said Major Townsend his executors administrators or assigns, to exact take and receive from the master or commander of every vessel navigating the said creek the sum of one dollar for every time such vessel shall pass up the said creek above the said canal or shall pass down the said creek from above the said canal; and in case the master or commander of any vessel aforesaid shall neglect or refuse to pay to the said Major Townsend his executors administrators or assigns, or to his or their agent, the said sum of one dollar for every time such vessel shall pass up or down the said creek as aforesaid,—then and in every such case, it shall and may be lawful to and for the said Major Townsend his executors administrators or assigns, and he and they or any of them are hereby fully authorized and empowered, either by themselves or by any sheriff or constable of Kent county,

forthwith to seize and sell any part of the rigging or furniture belonging to any such vessel, the master or commander of which shall neglect or refuse to pay as aforesaid; and, after retaining the said sum or sums which may be due for the said vessel's passing up or down the said creek as aforesaid and constable's costs, as in other cases of seizing and selling goods on execution, to return the balance of the proceeds of such sale to the said master or commander of the said vessel, or to the owner or owners thereof:—and in addition to the said remedy hereby given to the said Major Townsend his executors administrators or assigns, he and they or any of them may proceed, for the recovery of the said sum or sums of money which may be due for any vessel's passing up or down the said creek as aforesaid, against the owner or owners of any such vessel, before any justice of the peace in and for Kent county aforesaid, in the same manner as for the recovery of other debts under fifty dollars.

CHAP.  
CCLXXIV.  
1825.

SEC. 3. *And be it further enacted*, That it shall be the duty of the said Major Townsend his executors administrators or assigns, to return, quarter yearly, to the prothonotary of Kent county aforesaid, a statement of all monies, by him or them, or any of them, received towards payment of the award mentioned in the first section of this act; which said statements shall be carefully filed and preserved by the said prothonotary: and when and as soon as the amount of the said award, with its interest and all costs, shall be fully satisfied and paid, and not till then, the tax or toll imposed by the second section of this act on all vessels navigating the said creek shall cease and determine.

Statement of  
monies re-  
ceived on ac-  
count of said  
award to be  
returned  
quarterly to  
prothonotary.

SEC. 4. *And be it enacted*, That if any of the commissioners, named in the first section of this act, shall die refuse or in any manner be rendered unable to act, then and in such case, or in any other case of vacancy among the the said commissioners, named in the said first section of this act, or hereafter appointed by the governour, it shall be the duty

Governour to  
fill vacan-  
cies,—  
among com-  
missioners  
named in first  
section of this  
act,—

CHAP. of the Governour of this State, on the application of  
CCLXXIV. the said Major Townsend his executors administra-

1825. tors or assigns, to fill such vacancy or vacancies, by  
the appointment of other good and disinterested men.

and among the commis- And in all cases of vacancies, which have happened  
sioners for im- or which shall hereafter happen, among the commis-  
proving the sioners for improving the navigation of Murderkill  
navigation of creek and Spring creek aforesaid, either by the death  
Murderkill removal from the county refusal to serve or other-  
creek and wise of any of the said commissioners, first appoint-  
Spring creek, ed by the act to which this is a supplement, or of

4 v. 300, 301. any heretofore, or who shall hereafter be appointed  
by the governour, it shall and may be lawful for the  
governour of this State, from time to time as occa-  
sion may require, to fill such vacancies by the ap-  
pointment of other fit persons.

PASSED AT DOVER, }  
February 3, 1825. }

## CHAPTER CCLXXV.

AN ACT concerning the sale of real estates made  
by the sheriff in and for Newcastle county.

SECTION 1. BE IT ENACTED by the Senate  
and House of Representatives of the State of Dela-  
ware in General Assembly met, That it shall be  
the duty of the sheriffs of Newcastle county to make  
all sales of real estate, either on the premises to be  
sold, or at some public house as near as may be, in  
the same or the adjoining hundred, to said premises,  
any law usage or custom to the contrary notwith-  
standing.

Sheriff of  
Newcastle  
county to sell  
real estate on  
the premises  
or at the near-  
est public  
house thereto.

PASSED AT DOVER, }  
February 4, 1825. }

## CHAPTER CCLXXVI.

CHAP.  
CCLXXVI.  
1825.

AN ACT *making provision for the support of government for the year one thousand eight hundred and twenty-five.*

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the sum of <sup>15,000 dollars</sup> fifteen thousand 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 <sup>4 v. 328,</sup> 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;" which <sup>how to be ap-</sup> said sum of fifteen thousand dollars shall be apportioned, <sup>assessed and</sup> assessed and levied, on the amount of the <sup>levied;</sup> aggregate valuation of the real and personal property within this State, made in pursuance of the act of the General Assembly of this State entitled "An <sup>5 v. 167.</sup> act authorizing and directing a general assessment of the real and personal property of this State," passed in February in the year of our Lord one thousand eight hundred and sixteen: and it shall be the <sup>duty of the</sup> duty of the auditor of accounts, and he is hereby <sup>auditor of ac-</sup> authorized and required, to ascertain and apportion, <sup>counts in this</sup> upon the aforesaid amount of the aggregate valuation, the sum <sup>per centum</sup> necessary to raise, clear of all charges of collecting, the taxes hereby granted and laid.

SEC. 2. *And be it further enacted,* That the <sup>Appropriation of the</sup> aforesaid sum of money shall be appropriated and applied to and in the following manner,—that is <sup>sum to be</sup> 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 of State, and auditor of accounts, up to the first day of January which will be <sup>raised.</sup>

CHAP. in the year of our Lord one thousand eight hundred  
 CCLXXVI. and twenty six; and so much thereof as shall be ne-  
 1825. cessary 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 of  
 the laws passed at this session of the General As-  
 sembly, 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 mo-  
 ney due to the citizens of this State, for which provi-  
 sions shall be made by law.

PASSED AT DOVER, }  
 February, 4 1825. }

### CHAPTER CCLXXVII.

AN ACT *allowing for a limited time additional  
 justices of the peace to the county of New-  
 castle.*

SECTION I. BE IT ENACTED *by the Senate  
 and House of representatives of the State of Dela-  
 ware in General Assembly met, two thirds of the  
 members of each house consenting to and approving  
 thereof,* That the county of Newcastle shall be en-  
 titled to two justices of the peace, in addition to the  
 number now allowed by law; one of whom shall be  
 appointed and continue to reside,—in the hundred  
 of Red-lion and within at least one mile of the vil-  
 lage of St. Georges,—and one other, within at least  
 one mile of the Buck tavern and as near as conven-  
 iently may be to the line of the Chesapeake and  
 Delaware canal. *Provided however,* that this act,  
 and the appointments of justices of the peace made  
 under and in pursuance of its provisions, shall contin-  
 ue and remain in force for seven years from the time  
 of issuing the commissions, and no longer.

Appointment  
 of two addi-  
 tional jus-  
 tices of the  
 peace in New-  
 castle county  
 authorized:—  
 where to be  
 located and  
 to continue to  
 reside.

This act and  
 the appoint-  
 ments under  
 it to remain  
 in force but  
 seven years  
 from time of  
 issuing the  
 commissions.

PASSED AT DOVER, }  
 Feb. 4, 1825. }

CHAP.  
CCLXXVIII  

---

1825.

**1825.**

SEC. 3. *And be it further enacted, That the Assessors—*  
*assessors of the several hundreds in each county,*  
*shall appear before the levy court and court of ap-*<sup>*to appear be-*</sup>  
*peal of their county at the meeting of the said court*<sup>*before levy*</sup>  
*on the last Tuesday of September, and shall each,*<sup>*court—*</sup>  
*and when—*

and take  
oath—

in the presence of said court, take an oath or affirmation according to the following form viz:—

“I do solemnly swear (or affirm) that I will perform the duties of my office of assessor truly diligently and faithfully according to the laws of the land; that I will spare no person for favour affection reward or the hope thereof, and that I will wrong no person through hatred prejudice or ill will; and that I will in every case do equal right and justice according to the best of my skill and judgment. So help me God (or so I do solemnly affirm)”

and receive  
instructions:

and the said court shall give to said assessors instructions,—by prescribing forms for their returns,—and by causing to be read to them the first fourth fifth sixth seventh eighth ninth and tenth sections of the

(2 v. 1247.)

act “for the valuation of real and personal property within this State” passed February 9, 1796, and

(2 v. 1325.)

the eighth section of the “additional supplement to that act passed January 19, 1797; and the fourth and

for this purpose, levy court may appoint other days,

sixth section of this act: and the said court may appoint, in case of necessity, other day or days for the appearance of the assessors or any one or more of them, to take oath or affirmation, and receive instructions as aforesaid: and any two of the commis-

and two members shall form a quorum.

sioners of the said court shall constitute a quorum, for administering the oath or affirmation and giving instructions to assessors.

Assessors—  
to return their assessments to the levy court,  
and when,—  
to be themselves rated by the levy court,—

and for that purpose to deliver,  
and when,  
a statement in writing,  
under hand  
and on oath,  
of all their taxable property.

SEC. 4. *And be it further enacted*, That the assessors shall respectively return their respective valuations and assessments to the levy court and court of appeal of their county, on the first Tuesday of February in every year: and the levy court and court of appeal, at their meeting in that month, shall value the property and determine the personal rate of each assessor; for which purpose each assessor shall, on the first Tuesday of February, deliver to the said court a full and true statement in writing, under his hand and upon his solemn oath or affirmation, of all his property real and personal liable to assessment, setting forth the quantity situation and improvements of the real estate; and the clerk of the peace, or either

of the commissioners of the said court, is authorized to administer and certify such oath or affirmation. And the said court may examine correct and add to the valuations, rates and assessments returned by the assessors, and may call before them every person who ought to have been assessed and shall have been omitted by the assessors, and may require such persons to render a full and true statement of all his or her property real and personal liable to assessment, and shall, with the assistance of the assessors who ought to have made the valuation, or otherwise, make a valuation of all such property and determine the personal rate of all such persons, and such valuation and rate shall be considered in the same manner as if made and returned by the proper assessor and placed upon the assessment list of the proper hundred or hundreds: and if any assessor, or other person omitted and called upon as aforesaid, shall refuse or neglect to deliver to the said court a full and true statement of his or her property as aforesaid,—or if any statement delivered shall be false and fraudulent,—in either case the said court shall ascertain by the best means in their power the full value of the property real and personal liable to assessment of every such assessor or other person so neglecting or refusing to deliver a statement or delivering a false and fraudulent statement, and shall double the value so ascertained, and the amount produced shall be the valuation of such assessor or other person to all intents and purposes; and moreover every assessor, or other person omitted and called upon as aforesaid, shall, for every neglect or refusal to deliver a statement as aforesaid, or for delivering a false and fraudulent statement, forfeit and pay to the State a fine not exceeding forty dollars, with costs of prosecution, to be recovered by indictment in the court of general quarter sessions of the peace and gaol delivery: *Provided always* that a statement shall be required from an assessor, and a valuation of his property shall be made, only at the time when and so far as such valuation ought to be made according to the sixth section of this act. And after the said court shall have examined said returns, and made

Levy court—  
to correct the  
assessments,  
and rate per-  
sons omitted  
by the as-  
sessors.

Assessor or  
person omit-  
ted,—  
(2 v. ch. 98, c.  
sec. 10, 1253.)  
neglecting  
to deliver a  
statement of  
his property,  
or delivering  
a false state-  
ment,

to be doubly  
rated,  
and pay a fine,

proviso—

Clerk of the  
peace,

such corrections and additions as to them upon such examination shall seem just and proper, the clerk of the peace shall make, and, on or before the twentieth day of February in each year, set up and publish; in one of the most public places of each hundred in his county, an alphabetical list of the names of persons with their respective rates and valuations, taken from the assessment list of such hundred, as the same shall stand after such corrections and additions, with a notice of the day of holding the court of appeal; which list shall contain and specify as follows, to wit,—in the year in which a general valuation of real and personal property shall be returned, the said list shall contain the names of all persons upon the assessment list of the hundred, and shall specify the real estate of each person, the number of acres and valuation, the number of slaves and valuation, the personal rate and the valuation of personal property, and the total amount of the rate and valuation;—and in the year in which a general rate of persons and valuation of personal property only shall be returned, the list shall contain the names, in alphabetical order, of all the persons upon the assessment list of the hundred, whose personal property shall be valued or personal rate imposed, and such list shall specify the personal rate, and the number of slaves and the valuation, and the valuation of the personal property, and the total amount of the rate and valuation;—and in all other years, the list shall contain only additions or alterations that shall have been made to or of the assessment list of the hundred: and when any owner of real estate shall not reside in the county, information of the valuation and of the day of holding the court of appeal shall be directed, by the clerk of the peace, to such owner, in a letter addressed to the nearest post-office to him or her that can be conveniently ascertained. And it shall be the duty of the assessors to attend the levy court and court of appeal, on the first Tuesday of February, and on the first Tuesday of March, and on such other days as the same court may appoint, under a penalty of twenty dollars for every neglect or refusal to be recovered by indictment with costs.

to publish,—  
and when,—

and where,—

an alphabetical list of persons with their rates and valuations,—

and a notice of holding court of appeal

what said list shall contain and specify.

Owner of real estate not residing in the county to be informed of valuation and of holding court of appeal by letter from the clerk, &c. Penalty on assessors for not attending first Tuesday of March, and on such other days as the same court may appoint, under a penalty of twenty dollars for every neglect or refusal to be recovered by indictment with costs.

**SEC. 5.** *And be it further enacted,* That the levy court, <sup>Levy court,</sup>  
 court and court of appeal, in each county, shall sit, <sup>when to sit as</sup>  
 as a court of appeal, on the first Tuesday of March <sup>a court of ap-</sup>  
 in every year, and on such days and times thence <sup>peal—</sup>  
 ensuing as it shall be necessary to adjourn to; and <sup>its duties and</sup>  
 shall examine the rates and valuations made and re- <sup>powers as a</sup>  
 turned by the assessors and the corrections thereof <sup>court of ap-</sup>  
 and additions thereto that may have been made, — <sup>peal.</sup>  
 and shall receive hear and determine appeals against  
 any the said rates and valuations, — and shall have  
 full power, either upon their own examination or  
 upon appeal to increase or diminish any rate or val-  
 uation for just cause, — and to call before them any  
 person or persons whose names ought to be placed  
 on the assessment list and who shall have been omit-  
 ted by the assessors or by the said court at their  
 former meetings, and to fix the personal rate and  
 make a valuation of the property of such person or  
 persons according to the provisions contained in  
 the fourth section of this act, and the said court may  
 require such person or persons to exhibit a statement  
 of his her or their property respectively, and a re-  
 fusel or neglect to exhibit a statement according to  
 such requirement or the exhibiting a false and frau-  
 dulent statement shall incur the same consequence  
 and penalty and be liable to the same proceeding as  
 provided by said fourth section of this act for the  
 like offences; — and the said court shall have power  
 to arrange all the rates and valuations according to  
 right and justice, so that no person may be unequally  
 or overrated in the county; — and if any rate or val-  
 uation shall be in a hundred to which it does not be-  
 long, the said court may transfer it to the proper  
 hundred: and a valuation or assessment list shall not  
 be liable to be called in question elsewhere than in <sup>Assessment</sup>  
 the levy court and court of appeal; but the same, as <sup>list not to be</sup>  
 it shall stand in the said court, shall be absolutely <sup>questioned</sup>  
 conclusive. <sup>but in the le-</sup>  
<sup>vy court and</sup>  
<sup>court of ap-</sup>  
<sup>peal.</sup>

**SEC. 6.** *And be it further enacted,* That a gene- <sup>General rate</sup>  
 ral rate of persons and valuation of personal property <sup>of persons</sup>  
 in each hundred in the several counties shall stand <sup>and valuation</sup>  
 and be acted on for six years, — and that such gene- <sup>of personal</sup>  
 property, — <sup>Property, —</sup>

how long to be acted on, when to be made and returned. ral rate of persons and valuation of personal property shall be made, so as to be returned on the first Tuesday of February in the year of our Lord one thousand eight hundred and twenty-eight, and every

General valuation of real property,— how long to be acted on, when to be made and returned. sixth year thereafter: and that a general valuation of the real property in each hundred in the several counties shall stand and be acted upon for twelve years,—and that such general valuation of real property shall be made, so as to be returned on the first Tuesday of February in the year of our Lord one thousand eight hundred and twenty-eight, and every

Present rates and valuations to stand till new ones made Persons liable and not on the assessment lists to be annually rated, twelfth year thereafter: and that the present rates of persons and valuations of real and personal property shall stand and be acted upon until the said day and year; *Provided always*, that the assessor of each hundred shall annually rate the persons of those liable to such rate, who shall have arrived to the age of twenty-one years since the making of the assessment for the preceding year, or who shall come to reside in the county, or who shall before have been

and their property valued. omitted, and shall value the personal property of all such persons, new leases taken by lessees of houses in boroughs towns or villages, new ground rents, any real property that shall have been before omitted, and personal property acquired by bequest; and every assessor shall also certify and return all descents alienations and changes in the ownership of real estate within his hundred, and the person or persons, who, by the assessment list as the same shall be constituted or made by or from such returns, shall appear to have become and to be, by reason of any descent alienation or change, the owner or owners of any real estate, shall stand assessed and charged with the valuation thereof then in force: and the return of each assessor, with such corrections as shall be made therein by the levy court and court of appeal, shall be a part of the assessment list of the hundred to which it shall belong, and as such be conclusive.

And the returns of the assessors to be a part of the assessment list.

Levy court to calculate annually the amount of the road tax,— SEC. 7.—*And be it further enacted*, That the levy court and court of appeal shall every year calculate and settle the amount of the road tax, which shall include all sums necessary to be raised for the year

for purposes concerning causeways bridges and roads observing as to the road tax in Newcastle and Sussex counties the proviso to this section),—the amount of the poor tax, which shall include all sums necessary to be raised for the year for purposes concerning the poor-house and for the support of the poor,—and the amount of the county tax, which shall include all other sums of money necessary to be raised for the year to discharge the demands upon the county accrued or which it shall be deemed expedient to provide for;—and shall apportion and lay such road tax poor tax and county tax, to and upon the rates of persons and valuations of real and personal property in the several hundreds as the said rates and valuations shall stand upon the assessment lists of the said hundreds respectively, at and according to a certain rate for each of the said taxes in and upon every hundred dollars of the said rates and valuations, and so pro rata. And the said levy court and court of appeal shall, on or before the first Tuesday of April in every year, cause to be issued to the collector of each hundred a duplicate, transcribed and certified by the clerk of the peace, of the assessment list of the hundred for which such collector shall have been appointed, with a warrant annexed to such duplicate; which warrant shall be under the hands of two or more of the commissioners of the said court and according to the following form, filling the blanks with the proper insertions.

“ county ss. The State of Delaware  
 “ to the collector of hundred Greeting;—  
 “ We command you that you collect from all and  
 “ every the persons named in the duplicate hereunto  
 “ annexed, for their road tax, poor tax and county  
 “ tax respectively, for the year , the fol-  
 “ lowing rates in and upon every hundred dollars of  
 “ the amount of the rates and valuations wherewith  
 “ they respectively according to said duplicate stand  
 “ assessed, and so pro rata, that is to say, the rate of  
 “ per hundred dollars for the road tax,  
 “ the rate of per hundred dollars for the  
 “ poor tax, and the rate of per hundred  
 “ dollars for the county tax, and if any person or

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the poor tax,

and the coun-

ty tax:

and apportion

and lay them,

etc.:

and cause to

be issued to

each collector

a duplicate of

the assess-

ment of his

hundred,

with a war-

rant annexed

(see sec. 9.)

CHAP. "persons named in said duplicate shall neglect or  
 CCLXXVIII "refuse to pay the said rates in ten days after you  
 1825. "shall demand the same, we command you in such  
 "case, that you levy and make the said rates, or the  
 "part thereof remaining unpaid, with lawful costs, in  
 "the manner and by the means and proceedings pre-  
 "scribed by our laws in such case made and provi-  
 "ded, and if goods or chattels lands or tenements of  
 "any person so neglecting or refusing cannot be  
 "found by you sufficient to satisfy such rates with  
 "costs, in such case that you take the body of such  
 "person and convey him to the common gaol and  
 "deliver him to the keeper of such gaol, who is  
 "commanded to receive and detain him in safe cus-  
 "tody, till the rates with costs be paid or such per-  
 "son shall be legally discharged: And we further  
 "command you, that you pay the amount, which ac-  
 "cording to this warrant and the annexed duplicate  
 "you are required to collect, in the manner and  
 "within the times appointed by our laws in this  
 "behalf. Hereof fail not at your peril. Given at  
 " by order of the levy court and court  
 "of appeal, under the hands of us commissioners  
 "of the said court, the day of  
 "in the year of our Lord one thousand eight hun-  
 "dred and

Seal of Office  
 of the  
 Clerk of the Peace.

"Attest

Commis-  
 sioners.

"clerk of the peace."

And every warrant shall be sealed with the seal of  
 the clerk of the peace and attested by him according  
 to the foregoing form. *Provided always*, that the  
 levy court and court of appeal in Newcastle county,  
 in calculating and settling the road tax, shall include  
 only such expenses and charges as shall be properly  
 chargeable upon the county according to law, and  
 not any such sum as is to be ascertained by the  
 commissioners of the roads in the several hundreds  
 in said county, whose powers or duties shall not be  
 impaired altered or in any manner affected by this

*Proviso—*  
 respecting  
 the counties  
 of Newcastle,

act: And also, that the levy court and court of appeal <sup>and Sussex.</sup> in Sussex county, in calculating and settling the road tax, shall have respect to and be governed by the law prescribing what expenses and charges shall be borne by the hundreds respectively and what expenses and charges shall be borne by the county in relation to roads bridges and causeways; and this act shall not alter or affect any law relative to the manner in which such expenses and charges in said county are to be borne; and also that this act shall not impair alter or affect any legal provisions for discharging the road tax in Sussex county by work and labour or materials.

SEC. 8. *And be it further enacted,* That if any <sup>Duties and</sup> person or persons shall refuse or neglect to pay to <sup>owners of the</sup> the collector, in ten days after demand, the amount <sup>collectors in</sup> of all the rates, which such collector according to his <sup>collecting</sup> duplicate and warrant shall be required to collect <sup>taxes,—</sup> from him her or them respectively, or any part thereof, it shall be the duty of the collector and full power is hereby given to him to levy the said amount or the part thereof unpaid, with costs, by distress and <sup>distress and</sup> sale of the goods and chattels of the person or per- <sup>sale of goods</sup> sons so refusing or neglecting; and any surplus, that <sup>of party tax-</sup> may be raised by the sale over the sum required, shall be paid to the owner of the goods without delay; and notice of every such sale shall be given by advertisements posted in at least four of the most public and convenient places of the county, two of which shall be in the hundred of said collector:—<sup>distress and</sup> and if the owner or owners of any lands or tenements in <sup>sale of goods</sup> any hundred shall not reside in the hundred where <sup>of tenant;—</sup> such lands or tenements are situate, or shall be minors, or shall neglect or refuse to pay the rates laid upon the valuation of such lands or tenements in ten days after demand thereof, it shall be the duty of the collector and he shall have power to collect the rates laid upon such valuation from the tenant or tenants or persons occupying and having charge of such lands or tenements, and to levy and make the same with costs by distress and sale of the goods and chattels of such tenant tenants or other

CHAP. persons, if payment shall not be made in ten days  
 CCLXXVIII after such tenant tenants or other persons shall be  
 1825. required to pay such rates; and the sum that shall  
 be paid by or levied from such tenant tenants or other  
 persons shall be a set off against and be deducted  
 from the rent or other demand of the owner or own-  
 ers for the use or profits of such premises, or in  
 case there be not rent or other demand sufficient to  
 cover the sum so paid or levied, the tenant or other  
 person shall have right to demand receive and reco-  
 ver the same from the owner or owners with costs;  
*Provided* that nothing herein contained shall alier  
 any contract made or to be made between a landlord  
 and his tenant:—And full power and authority is  
 hereby given to every collector, after the first day of  
 September next following the issuing of the dupli-  
 cate and warrant, to levy and make the rates, requi-  
 red by such duplicate and warrant to be collected, or  
 any part thereof, from the lands and tenements of  
 the person or persons from whom such rates ac-  
 cording to such duplicate and warrant shall be re-  
 quired to be collected, in case such collector shall  
 not be able to find goods or chattels of such person  
 or persons sufficient to satisfy such rates and shall  
 not be able to collect the same from the tenant or te-  
 nants or persons occupying and having the charge  
 of lands or tenements according to the provision  
 herein before contained; and to this end, if there be  
 timber or grass upon such lands that can be sold to  
 satisfy the rates, the collector shall sell so much of  
 said timber or grass as will be sufficient to satisfy the  
 said rates with costs, giving notice of the sale by ad-  
 vertisements posted in at least five of the most pub-  
 lic and convenient places in the county, two of which  
 shall be in the hundred of said collector; and the  
 purchaser shall have full right to take and carry away  
 any timber or grass so sold, and shall have privilege  
 of ingress and egress for that purpose; but if there  
 be not timber or grass on the premises sufficient to  
 pay the rates, or a sale of such timber or grass can-  
 not be effected, then the collector shall sell so much  
 and such part of the lands or tenements as shall be  
 sufficient to satisfy the said rates with costs, giving

proceedings  
 against the  
 lands of par-  
 ty taxed, to  
 wit,

by sale of  
 timber or  
 grass thereon,

by sale of  
 part of the  
 lands,

at least fifteen days notice of such sale by advertisements posted in at least ten of the most public and convenient places of the county, and also at least fifteen days written notice to the owner or owners if residing in the county; and such sale of lands or tenements shall be returned to the court of common pleas at the next term in the county where the premises lie after making such sale, and the said court may inquire into the circumstances of the said sale and shall either approve or set aside the same; if the court shall approve the sale, the collector shall make a deed to the purchaser or purchasers for the premises sold; and thereby all the estate and title of the person or persons, as whose property the premises shall be sold, shall pass; if the court shall set aside the sale, an order may be made, if deemed proper, for another sale, which shall be returned and approved or set aside in like manner, and so on till the rates shall be collected; and if it shall be made to appear to the said court, that a sale of part of the premises cannot be made, the said court may in their discretion order a sale of the entirety, making such order as to the surplus as may be deemed just; but no sale shall be approved if the owner be ready at court to pay the rates and costs;—and if the collector or shall not be able to find goods or chattels lands or tenements of any person or persons sufficient to satisfy the rates, which he shall according to his warrant and duplicate be required to collect from such person or persons, and such person or persons shall neglect or refuse to pay such rates in ten days after demand, it shall be lawful for the collector to take and imprison the body of every such person according to the form and effect of said warrant: and the power of a collector to execute his warrant, by distress and sale of goods and chattels, or by taking and imprisoning the body, shall extend throughout the county in which the hundred for which he shall be appointed shall be situate: and the oath or affirmation of a collector shall be received and allowed as competent evidence in all cases to prove a demand by him of rates; and no demand shall be necessary from any person not having a regular known

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by sale of all  
the lands:—

imprisonment  
of party taxed.

Power of collector to sell goods and imprison the body to extend over the county.

Oath of collector to prove demand of rates—demand of rates when

not neces-  
sary—

proceeding  
for taxes be-  
fore justice of  
peace.

Collector or  
his executors  
may proceed  
on his war-  
rant for two  
years from  
date thereof.

Delinquen-  
cies, when  
and by whom  
to be allowed  
to collector.

Redemption  
of lands sold  
for taxes:

deed for land  
sold for taxes,  
when to be  
given.

Collectors,—  
by whom,  
and when,  
to be appoint-  
ed—  
their term of  
office—  
to give  
bond,—

residence in the county; but non-residents may be proceeded against in the same manner as if a demand had been duly made on the day of issuing the warrant: and no proceeding shall be had before any justice of the peace for the recovery of any rates or taxes, excepting in the cases of persons dying or removing from the county before payment; but a person, who shall be appointed a collector and to whom a duplicate and warrant shall be issued and delivered, or his executors or administrators, shall have and may exercise all the authority and powers granted by this act, and proceed, by all the means herein prescribed for the collecting levying and making of the rates, required according to such warrant and duplicate to be collected, for the space of two years from the date of such warrant: but no delinquencies shall be allowed to any collector, except by the levy court and court of appeal, when sitting as a court of appeal, in March next ensuing the date of his warrant, and at no other time whatever. *Provided*, that the owner of any lands, their heirs executors or administrators, or any person on their behalf, shall have liberty to redeem the lands sold as aforesaid, within two years from the time of sale, upon payment to the purchaser his heirs or assigns of the amount paid by such purchaser, with interest for the same at the rate of twenty per centum per annum; and no deed shall be given in pursuance of such sale until the time of redemption shall have expired.

SEC. 9. *And be it further enacted*, That the levy court and court of appeal in each county shall, in the month of February in every year, appoint a collector for every hundred in their county, who shall hold his office for one year; and every collector shall, before his appointment shall be deemed complete, give bond to the State of Delaware, with two or more sufficient sureties being freeholders of the county to be approved by the said court, in a penalty to be determined by said court and to be as nearly as can be ascertained double the amount which such collector will be required to collect, with con-

dition thereunder written according to the following condition  
form, viz.— thereof;—

"The condition of the above written obligation is

“such, that if the above bounden

“being the collector of

hundred in

county, shall faithfully and diligently

"collect all the rates and taxes which he shall ac-

“ cording to the duplicate and warrant to be issued

“to him as such collector be required to collect,—

“and all taxes whatever which shall be committed

“ to him for collection,—and shall pay the amount

“of all such rates and taxes, excepting only so far

“as allowances shall be made to him, by the levy

“ court and court of appeal, for delinquencies com-

\* missions or otherwise, to the officers, authori-

zed according to law to receive the same, in the

"manner and within the times prescribed by law or

“legally appointed by the levy court and court of

“appeal of said county for that purpose;—and fur-

“thermore, if the said \_\_\_\_\_ shall perform

"the duties of his office of collector as aforesaid in

“all things with fidelity,—then the above written

"obligation shall be void:"

And to the said bond shall be subjoined a warrant of attorney to confess judgment thereupon; and every such bond and warrant of attorney and judgment thereupon confessed shall be joint and several. And

if any person, who shall be appointed a collector, shall refuse or neglect to give bond, with sureties as aforesaid, within such time as the said court shall limit for that purpose. in such case the appointment

shall be absolutely void; and the said court shall ap-

shall be absolutely void, and the said court shall appoint some other person collector for the hundred.

who shall give bond with sureties as aforesaid: and

in case of his refusal or neglect to give bond with

sureties as aforesaid, another appointment shall be

made, and so on until bond with sureties shall be

given as herein before required:—and no warrant and duplicate for a hundred shall be issued, nor shall any such warrant be dated, until a collector

shall be appointed for such hundred and bond and security be given as aforesaid, and every collector given;—

and his sureties shall, by and upon the issuing and upon delivery

of duplicate  
and warrant,  
to be charge-  
able with  
whole amount  
of rates,

subject only  
to allowances  
by levy  
court;—

in case of  
death, execu-  
tors to finish  
collection:

remedy for  
sureties of  
collector  
dead remo-  
ved or inca-  
pable.

delivery to him of the duplicate and warrant for his hundred, become and be chargeable with and responsible for the whole amount of the rates, which according to such duplicate and warrant he shall be required to collect, and with all taxes that shall be committed to him for collection, subject only to allowances to be made by the levy court and court of appeal for delinquencies commissions or otherwise: and the death of the collector shall not discharge from, nor in any manner impair, this responsibility; but upon the death of the collector, the power to collect all the rates, not collected upon his duplicate and warrant at the time of his death, shall devolve to his executors or administrators; who may execute the said warrant in the same manner and by the same proceedings and as fully as the collector could have done: *Provided always*, that in case a collector shall die, or remove from the county, or be incapable of proceeding in the collection, and the sureties for such collector or their executors or administrators shall make application to the levy court and court of appeal for relief,—the said court, in their discretion may appoint some freeholder of the hundred collector in the place of him so deceased removed or incapable, and may compel the delivery of the duplicate and warrant to such collector, or cause a new duplicate and warrant to be issued to him after he shall have given bond with sureties as herein before provided; and such collector so appointed and his sureties shall be chargeable with all rates which shall remain uncollected by the former collector, subject to allowances as aforesaid: but such appointment shall not discharge the sureties of the first collector from any part of their responsibility under their bond, nor in any manner impair such responsibility; but all monies collected by the last collector shall be carried as a credit to the charge against the first collector: and a collector so appointed, in place of one so dead removed or incapable, shall have all the powers of a collector, and the same shall devolve to his executors and administrators on his death, and all the principles and provisions that apply to the collector originally appointed for the year shall apply to

him, excepting that his office shall continue for the residue of the term of the collector originally appointed; and if a new warrant be issued to him, it, with the duplicate, shall bear the same date with the original warrant and duplicate for the year. And the bonds of collectors shall be filed and carefully kept in the office of the clerk of the peace, and shall be proceeded on at the instance of the county treasurer, or the treasurer of the trustees of the poor, or by order of the court aforesaid.

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Bonds of collectors to be kept in office of clerk of the peace.

SEC. 10. *And be it further enacted,* That it shall be the duty of every collector to pay, to the county treasurer of his county, the amount required to be collected by him for the county tax, as follows, to wit,—one-third part thereof on or before the first day of July,—one-third part thereof on or before the first day of October,—and the residue thereof, after deducting commissions and delinquencies, on or before the first Tuesday of February,—next after his appointment;—and to pay, to the treasurer of the trustees of the poor of his county, the amount required to be collected by him for the poor tax, as follows, to wit,—one-third part thereof on or before the first day of July,—one-third part thereof on or before the first day of October,—and the residue thereof, deducting delinquencies and commissions, on or before the tenth day of December,—next ensuing his appointment;—and to pay, to the county treasurer of his county, the amount required to be collected by him for the road tax, as follows, to wit,—one moiety thereof on or before the first day of June,—and the residue thereof, delinquencies and commissions being first deducted, on or before the first day of October,—ensuing his appointment: but in Sussex county, no part of the road tax shall be levied, till the expiration of the time for discharging it by labour;—and certificates, duly granted for labour done in discharge of the road tax according to law, shall be received by and from the collector on account of that tax: And the levy court and court of appeal may in their discretion order payment of all or any of the taxes aforesaid at an earlier day than those

Collectors, when to pay over,

the county tax—

the poor tax—

the road tax—

but levy court may order earlier payments,—

and may order road tax to be paid to overseers of roads.

Collectors to take two receipts for each payment, and deposit one with clerk of the peace; clerk of the peace to state an account of all such receipts; penalty for neglecting, to take—or give—or to deliver to clerk,—such receipt. Collectors, when to render their accounts to levy court;

settlement thereof by levy court to be final.

County treasurer,—by whom, and when, to be appointed,—his term of office,—to give bond,—

before appointed, and may order payment of the road tax or any part thereof to be made to an overseer or overseers of the roads particularly named; *Provided* that this clause shall not controul or affect any provisions concerning the discharge of road taxes in Sussex county by work done or materials provided. And every collector shall, upon paying a sum of money to the county treasurer or treasurer of the poor or overseer of the roads, take two receipts, which such officers are enjoined to give, and shall deposit one of said receipts with the clerk of the peace of his county within ten days from taking the same; and the clerk of the peace shall state an account of all such receipts with every collector and deliver the same as the levy court shall direct: and for every neglect or refusal to take—or to give—or to deliver to the clerk of the peace—such receipt,—the collector, county treasurer, or treasurer of the poor, shall respectively be liable to indictment, and to pay a fine not exceeding ten dollars, with costs. And every collector shall, on the first Tuesday of March next ensuing the issuing and date of his warrant, render to the levy court and court of appeal of his county a just and true account of all the rates which he shall have been required according to his warrant and duplicate to collect and of all payments by him made; and the said court shall proceed to examine adjust and settle such account, making all just allowances, and the adjustment and settlement by said court shall be final and conclusive: and the said court may require other accounts from the collectors as may be deemed expedient.

SEC. 11. *And be it further enacted*, That the levy court and court of appeal in each county shall, in February in every year, appoint some good and substantial freeholder of the county to be the county treasurer, who shall hold his office for one year, and shall, before entering on the duties of his office, give bond, with two or more sufficient sureties to be approved by the said court, to the State of Delaware in the penalty of ten thousand dollars, upon condition according to the following form, viz—"The condition of the

"above written obligation is such, that if the above <sup>condition</sup>  
 "named <sup>thereof</sup>, being county treasurer  
 "for <sup>county</sup>, shall and do well and  
 "truly account for all and every the sum and sums  
 "of money which shall come to his hands as such  
 "treasurer,—and shall pay and apply the same ac-  
 "cording to law,—and also shall pay any balance that  
 "shall remain in his hands, after deducting from  
 "the amount, with which he shall as such treasur-  
 "er be justly chargeable, all payments lawfully  
 "made by him and all allowances made to him by  
 "the levy court and court of appeal of  
 "county, to his successors in office, or otherwise as  
 "the said court shall order and appoint,—and fur-  
 "thermore, if the said <sup>shall per-</sup>  
 "form the duties of his office of county treasurer as  
 "aforesaid in all things with fidelity,—then the  
 "above written obligation shall be void:" and to the  
 "said bond there shall be subjoined a warrant of at-  
 "torney to confess judgment thereon; and the said  
 "bond and warrant and the judgment thereon entered  
 "shall be joint and several. And if any person being <sup>not giving</sup>  
 "appointed county treasurer shall neglect or refuse to <sup>bond in time,</sup>  
 "give bond with sureties as aforesaid, within such <sup>new appoint-</sup>  
 "time as the said court shall order, the appointment <sup>ment to be</sup>  
 "shall be absolutely void; and another person may be <sup>made.</sup>  
 "appointed by said court, who shall give bond with  
 "sureties as aforesaid, and so on until bond with sure-  
 "ties shall be given.

SEC. 12. *And be it further enacted,* That it <sup>Duties of the</sup>  
 shall be the duty of the county treasurer to demand <sup>county treasur-</sup>  
 and receive, from the collector of every hundred <sup>er,</sup>  
 in his county, the amount of the rates,—which such <sup>receiving</sup>  
 collector according to his duplicate and warrant <sup>taxes—</sup>  
 shall be required to collect for the county tax and  
 the road tax,—as the same shall according to this  
 act be payable,—excepting only so much of the road  
 tax as the levy court and court of appeal may order  
 to be paid by the collectors or any of them to over-  
 seers of roads;—and to keep just accounts with <sup>keeping ac-</sup>  
 every collector, charging him with the respective <sup>counts with</sup>  
 amounts of the rates, <sup>collectors—</sup> required to be collected by him

CHAP. for said taxes, separating and crediting him with all  
 CCLXXVIII payments by him made on account of each of said  
 1825. taxes distinctly; and in Sussex county certificates  
 receiving to the collector as to the road tax;—and it shall  
 loans, etc.—also be the duty of the county treasurer to receive  
 all such other sum or sums of money as the levy  
 court and court of appeal may cause to be raised or  
 procured for the use of the county whether by loan  
 paying orders or otherwise;—and it shall further be the duty of the  
 of levy court—county treasurer to punctually pay and apply the  
 money, which he shall receive, (whether from collec-  
 tors for rates collected or by means of loans or other-  
 wise,) for the use of the county, after deducting his  
 commissions, to discharging allowances or orders  
 made by the levy court and court of appeal of his  
 county, an account of all which orders and allow-  
 holding bal-ances he shall keep;—and to hold any balance in his  
 ance of mo-hands, over and above satisfying such orders and  
 nies—allowances, subject to the order of said court,—and  
 and applying to pay and apply the same as the said court shall  
 the same—appoint;—and to keep a just and fair account of all  
 keeping ac-accounts of re-ceipts and disburse-  
 counts of re-ments—  
 receipts and laying ac-  
 disburse-counts before  
 ments—levy court—  
 laying ac-  
 counts before settling his  
 levy court—accounts an-  
 annually with  
 settling annu-ally with au-  
 counts—ditor of ac-  
 counts—

of said court:—the county treasurer shall also annually,  
 during the first week of the first term of the court  
 of common pleas in his county, for the year, attend  
 before the auditor at the place of holding said court,  
 on a day to be appointed by the auditor for that pur-  
 pose, whereof notice shall be given to such treasurer  
 by the auditor, and lay before the auditor a just  
 statement of all the accounts relating to the public

in his hands, including therein in dollars and cents all sums of money by him received, from whom, and the times when, and the persons from whom received, and also all disbursements by him made, to whom, on what account, and the dates of, all allowances for which credit is claimed, and exhibit all vouchers; and the auditor shall adjust and settle the account and his settlement shall be final:—and it shall be the further duty of the county treasurer his executors or administrators without delay to deliver to his successor all the books accounts and papers belonging to his office entire and undefaced, and to pay to such successor any balance in the hands of said treasurer at the time of his decease or other expiration of his term of office.

CHAP.

CCLXXVIII

1825.

SEC. 13. *And be it further enacted,* That the levy court and court of appeal, in Kent and Sussex counties respectively, shall in February every year appoint one or more overseers of roads in every hundred; and shall in such appointment specify and assign to each overseer some certain limits or particular district of his hundred; but a bridge supported at the common expense of the county lying part in one hundred and part in another hundred may be assigned to an overseer in either of said hundreds to whom shall appertain in such case the duty and authority of overseeing and keeping in repair such bridge: and the said court shall apportion the sum of the road tax to be paid to each overseer, observing herein the provisions of the law touching the expenses and charges of making and maintaining roads bridges and causeways; and shall make an order for the payment to the overseer of the sum apportioned to him; and may direct this sum to be paid either by the collector or county treasurer; and shall on or before the first Tuesday of March yearly cause to be issued to each overseer a warrant, under the hand and seal of office of the clerk of the peace, specifying the limits or district assigned to him, and the sum of the road tax apportioned to him; and the receipt of the overseer shall be a good voucher to the officer directed to pay him; and the clerk of the

overseers of roads,—when and by whom,

to be appointed;—

their limits to be assigned;—

vol. 3, p. 20, ch. vi. sec. 1.

bridges between two hundreds;—

apportionment of road tax to overseers;—

orders for payment thereof;—

warrants to overseers;—

their receipts to officer paying road tax.

clerks of  
peace to de-  
liver county  
treasurer and  
collectors or-  
ders concern-  
ing them:—  
alteration of  
apportion-  
ment;—  
additional  
road tax;—

appointment  
of overseers  
to fill vacan-  
cies;—

accounts of  
overseers to  
be rendered  
to levy  
courts;—

allowances to  
overseers;—

settlement  
of their ac-  
counts;—

peace shall deliver to the county treasurer and the respective collectors a copy of all such orders as shall concern them respectively; but the said court may, in case of necessity alter an apportionment, provided it can be done without prejudice to what shall have taken place; and also the said court, in case of emergency, may lay and require collection of an additional road tax; and the collectors shall be under the same obligations, and have and may exercise the same powers, as are herein provided in relation to the original tax; for collecting and levying such additional tax; and in Sussex county the said court shall prescribe the time within which such additional tax may be paid by work and labour or materials. And if any overseer of roads in any hundred in Kent or Sussex counties, shall die, remove from the hundred, be unable to perform the duties of his office, or refuse to serve, the levy court and court of appeal shall have power to appoint an overseer in his place; and the warrant issued to the first overseer, or a new one, shall be delivered to him. And every overseer of roads, in the respective hundreds of Kent and Sussex counties, shall render to the levy court and court of appeal in his county, on the first Tuesday of February ensuing his appointment, a just and true account of all monies received by him, and of all disbursements made by him, and the persons from and to whom and the dates, and the particular days of working and on what roads, and the number of workmen or labourers employed each day; and he shall exhibit all his vouchers: and he shall be allowed for his services as follows, to wit, for every day in which not more than one workman or labourer shall have been employed ten cents,—for every day in which more than one and not more than four labourers or workmen shall have been employed thirty cents,—and for every day in which more than four labourers or workmen shall have been employed one dollar: and the said court shall adjust and settle all such accounts, and their settlement shall be final and conclusive; but no overseer shall be allowed in such account for workmen labourers slaves teams workhorses materials or other matters furnished from

his own estate, excepting that in the county of Sussex an overseer may discharge his own road tax by labour in like manner as others: and in Kent or Sussex county the offices of commissioner of the levy court and court of appeal and of overseer of the roads shall not be held at the same time by the same person.

no overseer to furnish labourers or materials from his own State:—  
no member of levy court to be overseer of roads.

SEC. 14. *And be it further enacted,* That the levy court and court of appeal may prescribe the form in which the several accounts, to be rendered to them, shall be drawn, and the manner in which the same shall be verified.

Form and verification of accounts to be rendered to levy court.

SEC. 15. *And be it further enacted,* That if any clerk of the peace shall refuse or neglect to perform any of the duties enjoined upon him by this act, he shall, for every such refusal or neglect, forfeit and pay to the State a fine not less than twenty dollars nor more than fifty dollars;—and if any person, appointed an overseer of roads pursuant to this act, shall refuse to serve in that office, or shall refuse or neglect to perform the duties thereof, he shall, for every such refusal or neglect, forfeit and pay to the State a fine of twenty dollars:—which fines shall be recovered by indictment, in the court of general quarter sessions of the peace and gaol delivery within the county where the offence happens, with full costs of prosecution.

Penalty.—  
on clerk of the peace, for neglect of duties under this act.—  
on person, refusing to serve as overseer of roads, or neglecting duties thereof.  
recoverable by indictment, with costs.

SEC. 16. *And be it further enacted,* That the levy court and court of appeal in each county shall have power to select and require two of the constables of the county to attend said court during its sittings as bailiffs of said court; and any constable so selected and required to attend said court, shall, for every neglect or refusal to attend the same, and also for every neglect or refusal to obey the reasonable requirements of said court, unless excused by said court, forfeit and pay to the State a fine not exceeding ten dollars, with costs of prosecution, upon conviction on indictment in the court of general

Two constables may be required to attend levy court as bailiffs.  
penalty for neglect.

CHAP. quarter sessions of the peace and gaol delivery with-  
ECLXXVIII in the county.

1825.

*Repeal—of—* **Sec. 17.** *And be it further enacted,* That the  
 ch. cii. a. 1 act of the general assembly entitled “An act for  
 vol. 237. raising county rates and levies,”—and the additional  
 ch. cccxviii supplement to said act passed January 29, 1791,—  
 b. 2 vol. 1014 and the twenty-first section of the act entitled “An  
 sec. 21, ch. act for the better relief of the poor,”—and the eighth  
 cccxviii. b. 2 section of the supplementary act to said last mention-  
 vol. 996. ed act passed February 4, 1792,—and the second  
 sec. 8 ch. third eleventh fourteenth fifteenth sixteenth seven-  
 ccclix. b. 2 teenth eighteenth nineteenth twentieth twenty-first  
 vol. 1036 twenty-fifth twenty-sixth twenty-seventh twenty-  
 parts of ch. eighth and twenty ninth and thirty-second sections of  
 98. c. 2 vol. the act entitled “An act for the valuation of real and  
 1247. personal property within this State,”—and the first  
 parts of ch. second third and seventh sections of the additional  
 cxxv. c. 2 vol. supplement to the last mentioned act passed Janua-  
 1325. ry 19, 1797,—and the eighth section of the act en-  
 sec. 8, ch. titled “An act for the better regulation of the roads  
 xcix. c. 2 vol. in the county of Kent,”—and the sixth tenth and  
 1267. eleventh sections of the supplement to the last men-  
 parts of ch. tioned act passed January 20, 1797, and all that part  
 cxxvi. c. 2 v. of the ninth section of said supplement beginning  
 1330. with the words “and the levy court and court of ap-  
 parts of ch. peal of the said county” and continuing to the end of  
 cxxxix c. 2 said section,—and the first fourth and fifth sections  
 v. 1364 of the additional supplement to said act passed June  
 parts of ch. c. 3, 1797,—and the twenty-first and twenty-second  
 a. 2 v. 1277. sections of the act entitled “An act for the better  
 regulation of the roads in the county of Sussex,”—  
 part of ch. and the second fifth seventh tenth eleventh and  
 vi. 3 v. 20. twelfth sections of the supplement to the last men-  
 part of ch. tioned act passed January 23, 1798,—and the tenth  
 xv. 3 v. 35. eleventh twelfth thirteenth fourteenth fifteenth and  
 sixteenth sections of the act entitled “An act to  
 enlarge the time for making the valuation of real and  
 personal property and for other purposes” passed  
 sec. 4, ch. cvi. January 26, 1798,—and the fourth section of the act  
 3 v. 234. entitled “An act enjoining certain duties on the se-  
 cretary of State and other officers therein mention-  
 ed,”—and the third section of the act entitled “An

act more effectually to secure the payment of public<sup>xxxii. 4 v.</sup> claims and for other purposes,"—and the second sec.<sup>239.</sup> tion of the act entitled "An act for extending the<sup>sec. 2, ch. v.</sup> powers of the auditor of public accounts to the settlement of the county road and poor taxes &c. within the State,"—and the third section of the act entitled "An act directing the time of the service of the<sup>sec. 3, ch. xxxiv. 3 v.</sup> auditor of accounts hereafter to be appointed and for<sup>74.</sup> other purposes" passed January 30, 1799,—and the fifth section of the act entitled "An act respecting<sup>sec. 5, ch. xlvii. 3 v. 130.</sup> the funds of this State,"—and the third section of<sup>sec. 3, ch. xxxii. 6 v.</sup> the act to repeal the act enjoining certain duties on<sup>196.</sup> collectors and varying their compensation passed February 5, 1822,—be and the same hereby are repealed:—and that the following clauses and words in the act entitled "An act for the valuation of the<sup>parts of certain sections of ch. xviii.</sup> real and personal property within this State" to wit, the words "the said commissioners of the several<sup>c. 2 v. 1247.</sup> counties are authorized and required to ascertain "the quantity of land and personal property in their "respective counties and for that purpose" in the fourth section of said act, and the words "to the commissioners" in the same section, the words "as aforesaid" in the fifth section of said act, and the words "to the commissioners" in the ninth section, and the words "to the commissions" in the tenth section of said act, and the words "the said commissioners" in the same section, and the word "commissioner or" in the thirteenth section, be and the said several words and clauses hereby are repealed and expunged from said sections, and the said sections shall be read and construed in the same manner and to the same effect as if said words had not been originally inserted, and were not contained in said sections:—*excepting only and provided,* that all<sup>exceptions and provisions</sup> of the said acts and sections that now are in force shall remain and continue in force so far as the same shall relate to or concern any rates or taxes laid or assessed or that shall be laid or assessed the present year, and that all such rates or taxes now laid or assessed or to be laid or assessed the present year, and the power of collecting the same, and all proceedings for such collection, and all acts touching the same,

CHAP. shall continue and be governed and determined by  
 CCLXXVIII and according to the laws in force at the time of pass-  
 1825. ing of this act in the same manner as if this act had  
 not been passed.

PASSED AT DOVER, }  
 February 4, 1825. }

### CHAPTER CCLXXIX.

5 v. ch. cxcv. A SUPPLEMENT to an act entitled "*An act to  
 p. 356. enable the persons therein named to raise a sum,  
 not exceeding two thousand dollars, by a lotte-  
 ry for the purpose of improving the navigation  
 of Little creek.*"

Original act  
 declared in  
 force.

SECTION 1. BE IT ENACTED by the Senate and  
 House of Representatives of the State of Dela-  
 ware in General Assembly met, That the act to  
 which this is a supplement be and the same is here-  
 by declared to be revived and in full force and effect,  
 with the amendment additions and alterations therein  
 after mentioned.

New mana-  
 gers of the  
 lottery ap-  
 pointed;  
 and they to  
 be commis-  
 sioners to im-  
 prove the  
 creek.

SEC. 2. And be it enacted, That, instead of the  
 managers of the lottery mentioned in the second sec-  
 tion of the said act, the following persons shall be  
 the managers of the said lottery and the commission-  
 ers to perform the duties mentioned in said act, to  
 wit, John Bell, Cornelius P. Comegys, Spencer  
 Williams, Joseph M. Patten and Henry M. Ridgely,  
 or the survivors of them; who shall return such sum  
 or sums of money as may be by them received for  
 tickets sold, if said lottery is not drawn within two  
 years from the sale of the tickets aforesaid.

Commission-  
 ers to receive  
 and apply all  
 monies sub-  
 scribed for  
 improving the  
 creek.

SEC. 3. And be it enacted, That the aforesaid  
 commissioners, or the survivors of them, shall have  
 a right to receive and apply all monies that may be  
 subscribed for the purpose of improving the naviga-  
 tion of Little creek, and in their own names, as

commissioners for the improvement of the navigation of Little creek, to sue for and recover all such sums of money as may be subscribed for the purpose aforesaid. CHAP. CCLXIX. 1825.

SEC. 4. *And be it enacted*, That the said commissioners, or a majority of them, or the survivors of them, shall have full and ample power for doing all lawful acts and things, which they may deem necessary convenient and proper for improving the navigation of said creek; *Provided* that the canal to be cut from Mahan's ditch to Little creek landing shall intersect Little creek at or below the mouth of Taylor's gut which empties into said creek. Powers of the commission-ers; provide.

PASSED AT DOVER, }  
February 5, 1825. }

## CHAPTER CCLXXX.

A SUPPLEMENTARY act to an act entitled "*A supplement to an act entitled "An act to enable the persons therein named to raise by lottery the sum of three thousand dollars, for discharging the encumbrances against St. Peter's church in the Borough of Wilmington, and for finishing the said church.*"

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the time allowed by the act to which this is supplementary, for drawing the said lottery in classes, be and the same is hereby extended to the fourth day of July which will be in the year of our Lord one thousand eight hundred and twenty seven: and if the said lottery shall not be drawn within the said time, the managers shall return and pay over, on demand, to any Time for drawing lottery extended to 4 July, 1827. if not then drawn, money to be returned.

CHAP. person or body corporate the respective sums that  
 CCLXXX. may have been received from such person or body  
 1825. corporate for tickets sold in said lottery.

PASSED AT DOVER, }  
 Feb. 5, 1825. }

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### CHAPTER CCLXXXI.

AN ACT *for the division of the real estate, of the heirs of Edward Wilson, and of the grantees of Lydia his widow.*

PASSED AT DOVER, }  
 February 7, 1825. }

PRIVATE ACT.

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### CHAPTER CCLXXXII.

AN ACT *authorizing Isaac A. Dale of Kent county to bring from the State of Maryland into this State a negro man and hold him as a slave.*

PASSED AT DOVER, }  
 February 7, 1825. }

PRIVATE ACT.

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### CHAPTER CCLXXXIII.

AN ACT *authorizing Evan Thomas to sell, and convey by deed, a certain lot or parcel of land, in the town of Newcastle, belonging to Abraham Short See, and for other purposes.*

PASSED AT DOVER, }  
 February 7, 1825. }

PRIVATE ACT.

## CHAPTER CCLXXXIV.

CHAP.  
CCLXXXIV.

AN ADDITIONAL SUPPLEMENT to an act 1825.  
entitled, "*An act for establishing the bounda- 2 v. 1368.  
ries of the town of Newcastle, and for pur- 3 v. 322.  
poses therein mentioned.*"

SECTION 1. BE IT ENACTED by the SenateCommission-  
and House of Representatives of the State of Dela-ers of the  
ware in General Assembly met, That it shall be town of New-  
lawful for the commissioners of the town of New-castle to levy  
castle, or a majority of them, to levy and assess, on money to pre-  
vent destruc-  
tion by fire,  
the persons and estate within the town of Newcas-  
tle, such sum or sums of money, as may be deemed  
necessary,—to procure for the fire companies within  
the said town such apparatus as may be useful in  
preventing destruction by fire,—and for keeping the  
same in repair: which sums, assessed by the com-  
missioners of the said town, shall be collected by  
the treasurer of the said town, in the same manner  
as county rates and levies are collected by the laws  
of this State.

PASSED AT DOVER, }  
February 7, 1825. }

## CHAPTER CCLXXXV.

AN ACT for establishing the boundaries of the  
town of St. George's and for other purposes  
therein mentioned.

SECTION 1. BE IT ENACTED by the SenateCommission-  
and House of Representatives of the State of Dela-ers appointed,  
ware in General Assembly met, That George Clark,  
Philip Reybold, William Guier, John Randall and  
Jacob Vandegrift be and they are hereby nominated  
and appointed commissioners; who shall have full  
power and authority, and they or any three of them  
are hereby required and directed, as soon as conve-

to make a survey of the town of St. Georges—to fix the limits—and lay out the streets thereof: Plot of the town to be made,— what it shall contain,—

to be signed by surveyor and commissioners,— recorded in recorder's office,— and it, or record thereof, to be evidence.

Commissioners to fix posts and stones, in the centre of the intersections of the streets, which, with all others fixed by the commissioners, shall be deemed land marks:— penalty for removing them:

niently may be after the passing of this act, taking with them a skilful surveyor to be qualified upon his solemn oath or affirmation,— to make an accurate survey of the town of St. Georges aforesaid,—and to ascertain and fix the boundaries and limits of the same,—and to lay out open and regulate the streets lanes and alleys within the said town:—and the said surveyor shall, under the superintendance and direction of the commissioners aforesaid, make out a careful plot or map of the survey so to be made as aforesaid;—which plot or map shall contain an account of the boundaries of the said town, and the courses width and names of the several streets lanes and alleys (the names of the said streets lanes and alleys to be given by the commissioners aforesaid or a majority of them);—and the said plot or map shall be signed by the said surveyor and commissioners;—and the same shall be lodged in the recorder's office for the county of Newcastle, there to be recorded or enrolled;—which said plot or map, or the record thereof, shall be deemed taken and received, in all courts of law or elsewhere within this government, to be evidence of the boundaries of the said town of St. Georges, and of the courses width and names of the several streets lanes and alleys within the same.

SEC. 2. *And be it enacted*, That the said commissioners shall fix posts and stones in the earth in the centre or middle of the streets respectively where they intersect one another; which posts and stones, so set and fixed in the earth in the middle of the streets as aforesaid, as well as all such other posts and stones, as shall from time to time hereafter be so set or fixed in the earth by the commissioners herein or hereafter to be appointed, shall in all cases and in all courts of law within this government be deemed taken and allowed as land marks; and if any person or persons shall at any time hereafter wilfully pluck up or remove any of the said posts or marked stones, and shall be thereof convicted in the court of general sessions of the peace for the county aforesaid, he or they shall severally forfeit and pay the sum of forty

dollars, besides the costs of prosecution, to the use of the commissioners and inhabitants of the said town of St. George's, to be employed in and towards defraying the expenses of carrying this law into execution.

SEC. 3. *And be it enacted,* That the commissioners herein named, or a majority of them, shall ascertain and assess the damage sustained by the owner or owners through whose lands any of the said streets lanes and alleys 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 commissioners, it shall and may be lawful for them to apply to the prothonotary of said county of Newcastle 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 lower or confirm 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 majority of them under the hands and seals of the said sheriff and freeholders respectively; and the sheriff, and freeholders summoned as aforesaid, shall be allowed the like fees as are in other cases to be paid by the person or persons suing out the writ.

SEC. 4. *And be it enacted,* That the commissioners appointed by this act shall continue in office, until the first Monday of May which will be in the year of our Lord one thousand eight hundred and twenty-six: on which day, and on the same day annually in future, the freeholders and inhabitants who are taxable of the said town of St. George's, shall meet at the public house now occupied by John Ball in the said town, and the electors, between the hours of twelve in the forenoon and four in the afternoon, having first appointed two or more discreet persons to be judges of such election, shall proceed to choose

to lay out  
pavements,  
and gutters,

regulate  
party walls,

and set the  
value thereof  
to be paid by  
subsequent  
builder.

by ballot a like number of discreet persons, who shall be stiled "*Commissioners*": And the said commissioners, appointed by this act, as well as those hereafter to be appointed in manner aforesaid, shall have full power and authority, and they are hereby required and directed, to lay out the proper pavements and gutters for carrying off the water, at the expense of the proprietors of the ground in front of which such pavements and gutters are made; and, upon application made to them by either of the parties, to enter upon the lands of any person or persons in order to lay out the foundation and regulate the walls to be built between party and party within the said town as to the breadth or thickness thereof; which foundation shall be laid equally upon the lands of the persons between whom such party walls shall be made; and the first builder shall be reimbursed one moiety of the charge of such party walls or for so much thereof as the next builder may have occasion to make use of, before such next builder shall anywise use or break into the said wall, and that the charge or value thereof shall be set by the said commissioners or any three of them: *Provided* that nothing in this act shall be construed to extent to abrogate annul or alter any contract, that hath heretofore been, or may be, made by the owners of adjoining lands.

Preamble.

Penalty for  
building with-  
out,—or con-  
trary to,—the  
directions of  
the commis-  
sioners.

SEC. 5. AND WHEREAS it may so happen that there are at present dwelling-houses and other buildings erected, which do project on the streets of the said town, but which cannot be removed without greatly injuring the same; *Be it therefore enacted*, That when such houses or buildings as aforesaid shall fall down by reason of decay or otherwise be destroyed, that then and in such case, if the owner or owners of any such house or building as aforesaid, or if any person or persons in other cases, shall begin to lay the foundation of any party wall or other building as aforesaid before the same be viewed and directed by the said commissioners or some three of them, or shall build contrary to such directions, every such person, as well employer as master build-

er, shall forfeit and pay the sum of twenty dollars each, besides costs of prosecution, to be recovered in the name of the commissioners aforesaid by bill plaint or information in any court of record within this government wherein no essoign protection or wager of law shall be allowed nor any more than one imparlance; and all such forfeitures shall be paid to the treasurer for the time being, to be appointed as is hereinafter mentioned,—one moiety thereof for the use of the said town, and the other moiety to the prosecutor.

SEC. 6. *And be it enacted*, That the said commissioners, for their trouble in and about the premises, shall be paid, by the party or parties concerned in such foundation or erecting such party walls or other buildings, the sum of one dollar each, and no more.

SEC. 7. *And be it enacted*, That the said commissioners, or any three of them, shall have full power to regulate all partition fences within the said town, and where the adjoining owners or possessors do improve or inclose their lots, such fences shall be made in the manner generally used and kept in good order at the equal costs of the parties; and that the said commissioners shall be the judges of the costs or charges to be borne by both or either of the said parties; and if either party, between whom such partition fence is or shall be made, on request of the other,—shall neglect to pay his or her or their share or proportion of the expense of such partition fence, to be ascertained and fixed by the commissioners as aforesaid,—and for keeping the same afterwards in repair,—that then the party, at whose cost the same was so made or repaired, may recover the same before any justice of the peace for the county of Newcastle, as debts of like amount are recovered by the laws of this State; and the said commissioners shall be paid, by the party or parties between whom such partition fence is or shall be made, one dollar and no more.

CHAP.  
CCLXXXV.  
1825.

Compensation  
to commis-  
sioners for  
regulating  
buildings.

Commission-  
ers, to regu-  
late partition  
fences;—

their compen-  
sation there-  
for.

Commission-  
ers.—  
to prevent  
and remove  
encroach-  
ments on the  
streets:

penalty on  
persons en-  
croaching on,  
or obstruct-  
ing the  
streets,—

how to be  
recovered

and appro-  
priated.

Commission-  
ers.—to esti-  
mate assess-  
and cause to  
be collected  
the taxes ne-  
cessary for  
the town:

*Sec. 8. And be it enacted,* That the said commissioners shall be and they are hereby authorized empowered and required, to guard against encroachments being made on any of the streets in the said town to be laid out and regulated in manner as is herein before mentioned, and to remove or cause to be removed any such encroachments if any at present exist or may hereafter be made on said streets by reason of enclosures or otherwise, except so far as is excepted or reserved in respect to dwelling-houses and other buildings that may project on any of the streets as aforesaid; and if any person or persons shall presume to encroach on any of the streets to be laid out and regulated as aforesaid,—or shall commit any nuisance therein by obstructing the same, and do not remove such obstructions and encroachments forthwith,—such person or persons, so offending and being duly convicted thereof in any court of general sessions of the peace, shall be fined in any sum not exceeding fifty dollars, to be paid to the treasurer for the time being, to be applied for the removing such nuisances and for defraying the expenses arising from the putting this law in execution.

*Sec. 9. And be it enacted,* That the said commissioners herein appointed or hereafter to be elected, or a majority of them, are hereby authorized and empowered to estimate and determine what sum or sums of money may be necessary to be raised,—for defraying the expense of making a map or plan of the said town and recording the same,—for the adjusting any matters of controversy relative to the bounds of said town streets lanes and alleys,—for setting up and fixing land marks etc.,—and to cause the same to be collected from the inhabitants and the estates within the limits of the said town from persons not residing within the same; and to this end, that the said commissioners, or a majority of them, —shall make a just rate or assessment on the persons and estates within the said town, to and for the uses aforesaid,—and ascertain the quota or share of the sum or sums of money to be paid by each person or estate,—and make a fair list thereof, being first qual-

ified faithfully to perform the said duty: *Provided* that those persons, who are not liable to be taxed <sup>who not lia-</sup> for the relief of the poor, shall not be taxed or asses- <sup>ble to such</sup> sed by virtue of this act. <sup>taxes.</sup>

SEC. 10. *And be it enacted,* That the said com- <sup>Taxes, as-</sup> missioners, or a majority of them, shall cause to be <sup>essed by the</sup> set up, in two or more public places in the said town <sup>commis- on-</sup> of St. George's, a duplicate of the assessment made <sup>ers, how to be</sup> in virtue of this act; and every person and owner or <sup>collected,</sup> names of every estate within the said town so assessed shall, within thirty days after the said duplicate shall be set up at two of the most public places aforesaid, pay to the treasurer, to be nominated and appoint- <sup>by the treas-</sup> ed by the said commissioners, their respective quo- <sup>urer.</sup>otas of the said assessment; and in case of neglect or refusal to pay the same within the time before mentioned, the said treasurer is hereby authorized and empowered to cause the same to be levied by sale of the delinquent or delinquents' goods and chattels lands and tenements; by warrant under the hand and seal of any one justice of the peace; which justice is hereby authorized and required to issue, at the instance and request of the said treasurer, in the name of the whole or a majority of the said commissioners, and to direct the same to any constable of the said county, or to the sheriff of the county of Newcastle, at the discretion of the said treasurer; and in such case any sheriff or constable, to whom such warrant may be delivered, is hereby authorized and empowered to expose to sale by public vendue, after ten days' notice, the said goods and chattels lands and tenements of the said delinquent or delinquents, and to sell the same to the highest and best bidder, and apply so much of the amount of sales as may be necessary to discharge the said assessment, and return the overplus if any there be to the owner or owners, deducting such legal costs therefrom as may be allowed by the laws of this State. in such cases made and provided: and that the said <sup>Commission-</sup> commissioners shall settle their account annually, <sup>ers to settle</sup> before a committee to be appointed by the inhabi- <sup>their ac-</sup> tants of the said town at a town meeting. <sup>couns an-</sup> <sup>nually—</sup>

Treasurer, to pay monies to the order of the commissioners, — and settle his accounts with them, — his compensation.

SEC. 11. *And be it enacted*, That all monies, raised by virtue of this act, shall be paid by the treasurer to the order of a majority of the said commissioners: and the said treasurer shall settle his accounts with the said commissioners at least once in every year, and shall receive such compensation for his services as they may think necessary.

PASSED AT DOVER, }  
February 7, 1825. }

### CHAPTER CCLXXXVI.

#### AN ACT for the preservation of the records of the court of chancery of Kent county.

Certain records of the court of chancery for Kent county may be copied:

such copies to be compared corrected and certified by commissioners,

and have same credited as originals.

Commissioners to be sworn, and certificate

SECTION 1. 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, it shall and may be lawful for the Register of the court of chancery in Kent county, to transcribe or copy or cause to be transcribed or copied the records or docket of said court of chancery, from August term eighteen hundred and one to the term of August eighteen hundred and twenty-four, into a good and well bound book made of good paper, which shall be procured by him for that purpose: and after the said register shall have transcribed or copied the said records, it shall be the duty of two commissioners, that shall be appointed by the chancellor of this State, to compare and correct the same by and with the originals, and after so comparing and correcting the same to certify thereon that it is a true copy thereof; and the copy, made examined and certified as aforesaid, shall have and receive, in all respects, the same faith and credit as the originals now may or can have and receive.

SEC. 2. *And be it enacted*, That the said commissioners shall, before entering upon the performance of the duties assigned to them by this act, be

sworn or affirmed, before some judge of this State thereof filed, or the chancellor, faithfully to perform the said duties; and shall file a certificate thereof in the said court.

SEC. 3. *And be it enacted*, That each of the said <sup>Compensation</sup> commissioners shall have and receive, for each and <sup>of the com-</sup> every day's attendance in performing the trust reposed in them, a sum not exceeding two dollars, to be allowed by the auditor of accounts of the State, to be paid by the county treasurer out of any monies in his hands belonging to the county; and the said <sup>and of the re-</sup> auditor shall allow such reasonable compensation, as <sup>gister in</sup> he may deem just and right, to the aforesaid regis- <sup>chancery for</sup> ter in chancery for his services in copying the aforesaid records, to be paid in like manner.

SEC. 4. *And be it enacted*, That if any of the <sup>Vacancy</sup> said commissioners, to be appointed as aforesaid, <sup>among com-</sup> should die or refuse or neglect to perform the duties <sup>missioners.</sup> herein required of him or them, it shall be lawful for the chancellor to appoint some other person or persons in his or their place or stead.

PASSED AT DOVER, }  
February 7, 1825. }

## CHAPTER CCLXXXVII.

AN ACT vesting the title of the State, in a house and lot of ground in the village of Milford, in Joseph Oliver Revill, Louisa Cole Revill, William Frederick Revill, Henry N. Sudler Revill and James Revill.

PASSED AT DOVER, }  
February 8, 1825. }

PRIVATE ACT.

CHAP.  
CCLXXXVIII

## CHAPTER CCLXXXVIII.

1825. AN ACT to incorporate the Rockland Manufacturing Company on Brandywine.

Corporation  
created;

name—

continuance—  
powers.Limitation of  
its powers.and capital  
stock.Directors,—  
their num-  
ber,—when to be  
elected,—continuance  
in office:—

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William Young and such others, as now are or hereafter may be associated with him, for the purpose of carrying on the business of manufacturing woollen and cotton goods and machinery at Rockland on the Brandywine creek in Newcastle county, shall be and hereby are ordained and declared to be a body politic and corporate, by the name of "*The Rockland Manufacturing Company on the Brandywine;*" and by that name, they and their successors and assigns shall and may have continued succession for fifty years, and no longer,—and be capable to sue and be sued in courts of law and equity,—to purchase take enjoy sell and alien lands tenements hereditaments goods chattels and effects of every nature which may be connected with or conducive to the purpose for which said company is established,—to have a common seal,—to ordain by-laws for their own government not repugnant to the constitution and laws of this State or of the United States,—and to enjoy the franchises incident to a corporation: *Provided always,* that the said corporation shall not have nor exercise any banking powers whatever, and that their capital stock shall not at any time exceed the sum of three hundred thousand dollars.

SEC. 2. *And be it further enacted,* That the business and concerns of the said corporation shall be managed by five directors, who shall be stockholders, and shall be elected at each annual meeting of the stockholders, which shall be on the second Tuesday of January in every year, and shall continue in office until the next succeeding annual meeting, and until successors to them shall be duly chosen. The directors shall be elected, by ballot, by the

stockholders in person or by proxy, who shall have <sup>how, and by</sup> a vote for every share of stock; and a majority of <sup>whom, to be</sup> votes given in shall be necessary to a choice; and <sup>electd;—</sup> such ballot shall be made, from time to time during such meeting, until the requisite number of directors shall have such a majority. If any director <sup>to be stock</sup> cease to <sup>holders;—</sup> be a stockholder, he shall at the same time cease to be director; and if any vacancy or vacancies shall <sup>vacancies</sup> occur, either by death resignation refusal to serve or <sup>among them</sup> from any other cause, the remaining directors, or <sup>how suppli</sup> director, as the case may be, shall choose one or more directors to serve until the next election in course or until successors shall be duly chosen;—but if vacancies shall at any time exist in all the offices of directors, or if such directors shall not be chosen at the time herein appointed, this corporation shall not thereby cease;—but in the former case, such persons shall manage the business and concerns of the said corporation as may be prescribed by its by-laws,—and in the latter case the directors shall continue in office, until successors shall be actually chosen and enter upon the duties of their office. The directors shall choose from their number a president, <sup>to choose a</sup> who shall have such powers and perform such duties <sup>President.</sup> as shall be prescribed by the by-laws. The direc- <sup>First direc</sup> tors,—until the first annual meeting after passing this <sup>tors.</sup> act, and until others shall be appointed and shall act,—shall be William Young, William Wallace Young, John M'Allister, sen., John M'Allister, jr., and Isaac Bannister.

SEC. 3. *And be it further enacted,* That all <sup>By-laws to be</sup> by-laws shall be made by the stockholders, at their <sup>made by the</sup> annual, or other meetings called by virtue of by-laws made at an annual meeting; except before the first meeting, when the stockholders shall be convened as the directors may prescribe; at which meeting or meetings all questions shall be decided by a majority of votes, given in person and by proxy, each share having one vote.

SEC. 4. *And be it further enacted,* That the di- <sup>Directors—</sup> rectors shall at all times keep or cause to be kept, at <sup>their duties—</sup>

CHAP. their manufactory, proper books of account, in which  
CCLXXXVIII shall be regularly entered all the transactions of the

1825. said corporation; which books shall be subject at all times to the inspection of the stockholders: and the directors shall, once in every year, take an account of the stock property and effects belonging to the said corporation, and of all debts owing by or to said corporation, and make a record thereof in a book to be kept for that purpose, and exhibit the same to the stockholders at their annual meeting. And no director shall have any emolument, except such as shall be allowed by the stockholders at their annual meeting, or be prescribed by the by-laws.

emolument.

Shares of stock.

SEC. 5. *And be it further enacted*, That the shares of the capital stock shall be one thousand dollars each, and shall be personal property, and shall be assignable subject to the regulations of the by-laws.

Suits against the company.

SEC. 6. *And be it enacted by the authority aforesaid*, That suits may be brought and prosecuted to judgment, for any debts due from, or claims against, said company; and that generally the first process, to be issued out of any court at the suit of any person or persons against said company, shall be a writ of summons; and the like proceedings shall be had thereon as in other cases of suits against corporations; and the service of the writ of summons upon the president or any director of said company or any agent at the time superintending the concerns of said company, shall be sufficient notice and summons of such corporation. And the share or shares of stock owned by any stockholder in said company, shall be liable to execution process and attachment at the suit of any creditor of such stockholder, as fully and completely to all intents and purposes as any other personal chattel, and the same may be levied upon on a writ of fieri facias and sold on ten days' notice, and the proceeds shall be applied; and the purchaser by such sale shall acquire a complete title thereto, as in other cases of sales of personal property, and be a member of the company so far as the interest thus purchased by him. And it shall

Shares of a stockholder may be executed and sold for his debts.

be the duty of the president, cashier or chief clerk of said company, at all times when called on by the sheriff or other officer having in hand any writ of fieri facias or attachment, to deliver to such sheriff or other officer the number of shares held in said company by such person, which said writ of fieri facias or attachment may be issued against.

PASSED AT DOVER, }  
February 8, 1825. }

### CHAPTER CCLXXXIX.

#### AN ACT for the payment of claims for the tuition of poor children.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the trustee of the fund for establishing schools in the State of Delaware be and he is hereby authorized and directed to pay, out of any money belonging to said fund and not otherwise appropriated, the following claims for the education of poor children under the provisions of the act entitled "An act for the encouragement and support of schools in this State" passed on the third day of February one thousand eight hundred twenty-one, that is to say;—for the education of poor children,—in *Newcastle county*, to wit, to Maria C. Smith for the Harmony free-school at Wilmington eighty dollars, to Eliza A. Weaver for the female benevolent society of Newcastle eighty dollars, to J. W. Cochrane seven dollars and fifty-six cents, to Samuel Shaw four dollars, to Moses Lowther four dollars and to Margaret Morrison twelve dollars and fifty-four cents;—in *Kent county*, to Thomas Green thirteen dollars, to Elizabeth Latchem three dollars and ninety cents, to Jerome Loring two dollars, to Mary Farson forty-seven dollars and thirty-two cents, to Daniel Mason forty-four dollars and twenty-five cents, and to Maria M'Natt twenty-six dollars and

CHAP.

CCLXXXVIII

1825.

Trustee of school-fund to pay claims for the education of poor children.

6 v. 85.

in Newcastle county,—

in Kent county,—

in Sussex  
county.

eighteen cents; and in *Sussex county*, to Daniel W. Brereton thirty-six dollars and eighty-three cents, and to James Outten five dollars and ninety-nine cents, and to Henry Hooper thirteen dollars and thirty-three cents.

PASSED AT DOVER, }  
February 8, 1825. }

### CHAPTER CCXC.

*AN ACT regulating the travelling over the bridge erected over Christiana creek at Wilmington belonging to the Wilmington Bridge Company.*

Persons pass-  
ing the Chris-  
tiana bridge  
with car-  
riages etc.

horses, etc.

shall pass the  
same on the  
right hand  
side and in a  
walk;  
penalty for  
offending  
against this  
provision.

Bridge com-  
pany to put  
up index-  
boards, etc.  
and grant  
free passage  
to funerals,  
or no fine un-  
der this act.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That every person passing said bridge either with stage wagon cart coach gig chaise or other carriage of burden or pleasure, and all persons riding driving or leading horses mules or cattle of any description, shall pass the same, on the right-hand side thereof, in a walk; and that if any person or persons shall intentionally and wilfully offend against this provision, every person for every such offence shall forfeit and pay a sum not exceeding five dollars, to be recovered before any justice of the peace in and for Newcastle county, and applied one moiety thereof to the person suing and the other moiety to the poor of Newcastle county and paid to the treasurer thereof. And it shall be the duty of the said bridge company to put up an index board at each end of said bridge explanatory of the aforesaid provisions, and shall hereafter grant a fee passage to all persons passing or repassing said bridge in the attendance of funerals, otherwise no fine or forfeiture shall be incurred under this act.

PASSED AT DOVER, }  
February 8, 1825. }

## CHAPTER CCXCI.

CHAP.  
CCXCI.

AN ACT to authorize and empower John Brown guardian of Sarah Candy Brown to sell and convey certain lands and premises therein mentioned.

1825.

PASSED AT DOVER, }  
February 9, 1825. }

PRIVATE ACT.

## CHAPTER CCXCII.

AN ACT to preserve the public buildings and records from destruction by fire.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That from and after the passage of this act, it shall be the duty of every public officer of this State or of either of the counties thereof, who shall occupy any room or rooms, for the transaction of the business of his office, in any court house in this State, or any other building, to extinguish or cause to be extinguished all the fires which may be in such room or rooms, whenever such officer upon retiring therefrom in the evening after having performed the duties of the day: and if any such officer shall omit to extinguish or cause to be extinguished any fire in such room or rooms, before he shall retire therefrom as aforesaid, without leaving any careful agent therein to guard against injury from such fire, he shall for every such offence forfeit and pay to the State the sum of fifty dollars, with costs of prosecution, to be recovered by indictment in the court of general quarter sessions of the peace and gaol delivery in the county in which such offence shall be committed; and if any public building in this State, being the property of the State or of any of the counties thereof, shall hereafter be destroyed, or in any manner injured, by fire arising from

Fires in public offices to be extinguished every evening before the officers retire therefrom—

penalty for neglect.

CHAP. the carelessness of any such officer his deputy or de-  
 CCXCII. puties agent or agents or from his or their omission  
 1825. to comply with the provisions of this act, such officer  
 shall for every such offence forfeit his office.

PASSED AT DOVER. }  
 February 9, 1825. }

### CHAPTER CCXCIII.

6 v. 372. A SUPPLEMENT to the act entitled "*An act authorizing the persons therein named to raise a sum not exceeding six thousand dollars, by a lottery for the purpose of erecting an academy in the village of Middletown, in the State of Delaware.*"

4000 dollars  
 authorized to  
 be raised in  
 addition to  
 the sum men-  
 tioned in the  
 original act.

SEC. 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the managers named in the act to which this is a supplement, shall have power and authority to raise the sum of four thousand dollars in addition to the sum of six thousand dollars mentioned in the first section of the said act, making together the sum of ten thousand dollars, clear of all expenses, by the means mentioned in the said act; and that so much of the said sum of ten thousand dollars, as may remain after the completion of the building by them to be erected and the purchase of such a library as may by them be deemed necessary for the said academy, shall be invested in land or in public or private stock or securities for the endowment of the said academy, or laid out in such manner as the managers shall conceive most conducive to the interest of the same.

Purchaser of  
 scheme of lot-  
 tery to give  
 bond to the  
 State,

SEC. 2. And be it further enacted, That if the said managers shall sell or dispose of the scheme of a lottery or of any class or classes thereof for the raising of the said sum of ten thousand dollars or any part thereof, the purchaser or purchasers shall,

With such surety or sureties as the attorney general shall approve, execute a judgment bond to the State of Delaware in the sum of ten thousand dollars, conditioned for the payment of the prizes drawn in such lottery or class or classes shall be drawn within three years from the date thereof, and for the re-funding to any person or persons who shall have purchased or may hold any ticket or tickets in the same the respective sum or sums which shall have been paid for such ticket or tickets if such lottery or class or classes shall not be drawn within three years from the date of such bond; which said bond shall be deposited, within two months after the execution thereof, in the office of the prothonotary of the court of common pleas for Newcastle county, and shall be to and for the use of and in trust for the person or persons concerned, and the benefit thereof shall be extended from time to time for the relief of the party or parties grieved by the default of the principal obligor or obligors therein, and such proceedings may be had thereon for the relief of the party or parties grieved as may by the laws of the State be had upon judgment bonds: and that if the said managers shall, before the sale of any tickets by such purchaser or purchasers of the said lottery or of any class or classes thereof, take such bond with surety or sureties as aforesaid, they shall not be liable, upon the bond mentioned in the second section of the said act to which this is a supplement or otherwise, for any act or default of such purchaser or purchasers.

SEC. 3. *And be it enacted*, That such of the said managers, as shall give the bond mentioned in the second section of the said act to which this is a supplement (being a majority of the whole number), and the survivors and survivor of them, shall have full power and authority to do all of the matters and things directed or authorized by the said act, or by this supplement, to be done by the said managers.

PASSED AT DOVER, }  
February 9, 1825. }

CHAP.  
CCXCIV.  
1825.

## CHAPTER CCXCIV.

AN ACT divorcing *Gabriel Riley and Elizabeth his wife.*

PASSED AT DOVER, }  
February 9, 1825. }

PRIVATE ACT.

## CHAPTER CCXCV.

AN ACT to dissolve the marriage between *Ann Grimes, late Ann Fowler, and Joseph Grimes her husband.*

PASSED AT DOVER, }  
February 9, 1825. }

PRIVATE ACT.

## CHAPTER CCXCVI.

AN ACT concerning the acknowledgment and recording of acquittances to executors administrators and guardians, and for limiting the time of excepting to their accounts.

Receipt, under hand and seal, for a legacy, or sum due on administrators' executor's or guardian's account,

when acknowledged,

SECTION I. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That any release acquittance or receipt, being executed under hand and seal by any legatee next of kin or interested person of full age, to any executor administrator or guardian, of or concerning any sum or sums of money,—due by virtue of any last will and testament,—or upon any account of such executor administrator or guardian, passed before the register for the probate of wills and granting letters of administration in and for either of the counties of this State,—and being acknowledged by the person executing such release acquittance or receipt, before the chan-

cellor, any judge of the State, or two justices of the peace of either of the counties of this State setting together,—shall, upon being delivered to the said register in whose office such will or account shall be recorded or filed, be by him recorded in a well bound book to be kept for that purpose, and such record, or a copy thereof by him duly certified under his hand and seal of office, shall be good and competent evidence to all intents and purposes.

SEC. 2. *And be it further enacted,* That the acknowledgment before the justices of the peace shall be certified according to the following form viz:—  
 “ county ss. Acknowledged by  
 “ to be his [or her or their] voluntary  
 “ act or deed before us two of the justices of the  
 “ peace for said county the day of  
 “ in the year as witness our hands:—  
 And the justices shall receive as a fee for joining in taking such acknowledgment thirty cents each, and the chancellor or a judge shall receive fifty cents for taking the acknowledgment.

SEC. 3. *And be it further enacted,* That a release acquittance or receipt executed as aforesaid, by a person not residing in the State of Delaware, may be acknowledged before a judge, or before a chief magistrate of a city town or county; and the acknowledgment may be certified under the hand of such judge and seal of his court, or of such magistrate and the public seal of the city town or county; and a release acquittance or receipt, being so made and acknowledged, shall be recorded, and the record or a copy thereof shall be evidence as aforesaid.

SEC. 4. *And be it further enacted,* That the register for the probate of wills and granting letters of administration in and for each of the counties of this State, shall make and keep to the book, in which such releases acquittances and receipts shall be recorded as aforesaid, alphabetical indexes direct and reversed in the same manner as such indexes are kept by recorder of deeds; and the fees of the register,

fees for re-  
cording copy-  
ing and cer-  
tifying such  
receipts.

for recording or for copying and certifying, shall be at the rate of two cents for every line of twelve words; and the additional fee of thirty seven and one half cents.

Exceptions,—  
to executor's  
administrator's or guar-  
dian's ac-  
counts,—  
within what  
time to be  
taken.

Proviso as to  
infants etc.

Exceptions  
not taken in  
time to be

SEC. 5. *And be it further enacted.* That all exceptions,—to be made to any account of any executor administrator or guardian, which shall be settled or passed, by or before the register for the probate of wills and granting letters of administration of either of the counties of this State, after the first day of May next,—shall be made and filed with the register, and deliver to the clerk of the orphan's court for the proper county, and by him filed, within three years from the day and time of settling or passing such accounts before the register, and not after:—and all exceptions,—to be made to any account of any executor administrator or guardian already settled and adjusted by or before the register for either of the counties of this State, or which shall be settled or passed on or before the first day of May next,—shall be made and filed with the register, and by him delivered with the account excepted to the clerk of the orphans' court for the proper county, within three years from the said first day of May next, and not after:—and it shall be the duty of the register to endorse upon the exceptions the day of filing the same, and to deliver the same with the account to the clerk of the orphans' court within two days after filing the exceptions; and it shall be the duty of the said clerk to endorse on said exceptions the day of receiving the same, and immediately to issue a citation for the proper party: *Provided*, that any legatee next of kin or person concerned,—who now is, or at the time of settling and adjusting any such account as aforesaid shall be, an infant, under the age of twenty-one years, feme covert, non compos mentis, imprisoned or beyond sea, shall be allowed three years after the removal of such disability, to make exceptions to such account and file the same with the register and to procure the same to be filed with the clerk of the orphans' court as aforesaid. And if any exceptions shall be made and carried to the orphans' court, after

the expiration of the time allowed by this act for that purpose, the said court, upon this act being pleaded in bar of hearing such exceptions, shall deem the same a conclusive bar to such hearing, and shall dismiss the exceptions with costs against the exceptants.

PASSED AT DOVER, }  
February 9, 1825. }

### CHAPTER CCXCVII.

AN ACT to establish a company, under the name of "The Philadelphia Dover and Norfolk steam boat and transportation company."

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That a company shall be established for the conveyance of persons, and carriage of goods wares and merchandize, between Philadelphia in Pennsylvania and Norfolk in Virginia: the capital stock of this company shall not exceed seventy-five thousand dollars, divided into seven hundred and fifty shares, each of one hundred dollars.

SEC. 2. And be it further enacted, That Nicholas Ridgely, John Cummins, Willard Hall, Joseph G. Rowland, Henry M. Ridgely, Peter Robinson, Josiah F. Clement, William W. Morris, Cornelius P. Comegys, John Cowgill, John Pleasonton, Jonathan W. Mifflin, John Bell, Isaac Cannon, William W. Green, Jacob Boone, Manlove Hayes, John Reed, Nathaniel Smithers, Jonathan Jenkins, Thomas Peterkin, Reynear Williams, Benjamin Wadhams, Warner Mifflin, Doctor John Burton, John Tenant, Arthur Milby, Whiting Sandford, Wesley McDowell, Warner Cowgill, Levi Wolcott, Jonathan Gildersleve, George T. Fisher, Robert Young, Daniel Wolcott Crocker, John M. Clayton, and Jacob Wright, shall be commissioners; and they or

subscription  
books—  
at Dover—

at Philadel-  
phia and Nor-  
folk.

subscriptions  
by proxy.

Subscribers  
incorporated:

name of  
company:

any two of them are authorized to receive subscrip-  
tions to the said capital stock; and for that purpose  
to open books at such time and at such place in  
Dover aforesaid, as the said commissioners or any  
two of them may appoint; and such books shall con-  
tinue open there at least two days, and afterward un-  
til the said commissioners or a majority of them shall  
deem it proper to close the same: at least ten days'  
notice of the time and place of opening such books  
shall be given by advertisements in two or more of  
the newspapers published in this State: if more than  
seventy-five thousand dollars shall be subscribed on  
the two days aforesaid, the commissioners or a majo-  
rity of them shall apportion the same among the sub-  
scribers, but shall deduct the excess from the largest  
subscriptions, so that no share shall be reduced  
while one remains larger:—and if the whole amount  
shall not be subscribed at Dover, the commissioners  
or a majority of them may direct books to be opened,  
at Philadelphia and at Norfolk aforesaid respectively,  
for receiving subscriptions to the said capital stock,  
either under the superintendence of two of the com-  
missioners, or such person or persons as the said  
commissioners or a majority of them may appoint  
for that purpose; and the said books shall continue  
open at said places respectively as the said commis-  
sioners or a majority of them shall direct; and the  
said commissioners or a majority of them may de-  
termine the number of shares to be subscribed at  
each of said places, and alter this number, if neces-  
sary; any person copartnership or corporation, ex-  
cepting steam boat companies, may subscribe for  
any number of shares not exceeding, on each of the  
two first days, twenty shares: subscriptions may be  
made by proxy, as well as in person, and the  
amount subscribed shall be paid as herein after  
prescribed.

SEC. 3. *And be it further enacted, That the*  
subscribers to the capital stock aforesaid, their suc-  
cessors and assigns, shall be and they are hereby  
created a corporation, by the name of "*The Phila-*  
*delphia Dover and Norfolk Steam Boat and Trans-*

*portation Company;*" and shall continue until the continuance;  
 first day of June in the year of our Lord one thousand eight hundred and fifty; and by that name shall powers;  
 have power and capacity,—to sue and be sued in courts of law or equity,—to purchase take enjoy sell and alien lands tenements hereditaments goods chattels rights credits and effects which may be connected with or in any manner conducive to the purpose for which said company is established,—to have a common seal,—to ordain by-laws for their own government not repugnant to the constitution or laws of this State or of the United States,—and to enjoy the franchises incident to a corporation: but it shall restrictions;  
 not be lawful for said corporation, and they shall not have power, to discount notes or bills, or to loan money on interest, or to exercise any banking powers whatever. The following shall be fundamental fundamental articles of the constitution of said corporation;— articles;—  
*First:*—the business and concerns of said corporation shall be managed by five directors: the directors shall be elected by the stockholders; the first election shall be held as hereinafter appointed; all the subsequent elections shall be held at the annual meeting of the stockholders; the directors shall continue in office till the annual meeting of the stockholders next succeeding their election, and until successors to them shall be duly chosen; but a vacancy, occasioned by death resignation or otherwise in the office of a director, may be filled by appointment made by a majority of a board of directors: the directors must be stockholders; and the office of a director shall be vacated by his ceasing to be a stockholder: the directors shall choose one of their number to be president: they shall meet according to the by-laws of the corporation; any three of them shall form a board to do business: and if the president shall be absent, a president may be appointed pro tem. *Second:*—the directors shall have power, to purchase steam boats stages wagons and horses; to employ engineers and servants, and agree upon and pay their wages; to appoint officers and agents and agree upon and pay their salaries or compensations;—to take bond from any officer or agent, as the by-laws

CHAP. shall require, or as may be deemed expedient, with  
CCXCIV. surety or without; to make necessary wharves;—to

1825.

open make or amend any road or roads, that may be laid out by law or consent of the land owners, and may be for the convenience of said company;—and to do all acts requisite to effect and carry on the purpose for which the company is established;—and to this end, to use and employ the capital stock and funds of the company, under such regulations as the by-laws may prescribe;—and to bind, by their contracts deeds or writings under the seal of the corporation and the hand of the president, all the property and estate common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves or any of the stockholders:—

may make  
by-laws:  
(see art. 8.)

and further the directors shall have power to make by-laws for the government of the said corporation and regulating the management of the business and concerns thereof,—and to revise repeal and amend the same, subject always to the controul of the stockholders in regular meeting: the by-laws, among other things, shall prescribe the offices of the corporation, other than those of president and directors,—the bonds to be taken from officers,—the place or places of holding the meeting of the stockholders,—the manner of calling occasional meetings,—and the mode and regulations of assigning the shares of the capital stock: *Provided*, that all meetings of the stockholders and directors shall be held at some place in the town of Dover, where all the capital stock of said company shall be assigned either in person or by proxy. *Third:—*There shall be an annual meeting of the stockholders on the first Monday of June in every year, during the continuance of the corporation; if any election shall not be held at the annual meeting, or if a meeting shall not take place on the day appointed in any year, the corporation shall not for that cause be dissolved, but in such case directors may be chosen at an occasional meeting regularly held; the first annual meeting shall be held on the first Monday of June in the year of our

place of  
meeting.

3d. Annual  
meetings of  
the stockhol-  
ders.

Lord one thousand eight hundred and twenty-six. *Fourth:—*In all meetings of the stockholders regu-

4th. Quorum  
of stockhol-  
ers;

larly held, those assembled may proceed to business; all elections of directors shall be by ballot, and shall be decided by plurality of votes; and on all other voting questions a majority of votes shall be necessary to a determination; in all elections, and upon every other subject and question, each stockholder shall be entitled to as many votes as he or she shall hold shares, one vote for every share; and stockholders, absent from any meeting, shall be entitled to vote, in all elections and upon every other subject, by proxy. *Fifth*.—No director shall be entitled to any emolument, excepting the same shall be allowed by the stockholders at a regular meeting. *Sixth*.—The shares of the capital stock shall be personal property, and shall be assignable subject to the regulation of the by-laws. *Seventh*.—The directors shall make quarterly dividends of the clear profits of the business of the corporation, or of such part of the said clear profits as may be deemed advisable; the time of making the dividends shall be prescribed by the by-laws; the directors shall lay before the stockholders every year, at their annual meeting, a general account of the stock funds debts and credits of the corporation, and any by-laws by them made shall be open to the inspection of every stockholder. *Eighth*.—The stockholders shall have power, at any annual or other regular meeting, to make and ordain by-laws for the government of the corporation and regulation of the concerns thereof; which by-laws shall not be repealed or altered by the directors; and the directors shall not have power to make any by-laws, repugnant to or inconsistent with a by-law made by the stockholders.

SEC. 4. *And be it further enacted*, That the subscribers respectively shall pay—one half part of the amount, payable upon all the shares which they shall respectively subscribe to the capital stock aforesaid,—on the day of the first meeting of the subscribers, to be held as hereinafter provided,—to the directors, who shall then be chosen,—and the other half part of said amount, on such manner and at such time, as the president and directors shall ap-

5th. Compensation to directors.

6th. Shares of stock to be personal property.

7th. Dividends of profits.

accounts to be laid before stockholders—

by-laws open to their inspection

8th. Stockholders may make by laws. (see art. 2.)

Payment of the subscription money.

CHAP. point, and either at one time or in instalments, as  
 CCXCVII. may be deemed expedient by the president and di-  
 1825. rectors; and the president and directors shall give  
 public notice of the manner and time, which they  
 shall appoint for paying such other half part of said  
 amount, by advertisements inserted in at least one  
 newspaper published in Philadelphia, and in at least  
 one newspaper published in this State, and in at least  
 one newspaper published in Norfolk, at least thirty  
 days before the time appointed for such payment,  
 to be continued in such newspapers for at least three  
 weeks;—and shall further cause circular letters,—  
 giving the same notice, to be signed by the presi-  
 dent and addressed to the subscribers respectively,  
 and directed to the places of their abode respectively  
 if known, if not to the place where such subscribers  
 respectively made the subscription,—to be put into  
 the post office at Dover, or at Philadelphia, or at  
 Norfolk, at least thirty days before the day of pay-  
 ment: and if any subscriber or subscribers shall re-  
 fuse or neglect to pay the sum of money, which he  
 she or they ought to pay according to the foregoing  
 provision, at the time when the same shall according  
 to such provision be payable, he she or they shall  
 forfeit the rate of six per cent, on the sum which he  
 she or they ought to have paid, to be added to and  
 paid with such sum when it shall be paid, whereof  
 notice shall be given by circular letters addressed  
 and directed to the delinquent subscribers as afore-  
 said; and if such subscribers or any or either of them  
 shall neglect to make payment of the sum payable  
 by him her or them with the forfeiture, for the space  
 of sixty days after putting such circular letters into  
 the post office, the president and directors may either  
 declare the share or shares of any delinquent sub-  
 scriber or subscribers forfeited, or may proceed to  
 sue for and recover the sums subscribed and re-  
 maining unpaid, with the forfeiture, according to the  
 terms of the subscription.

First meeting  
 of the stock  
 holders.

SEC. 5. *And be it further enacted,* That as  
 soon as the capital stock aforesaid, or sixty five thou-  
 sand dollars thereof, shall be subscribed, the com.

missioners aforesaid or a majority of them shall call CHAP.  
a general meeting of the subscribers, to be held at CCXCVII.  
Dover on a day in such call to be appointed, and 1825.  
shall give notice of such call and the time and place  
of such meeting, by advertisements to be inserted  
in at least one newspaper published in Philadelphia  
at least one newspaper published in this State and  
one newspaper published in Norfolk at least ten days  
before the day of meeting, and by circular letters  
addressed and directed to the subscribers as afore-  
said; and such notice shall also give information,  
that one-half of the sums subscribed is on the day  
of such meeting to be paid: and the subscribers, who  
shall assemble at such meeting, shall have power to  
proceed to business, to elect directors, to make by Sec. 3, art.  
laws, and to do all acts which the stockholders can 4-8.  
do according to this charter.

**SEC. 6.** *And be it further enacted,* That the di-Disposition of  
rectors may dispose of any shares that shall not be shares forfeit-  
subscribed, or that shall be forfeited, in such man-ed or not sub-  
ner as they may deem meet for the benefit of the scribed.  
corporation.

**SEC. 7.** *AND WHEREAS* there is a small island,  
lying between the sand channel and Simon's creek  
and near the mouth of said creek, containing about  
four acres and said to be vacant land; and whereas  
it may be important for the said company to occu-  
py the said island, as a landing place on Simon's  
creek and for other uses;—*Be it enacted by the au-* Grant of an  
*thority aforesaid,* that the said island be and the same island to the  
is hereby given granted and conveyed to the said company.  
company and their successors forever; *Provided,* that  
nothing herein contained shall affect any prior right  
of any other person or body politic to the said is-  
land.

**SEC. 8.** *And be it enacted,* That the right of this right of the  
State, to lay a tax on the capital stock of said com-State to tax  
pany, not exceeding one fourth of one per centum the stock of  
per annum on the whole capital stock of the said the company.

CHAP. company actually employed according to this act,  
CCXCVII. is hereby reserved.

1825.

PASSED AT DOVER, }  
February 9, 1825. }

### CHAPTER CCXCVIII.

AN ACT to straighten and improve the roads, from the banked marshes on Simon's creek in Kent county, to the village of Seaford in Sussex county.

Commission-  
ers to lay out  
road from  
banked  
marshes on  
Simon's creek  
to Seaford,—  
when and by  
whom to be  
appointed,—  
their pow-  
ers;—

to assess com-  
pensation to  
persons da-  
maged;

to make a  
map of the  
road;—

SECTION I. BE IT ENACTED by the Senate and House of representatives of the State of Delaware in General Assembly met, That when the governor of this State shall be informed that the stock in the Philadelphia Dover and Norfolk steam boat and transportation company shall have been subscribed, he is authorized and empowered to appoint five disinterested commissioners; who or a majority of them shall have full power and are hereby authorized to view the roads and country from a suitable place or point on the banked marsh near Simon's creek in Kent county to the village of Seaford in Sussex county, beginning at such place or point as shall be deemed most suitable and proceeding to the village of Seaford in Sussex county aforesaid, to lay out and establish such road or roads, from and to such points, and in such place and places, as they or a majority of them shall deem most expedient, for the purpose either of shortening the distance, or for placing the road or roads on better ground, or for opening the most direct and eligible route from such banked marsh on Simon's creek to the village of Seaford aforesaid: And the said commissioners or a majority of them shall assess the compensation of any person or persons who shall sustain damage from laying out and making any road or roads which shall be so laid out; and shall cause a map of the route from the banked marsh aforesaid

to be made; and shall therein lay down and set forth CHAP.  
all the road or roads which shall be laid out as afore- CCXCVIII.  
said, so that it shall be seen what is new road and 1825.  
what is old road; and shall make a certificate under and certifi-  
hand of their proceedings in the premises, and deli- cate of their  
ver the same with the map aforesaid to the recorder proceedings  
of deeds in and for Kent county and to the recorder etc.—  
of deeds in and for Sussux county, who shall re- certificate  
spectively record the same certificate and map in and map to  
their respective offices for the recording of deeds in be recorded  
said counties, and either of said records or a certifi- etc.  
ed copy thereof shall be competent evidence; and and record  
the proceedings of the said commissioners or a ma- or copy to be  
jority of them in the premises shall be conclusive; evidence;  
and after such certificate and map shall be recorded proceedings  
as aforesaid, and the compensation assessed shall be of commis-  
paid or tendered,—the road or roads, which the said sioners con-  
commissioners or a majority of them shall lay out clusive.  
as aforesaid, shall be public roads or common high- When the  
ways, and may be opened and made by any person road shall be  
or persons;—and any person or persons who shall a common  
obstruct any such road or roads or commit any nui- highway and  
sance therein shall be liable to be indicted in the may be open-  
court of general quarter sessions of the peace and ed;  
gaol delivery in either Kent or Sussex county, and (sec. 5.)  
shall on conviction incur the same penalty, and suffer penalty for  
the same punishment, which by law is or at the obstructing it.\*  
time shall be provided against nuisances in any  
public road or common highway.

SEC. 2. *And be it further enacted,* That the Breadth of  
road or roads, to be laid out as aforesaid, shall be of the road.  
the breadth of forty feet.

SEC. 3. *And be it further enacted,* That the Surveyor to  
commissioners aforesaid or a majority of them may assist com-  
appoint a surveyor to assist them in the premises; missioners;  
and said commissioners and such surveyor shall be- and he and  
fore acting be sworn or affirmed, before some judge they to act on  
or justice of the peace, to perform all the duties in- oath.  
cumbent on them respectively by virtue of this act,  
with diligence impartiality and according to the best  
of their respective skill and judgment.

Road to be  
altered only  
by act of As-  
sembly.

SEC. 4. *And be it further enacted,* That any road or roads so to be laid out as aforesaid, shall not be liable to be vacated, changed, or altered, under any order of the court of general quarter sessions of the peace and gaol delivery, but only by an act of the General Assembly.

All expenses  
of the road to  
be paid by  
"The Phila-  
delphia Dover  
and Norfolk  
steam boat  
and transpor-  
tation compa-  
ny."

Till all ex-  
penses paid,  
road not to  
be a public  
highway.  
(Sec. 1.)

SEC. 5. *And be it enacted,* That all expense incident to or in any way arising from the laying out and opening the road or roads aforesaid, as well as all sums of money which may be awarded as damages by the commissioners aforesaid, shall be paid and satisfied by "the Philadelphia Dover and Nortolk steam boat and transportation company;" and until all such expense damages and costs aforesaid shall be fully discharged or tendered as aforesaid the road or roads laid out or opened in pursuance of this act shall not be deemed or taken to be a public highway or highways.

PASSED AT DOVER, }  
February 9, 1825. }

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## CHAPTER CCXCIX.

AN ACT *to enable Stephens Woolford to bring in-  
to this State certain negroe slaves and to hold  
them as such.*

PASSED AT DOVER, }  
February 10, 1825. }

PRIVATE ACT.

## CHAPTER CCC.

CHAP.

CCC.

1825.

A SUPPLEMENT to the act entitled "*An act to survey lay out and regulate the streets of Smyrna, and for other purposes.*" s. v. 219, ch. CXXIX.

SECTION 1. BE IT ENACTED by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the election, mentioned in the fifth section of the act to which this is a supplement, for choosing the several officers in the said section directed to be elected or chosen, shall be held on the first Monday of March next, and on the first Monday of March in every year thereafter, between the hours of ten o'clock in the forenoon and six o'clock in the afternoon, at the place in the said fifth section prescribed: and if there shall not be present, on the first Monday of March next, or on the first Monday of March in any year hereafter, at ten o'clock in the forenoon, at the place of holding such election, three substantial freeholders duly appointed pursuant to the said fifth section to hold conduct and carry on said election under their superintendence and management, and then and there prepared willing and ready to hold conduct and carry on said election under their superintendence and management, then and in every such case,—the persons entitled to vote at such election, present at the place of holding the same, shall, immediately after ten o'clock of such day, appoint viva voce some substantial freeholder, entitled to vote at such election, to be the judge of the choice and appointment of an inspector to hold said election,—and shall, immediately after the said judge shall be appointed as aforesaid, under the superintendence and direction of the said judge so appointed as aforesaid, choose without ballot some substantial freeholder, entitled to vote at the election aforesaid, to be the inspector to hold the same; and the person, whom the judge so appointed as aforesaid shall declare to be chosen inspector, shall hold conduct and carry on the election at such time and place, and shall exercise all the powers, and do all

Election of  
the officers of  
the town of  
Smyrna—

to be held on  
the first Mon-  
day of March  
annually—

by whom to  
be held in  
case the free-  
holders to  
conduct it be  
not present.

CHAP. the acts, which could have been exercised or done  
 CCC. by three substantial freeholders duly appointed pur-  
 1825, suant to the said fifth section to hold conduct and  
 carry on said election under their superintendence  
 and management; and the election held by such in-  
 spector, and his certificate or memorandum thereof  
 shall be lawful and conclusive.

Review au-  
 thorized of  
 the proceed-  
 ings of the  
 persons ap-  
 pointed by  
 original act  
 to survey and  
 lay out the  
 streets of  
 Smyrna:—

powers of re-  
 viewers:—

reviewers and  
 surveyor to  
 be sworn:—

certificate of  
 reviewers:—

SEC. 2. *And be it further enacted*, That Doctor John Burton, Samuel Thomas, John Merriitt, John Moody and Caleb Rodney, or a majority of them, or the survivors of them or the majority of them, be and they are hereby appointed and authorized,—to review all the proceedings of Henry M. Ridgely Willard Hall Jacob Stout Jonathan Jenkins and Alexander M'Clyment, named in the act aforesaid to which this is a supplement, or a majority of them under the said act,—with power to confirm vacate or alter either or any of the streets lanes or alleys, which the said Henry M. Ridgely Willard Hall Jacob Stout Jonathan Jenkins and Alexander M'Clyment or a majority of them, pursuant to the said act, caused to be surveyed located and laid out, and which have not yet been opened,—and to locate and lay out any new streets lanes or alleys,—to increase or diminish the compensation already allowed in any instance or instances touching the premises,—and to allow any further or other compensation as may be deemed just and proper under all circumstances,—and to do all the acts and exercise all the powers, which the said Henry M. Ridgely Willard Hall Jacob Stout Jonathan Jenkins and Alexander M'Clyment were authorized to do and exercise by the said act, and in as full and ample a manner, and subject to the same restrictions as prescribed by the said act,—and to appoint a surveyor to assist them in the premises; which surveyor and the said reviewers shall before acting be sworn or affirmed, before some judge notary public or justice of the peace; to perform the duties incumbent upon them under this act with diligence impartiality and according to the best of their skill and judgment: and the certificate under the hands of the said Doctor John Burton

Samuel Thomas John Merritt John Moody and Caleb Rodney; or a majority of them; or of the survivors of them or of a majority of such survivors, with any plot or map, which may be annexed thereto and referred to therein, shall be recorded in the office for recording of deeds in Kent county; and the record thereof or a copy of such record shall be good evidence for all purposes; and the proceedings of the said Doctor John Burton John Merritt Samuel Thomas John Moody and Caleb Rodney or a majority of them or of the survivors of them or a majority of such survivors so certified and recorded shall be final and conclusive: *Provided always*, that such proceedings shall be so certified and recorded within one year after the passing of this act; and in case such proceedings shall not be so certified and recorded within that time, the same shall be void and this act of no effect.

CHAP.  
CCC.

1823.

to be re-  
corded:—

and their pro-  
ceedings

conclusive,—

it certified  
and recorded  
within one

year:—

otherwise to  
be void and  
this act of no  
effect.

SEC. 3. *And be it further enacted*, That any compensation, allowed under the preceding section, shall be paid in the same manner as directed by the original act in relation to the payment of compensation therein provided for, and shall be considered as allowed under said act so as to come within its provisions.

Compensation  
allowed by  
reviewers.

SEC. 4. *Provided always, and be it further enacted*, That the persons, hereinbefore appointed to review as aforesaid, shall not commence that review, nor shall any act done by them touching the same review be of any force or effect,—until all the charges and expenses, which have been incurred under the act to which this is a supplement, shall have been paid or tendered to the person or persons, who have incurred or defrayed such expenses or charges, or have a just account for advances or services touching matters done or transacted under said act; and to this end, the said doctor John Burton Samuel Thomas John Merritt John Moody and Caleb Rodney, or a majority of them, or the survivors of them or a majority of them, shall meet at the house now occupied by Mrs. Lockwood in Smyrna, on the first Monday in May next, and may adjourn

Reviewers  
not to act, till  
all charges  
and expenses  
under the ori-  
ginal act be  
paid or ten-  
dered:

and reviewers from day to day, and shall receive adjust and settle all accounts or statements touching expenses to settle and adjust such charges advances or services as aforesaid;—and paying charges and expenses. ing or tendering what shall be determined due on such settlement, to the person or persons to whom the same shall be determined to be due, shall be a compliance with the foregoing provision.

PASSED AT DOVER, }  
February 10, 1825. }

### CHAPTER CCCL

5 v. 278, ch. clvii. **A SUPPLEMENT** to the act entitled "*An act to enable the trustees of the academy of Newark to raise a sum not exceeding fifty thousand dollars by a lottery for the purpose of establishing a college in Newark in the State of Delaware.*"

Preamble. WHEREAS by the second section of the act to which this is a supplement, the trustees of the said academy of Newark and their successors in that office were appointed managers of the said lottery; and each of the said managers was required, before entering upon the duties required by the said act, to give bond to the treasurer of the State of Delaware in the sum of five thousand dollars conditioned for the faithful discharge of the trust reposed in them by the several provisions of the said act; and whereas several of the said trustees so appointed managers as aforesaid of the said lottery, from conscientious and religious scruples, refuse to act as managers aforesaid, or to give bond as required by the said act; and in consequence thereof the said act cannot be carried into operation;—for remedy whereof:—

Managers appointed instead of those in original act: **BE IT THEREFORE ENACTED** by the Senate and House of Representatives of the State of Delaware in General Assembly met, That Henry M. Ridgely, Andrew Gray, James R. Black, George E. Mitchel, Thomas W. Handy, William Sherer and

Henry Whitely be and they are hereby appointed managers of the said lottery; and that the said managers, or a majority of them, before entering upon the duties required by the said act, shall give separate bonds to the treasurer of the State of Delaware, each in the sum of ten thousand dollars, conditioned for the faithful discharge of the trust reposed in them by the several provisions of this act and of the said act to which this is a supplement; and those only, of the persons above named, shall be managers of the said lottery, who shall give bond as above required. CHAP. CCCI. 1825. to give bonds before acting: those only to be managers who give bond.

SEC 2. *And be it further enacted,* That the second section of the aforesaid act to which this is a supplement, and which section is hereby altered and supplied, be and the same is hereby repealed, and all the other sections of the said act are hereby declared to be in full force. Repeal of 2 sec. ch. clvii. 5 v. 278.

PASSED AT DOVER. }  
February 10, 1825. }

## CHAPTER CCCII.

*AN ACT to enable William Heverin and Paris Moore to locate certain vacant lands situate in Dover hundred in Kent county, and to complete their title to said lands.*

WHEREAS it has been represented to this General Assembly, that there are certain vacant lands lying and being adjoining and between the tracts called Aberdeen and Porter's lodge on the one hand and the tracts called Joshua's lot Morgan's outlet and White Oak survey on the other situate Dover hundred and Kent county. Preamble.

SEC. 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That some skilful surveyor be and he is hereby authorized and empow. Certain vacant land to be surveyed.

CHAP. 1825. ered to go upon survey and locate all the vacant land  
 CCCII. marsh and cripple, or either, lying in Dover hun-  
 dred aforesaid, adjoining to the tracts called Aber-

and plot  
 thereof  
 made,—

and returned:

and notice  
 thereof to be  
 given.

let and White Oak survey, or to either of said tracts;  
 and to make a plot of said vacant land, if any be  
 there found, setting forth the courses and distances  
 thereof, with the number of acres therein contained;  
 and shall return said plot into the recorder's office in  
 and for Kent county aforesaid: *Provided nevertheless*  
 that it shall be the duty of the said William Heve-  
 rin and Paris Moore, and they are hereby required  
 and directed, immediately after the return of said plot  
 into the recorder's office aforesaid, to give notice in  
 two newspapers printed in this State, for the space  
 of three months, that the aforesaid lands have been  
 surveyed, and that a map or plot thereof has been  
 made and returned into said office, for the information  
 of all persons concerned.

Caveat may  
 be entered,—

and deter-  
 mined by the  
 common  
 pleas.

SEC. 2. *And be it enacted*, That if any person or  
 persons shall claim the whole or any part of the lands  
 described by said survey, it shall be lawful for such  
 person or persons so claiming to enter a caveat be-  
 fore the recorder of Kent county aforesaid, at any  
 time within three months after the return of said  
 plot and notice given as aforesaid; and thereupon all  
 matters in variance shall be heard and determined by  
 the court of common pleas of this State in and for  
 said county, at the next or any subsequent term of  
 said court in said county, in a summary way, accord-  
 ing to the laws of the land and equity and good  
 conscience.

How patent  
 for said lands  
 may issue to  
 William He-  
 verin and Pa-  
 ris Moore.

SEC. 3. *And be it enacted*, That if the said  
 William Heverin and Paris Moore shall pay or  
 cause to be paid to the State-treasurer, on or before  
 the expiration of one year from the return of said  
 plot or determination of the said court of common  
 pleas as aforesaid, at the rate of ten dollars for each  
 and every acre of land included in such survey, or  
 at that rate for such number of acres as the said Wil-  
 liam Heverin and Paris Moore shall take under the

determination of the said court upon the hearing of a caveat (if any caveat should be entered as aforesaid); and upon producing the certificate of the State-treasurer of such payment to the secretary of State, it shall then become the duty of the secretary of State and he is hereby directed to make out or cause to be made out, in favour of the said William Heverin and Paris Moore, as tenants in common, a patent for the land contained in such survey, or if a caveat should be entered as aforesaid, for so much thereof as the said William Heverin and Paris Moore shall take under the determination as aforesaid of the court of common pleas aforesaid, in the same manner and form as is directed by the seventh section of the act<sup>2</sup> v. 1179, entitled "A supplement to an act entitled an act for opening and establishing a land office within this State and for the sale of all vacant and uncultivated lands;" which patent shall be entered of record in the office for recording of deeds in and for Kent county aforesaid.

CHAP.  
CCCII.  
1825.

SEC. 4. *And be it enacted*, That the title of the said William Heverin and Paris Moore, to the lands contained in such patent, as tenants in common thereof in equal moieties, shall be good and available in law and in equity.

SEC. 5. *And be it further enacted*, That in case the said William Heverin and Paris Moore should neglect or refuse to have said plot made out and returned to the office of the recorder, and to give the necessary notice in the public papers, as is directed by the first section of this act, and should also further neglect to pay to the State-treasurer the sum of ten dollars for each and every acre therein contained as directed by the third section of this act, then it shall be the duty of the State-treasurer to cause the said land to be surveyed, and a plot thereof made out and deposited in the office of the recorder aforesaid, and after giving three months' public notice thereof for the purposes aforesaid, in two of the public papers printed in this State, shall sell the same at public sale to the highest and best bidder, after first giving

their title  
under said  
patent.

In what case  
and in what  
manner, the  
State-treas-  
urer shall  
cause the  
said lands  
to be sur-  
veyed  
and sold?

and the purchaser obtain patent.

Agent appointed to take care of said land.

fifteen days' public notice of the time and place of sale; and upon the purchaser or purchasers producing to the secretary of State the certificate of the State-treasurer aforesaid stating the amount of the purchase money being by him received, the said secretary of State is then hereby directed to make out or cause to be made out a patent in favour of the purchaser or purchasers, in like manner as he is directed to make a patent in favour of the said William Heverin and Paris Moore: and that James Kimmey is hereby authorized and directed to take the same under his care, so as to prevent trespass or waste, until the above act is fully completed and executed.

PASSED AT DOVER, }  
February 10, 1825. }

## CHAPTER CCCH.

AN ADDITIONAL SUPPLEMENT *to the act entitled "A supplement to the act entitled an act providing for the election of constables, and concerning elections of inspectors and assessors."*

6 v. 336,  
ch. ccix.

Additional constables authorized in Newcastle county, viz. 6 v. 263. one for St. George's hundred;

one for Pencader hundred; and one in the town of Newcastle.

SECTION 1. BE IT ENACTED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That in addition to the one constable now directed to be appointed in and for St. George's hundred in Newcastle county, there shall hereafter be one other constable appointed in and for said hundred whose residence shall be in or near the village of Port Penn: and that there be one additional constable appointed for Pencader hundred, who shall reside near the line of the Chesapeake and Delaware canal and within two miles of the Buck tavern: and that one constable shall be appointed in the town of Newcastle.

SEC. 2. *And be it further enacted,* That the

provisions of this additional supplement shall be and Continuance of this act.  
continue in force for seven years and no longer.

PASSED AT DOVER, }  
February 10, 1825. }

## CHAPTER CCCIV.

AN ACT to enable Thomas Rider of Sussex county to bring into this State two certain negro boys, slaves, and to hold them as such.

PASSED AT DOVER, }  
February 10, 1825. }

PRIVATE ACT.

## CHAPTER CCCV.

AN ACT concerning offences, in not repairing highways, and in committing nuisances therein.

SECTION 1. BE IT ENACTED by the Senate Overseers of roads— and House of representatives of the State of Delaware in General Assembly met, That it shall be the in Kent and Sussex— duty of the respective overseers of roads in the several hundreds in Kent and Sussex counties,—to open and make all such public roads or common highways as shall be duly laid out and approved and shall be within the limits or district assigned to them respectively,—and to make and construct such causeways and bridges upon such roads as may be requisite,—and also to repair and keep in good order and free from obstructions all the public roads or common highways, which shall be within the limits or district assigned to them respectively, and all and singular the causeways and bridges within such limits or district: and if any such overseer shall refuse penalty for neglect. or neglect, beyond a reasonable time,—to open and make any public road or common highway so laid out and approved and within the limits or district as-

CHAP.  
CCC.V.  
1825.

signed to him,—or to make and construct the requisite causeways and bridges,—or shall suffer any part of any public road or common highway, which shall be within the limits or district assigned to him, or any causeway or bridge upon any such road or highway, within such limits or district, to be obstructed by any nuisance whatever, or to remain impassable or unrepaired for the space of fifteen days together,—every such overseer shall, for every such offence, forfeit and pay to the State a fine, not less than fifteen dollars nor more than fifty dollars, to be recovered, with costs of prosecution, by indictment in the court of general quarter sessions of the peace and gaol delivery within the county where the offence shall happen.

*Penalty—*  
on commissioners of  
roads in New-  
castle county,  
—  
for not opening and keep-  
ing in repair  
public roads  
and bridges;

on overseers  
of roads in  
Newcastle  
county—  
for neglect-  
ing to com-  
ply with the  
directions of  
road commis-  
sioners.

SEC. 2. *And be it further enacted,* That if the commissioners of the roads in any hundred in Newcastle county,—shall refuse or neglect, beyond a reasonable time, to cause any public road or common highway, which shall be duly laid out and approved within their hundred, to be opened and made, and all such causeways and bridges, as shall be requisite upon such road or highway, to be constructed,—or shall suffer and permit any public road or common highway causeway or bridge within their hundred, or any part of such road or highway, to be obstructed by any nuisance whatever, or to remain impassable or unrepaired for the space of fifteen days together;—or if any overseer of the public highways roads and bridges in any hundred in the said county, shall refuse or neglect to observe execute or comply with the directions or instructions, which the said commissioners of the roads in such hundred or a majority of them may lawfully deliver or give to him, for the opening and making or the repairing or amending of any such road or highway causeway or bridge or the removing of any nuisance therefrom, or otherwise touching the duties of his office;—every such commissioner and overseer shall, for every such offence, forfeit and pay to the State a fine not less than fifteen dollars and not more than fifty dollars, to be recorded, with costs of prosecution, by indictment in

the court of general quarter sessions of the peace and gaol delivery within the said county: *Provided*, that *Proviso*, nothing herein contained shall extend to any bridge, which according to law ought to be built or repaired at the common expense of Newcastle county.

SEC. 3. *And be it further enacted*, That if any <sup>Penalty—</sup> person or persons,—shall obstruct or incumber any <sup>for obstructing—</sup> public road or common highway in either of the <sup>committing</sup> counties of this State, now laid out or hereafter to be <sup>nuisance in—</sup> laid out and whether the same shall be a state road <sup>or injuring</sup> or other public road or common highway,—or shall <sup>bridge upon—</sup> commit any nuisance in any such public road or <sup>any public</sup> common highway,—by falling trees, making fences, <sup>road.</sup> or in any other way,—and shall not remove the same forthwith,—or shall wilfully break impair or injure any bridge upon any such road or highway,—every such person shall for every such offence, forfeit and pay to the State a fine, not less than fifteen dollars nor more than fifty dollars, with costs of prosecution, on conviction upon indictment in the court of general quarter sessions of the peace and gaol delivery within the county where the offence shall be committed.

SEC. 4. *And be it further enacted*, That it shall <sup>water-</sup> be the duty of every owner, and also of every tenant, <sup>wheels of</sup> of any mill or factory now situate or hereafter to be <sup>mills or fac-</sup> erected near any road or highway, to keep constantly <sup>ories near</sup> covered and concealed, from the sight of horses pas- <sup>roads to be</sup> sing such road or highway, by means of a sufficient <sup>kept covered</sup> blind to be so placed as not to obstruct such road <sup>by owner or</sup> or highway in any manner, every water wheel of <sup>tenant—</sup> such mill or factory that would otherwise be exposed to be seen from such road or highway: and every owner or tenant of a mill or factory, who shall <sup>penalty for</sup> neglect this duty for two days at any one time, shall <sup>neglect:</sup> forfeit and pay for such neglect to any person who will sue for the same the sum of forty dollars and costs of suit, but more than one penalty shall not be forfeited or sued for, for one case of neglect: and also <sup>and the com-</sup> in case of such neglect, it shall be the duty,—in New- <sup>missioners or</sup> castle county, of the commissioners of the <sup>overseers of</sup> roads in roads

shall have the the hundred wherein the mill or factory shall be situate and of each of them severally,—and in Kent and Sussex counties, of the overseer of the roads within whose limits the mill or factory shall be situate,—immediately on receiving information of such neglect, to cause to be erected or made a sufficient blind or repairs, not obstructing the road, to cover and conceal every water wheel as aforesaid; and the commissioner or overseer, causing such blind to be erected or repairs to be done, shall demand double the cost, and charges thereof from any owner or tenant of such mill or factory, and in case of neglect or refusal to pay the same, such commissioner or overseer shall sue for and recover the same, with costs of suit, from any owner or tenant of the mill or factory at which the blind shall have been erected or the repairs shall have been done; and suit for the recovery of any penalty incurred or forfeited as aforesaid, and also suit for the recovery of double costs and charges as aforesaid, if the amount shall not exceed fifty dollars, shall be brought and prosecuted before any justice of the peace for the county wherein the neglect shall happen; and the justices of the peace for the several counties of this State, shall severally, within their respective counties, have jurisdiction to hear and determine such suits; and such suits shall be proceeded in, in the same manner and under the same regulations, that would according to law be observed in an action to recover a debt of the same sum; and it shall be no objection to any such suit, that there are other owners or tenants not named therein: and every commissioner and overseer shall account for any money which he shall thus receive, as public money applicable to the repairing of the roads in his hundred or limits, and shall apply the balance, after deducting just allowances, accordingly: and every commissioner and overseer, who shall be guilty of neglect of the duty above enjoined upon him, shall, upon conviction of such neglect in the court of general quarter sessions of the peace and gaol delivery upon indictment, be adjudged to pay a fine not less than fifteen dollars nor more than fifty dollars, with the costs of prosecution. And a ten-

and account  
for such costs  
and charges  
as public mo-  
ney, etc

Penalty on  
commission-  
ers and over-  
seers for ne-  
glect of this  
duty.

ant may deduct from his rent any expenses or charges for erecting or repairing a blind as aforesaid, unless it shall be otherwise agreed in the lease or contract. CHAP. CCCV. 1825.

SEC. 5. *And be it further enacted;* That in <sup>Powers of</sup> Kent and Sussex counties every overseer of the <sup>overseers of</sup> roads, and in Newcastle county every overseer of <sup>roads;—</sup> the public highways roads and bridges, shall have right and power to enter upon any lands adjacent or <sup>to enter upon</sup> near to any public road or common highway within <sup>lands;—</sup> the limits of such overseer, and cause to be dug or scoured and kept open any ditch or ditches that he <sup>to open</sup> may deem necessary to drain the water from <sup>ditches—</sup> such road or highway, and also to enter upon any land that may be commodiously situated and cause sand <sup>to take sand</sup> gravel and stones to be dug taken and carried away <sup>gravel and</sup> <sup>stones—</sup> for the purpose of making amending or repairing any such road or highway, and timber and trees standing <sup>to cut and</sup> to be cut down and carried away for the purpose of <sup>take timber;—</sup> building or repairing any bridge or causeway within his limits as may be deemed expedient: and any <sup>penalty on</sup> owner or holder of such land or other person who <sup>owner or holder of land,</sup> shall molest or hinder any overseer in the exercise <sup>for hindering</sup> of such right and power, or shall obstruct any ditch <sup>overseer—</sup> dug or opened as aforesaid, shall upon conviction <sup>or obstructing</sup> thereof in the court of general quarter sessions of the <sup>ditches when</sup> peace and gaol delivery on indictment be adjudged <sup>opened:—</sup> to pay a fine not less than fifteen dollars nor more than fifty dollars besides the costs of prosecution:— but the overseer shall first take any timber or trees <sup>duties of the</sup> in the lines of the road within his limits that may be <sup>overseers, in</sup> suitable for the purpose; and in exercising the right <sup>the exercise</sup> and power aforesaid, he shall do as little damage as <sup>of said pow-</sup> <sup>ers;—</sup> may be to the owner or holder of the land: before taking the sand gravel and stones, and before cutting down the trees, the overseer shall cause the same to be fairly appraised by two judicious and impartial freeholders of the county, whom he shall appoint for that purpose, and to whom he shall administer an oath or affirmation according to this form viz,—  
“You do solemnly swear (or affirm) that the appraisalment which you shall make pursuant to your appointment shall be impartial and just according

CHAP.  
CCC.V.  
1825.

"to the best of your skill and judgment. So help  
"you God (or so you solemnly affirm.") If the free-  
holders so appointed cannot agree on an appraise-  
ment; they shall choose a third freeholder of the  
same county who shall also be sworn or affirmed as  
aforesaid, and the three or any two of them shall  
make the appraisement: the freeholders or any two  
of them shall make two certificates of their appraise-  
ment according to the following form, viz.:—

" county and hundred ss.  
" We the subscribers, freeholders of said county;  
" being appointed for this purpose according to law  
" and having been duly sworn or affirmed, do ap-  
" praise [ 1 ] to be taken by A. B. an  
" overseer of roads in said hundred, on the land of  
" C. D. for [ 2 ] within the limits of  
" said overseer, to the value of . Witness  
" our hands the day of 18 ;"  
if the appraisement shall be of sand gravel and stones  
or either, then insert in the blank represented by  
the brackets and figure 1, these words "sand gravel  
and stones," or either of them, as the case may be;  
—and in the blank represented by the brackets and  
figure 2 these words "amending and repairing (or  
making) a public road or common highway;"—if  
the appraisement be of timber or trees, then insert  
in the blank represented by the bracket and figure 1  
these words "timber and trees;"—and in the blank  
represented by the bracket and figure 2 these words  
"repairing (or building, as the case may be) a  
bridge and causeway" (or either as the case may be):  
—and in case of trees to be taken, the freeholders  
shall if convenient mark the same and endorse the  
number on the certificates: no certificate of the oath  
or affirmation need be made: and the overseer, if the  
owner or a guardian of an owner shall be residing in  
the county, shall give at least two days written no-  
tice to such owner or guardian,—and if not, then to  
any person in possession of the land, of the time and  
place of the meeting of the freeholders to make the  
appraisement: the appraised value, if demanded by  
the owner or guardian, shall be paid by the over-  
seer before removing the sand gravel stones timber

or trees; but if the appraised value be not so demanded, the overseer shall deliver one of said certificates to the collector having the collection of the road tax in his hundred; and the certificate with a receipt thereon shall be a good voucher for such collector; but if he shall not pay it, he shall deliver it, in Newcastle county, to the commissioners of the roads in his hundred, and in Kent and Sussex counties, to the levy court, and provision shall be made for the payment thereof when demanded: the other certificate the overseer shall keep. The overseer's oath or affirmation shall be in any case received as competent to prove notice given as afore-required, even in an action against him; and in such action this act, with the facts of justification under it, may be given in evidence on the general issue.

CHAP.  
CCC.V.  
1825.

SEC. 6. *And be it further enacted,* That the Repeal of—  
eleventh fourteenth and sixteenth sections and the parts of ch.  
first clause or period of the seventeenth section of cxxx. a. 1 v.  
the act entitled "An act for erecting public bridges  
causeways and laying out and maintaining high-ways";—and the tenth and eleventh sections of the Sec. 10, 11,  
act entitled "An act for the better regulation of the ch. clxxx. a.  
roads in Newcastle county";—and the tenth and 1 v. 402.  
eleventh sections of the supplementary act for the Sec. 10, 11,  
amendment of said act passed March 31, 1764;— ch. clxxxiv.  
and the supplementary act to the act entitled "An a. 1 v. 411.  
additional supplementary act for the amendment of Ch. cxxi. a.  
an act of the General Assembly of this government c<sup>1</sup> v. 510.  
intituled an act for the better regulation of the roads  
in Newcastle county" passed June 13, 1772;—and  
the fifth and sixth sections of the act entitled "An Sec. 5, 6, ch.  
act for the better regulation of the King's roads clxxvi. a. 1 v.  
within the counties of Kent and Sussex;"—and the 390.  
third and fifth sections of the act entitled "An act Sec. 3, 5, ch.  
for the supporting maintaining and keeping in good lxiv. b. 2 v.  
repair the bridge over the Broadkill creek in Sussex 712.  
county and for other purposes therein mentioned;"  
—and the sixth section of the "Act to provide for Sec. 6, ch. xii.  
opening and improving a road from Christiana bridge c. 2 v. 1079.  
to the line between this State and the State of  
Maryland, where a road leading from Peach Bot.

parts of ch.  
xcix, c. 2  
v. 1263.

part of sec.  
13 ch cxxvi.  
c. 2 v. 1338.

parts of ch. c.  
c. 2 v. 1277.

Sec. 6, ch. vi.  
3 v. 22  
Sec. 13, ch  
cxxxviii. 3 v.  
306.

Sec. 7, ch.  
clxx 3 v.  
374.

Sec. 6, ch.  
xviii. 4 v. 30.

but this re-  
peal not to  
extend to any  
matter or of-  
fence done or  
committed  
before pass-  
ing this act.

tom Ferry and Bald Friar Ferry intersects the said line;"—and the fourteenth fifteenth sixteenth seven-  
teenth and twenty third sections of the act entitled  
"An act for the better regulation of the roads in  
the county of Kent," and these words, to wit, "un-  
der the penalty of fifty dollars to be recovered and  
applied as is herein before directed" in the eigh-  
teenth section of said act;—and, so much of the  
thirteenth section of the supplement to said act pas-  
sed January 20, 1797, as imposes a fine of fifteen  
dollars upon any overseer or overseers as therein  
specified;—and the seventeenth eighteenth twenty  
fifth and twenty sixth sections of the act entitled  
"An act for the better regulation of the roads in the  
county of Sussex," and so much of the ninth sec-  
tion of said act as imposes a penalty of twenty dol-  
lars upon an overseer for neglect of duty;—and the  
sixth section of the supplement to the said act pas-  
sed January 23, 1798;—and the thirteenth section  
of the act entitled "An act altering the mode of re-  
pairing and supporting the roads and bridges in the  
several hundreds of the county of New castle;"—and  
the seventh section of the "act authorizing certain  
commissioners therein named to view the road lead-  
ing over Appoquinimink bridge and causeway, and  
to alter and change the same;" and the sixth section  
of the supplement to said act passed January 31,  
1806;—be and the same hereby are repealed and an-  
nulled:—excepting only, and it is hereby provided,  
that this section shall not extend to any matter or  
offence that has been done or committed or has hap-  
pened before the passing of this act; but that every  
the aforementioned sections clauses and words shall  
continue unrepealed and in force, in respect to any  
and every matter or offence that has been done or  
committed or has taken place before the passing of  
this act, in the same manner as if this act had not  
been passed.

PASSED AT DOVER, }  
February 10, 1825. }

## CHAPTER CCCVI.

CHAP.  
CCCVI.

AN ACT to authorize Ann Jones of Newcastle county to bring into the State of Delaware certain negro slaves now in the State of Maryland.

1825.

PASSED AT DOVER, }  
February 10, 1825. }

PRIVATE ACT.

## CHAPTER CCCVII.

AN ACT authorizing the State-treasurer to pay the claims therein mentioned.

SECTION 1. BE IT ENACTED by the Senate State-treasurer and House of Representatives of the State of Delaware to pay certain claims; in General Assembly met, That the State-treasurer be and he is hereby authorized and directed to pay,—to William W. Green, State's treasurer, fifty W. W. Green: dollars and fifty cents, for services as to the cargoes of the schooner Adolphus and Anna Maria, postage, and expenses to Philadelphia to subscribe for canal stock;—to James Wilson, sixteen dollars and fifty James cents, for printing;—to Thomas Fisher, sheriff, for Wilson; attending the court of appeals at October and De- Thomas Fisher: cember terms last, eleven dollars;—to William William Saulsbury; late sheriff, four dollars, for attending the Saulsbury: court of appeals at August term last;—to Philip Ra- Philip Rasin: sin sixteen dollars, for attending on the court of appeals as bailiff at the terms aforesaid, and for candles;—to Hezekiah Niles six dollars and fifty cents, for Hezekiah Niles: the twenty-fifth and twenty-sixth volumes of the Weekly Register;—to Samuel Harker, for printing, Samuel fifteen dollars and fifty cents;—to Purnal Tindal, late Harker: sheriff, thirty-five dollars and fifty-eight cents, for Purnal Tindal: overpayment of fines and forfeitures;—to Thomas Thomas Purnell six dollars and ninety-two cents, for witness Purnell: fees vs. William Carlisle justice of the peace;—to Caleb H. Sipple, clerk of the court of appeals, five C. H. Sipple: dollars and fifty cents;—to Ebenezer Blackiston Ebenezer

Blackiston; twenty dollars and forty-seven cents;—to John Tatman, as commissioner to run the line between Kent and Sussex, seven dollars and fifty cents;—to Augustus M. Schee sixteen dollars, for printing one ream marriage license;—to Jesse Green, for balance on settlement with the auditor of accounts, for one month and ten days' services as adjutant general, eleven dollars and ten cents;—to William P. Brobson; for acting as commissioner to examine witnesses, six dollars;—to William Dulany forty two dollars; being the amount received by the State over and above the cost and charges for a negro belonging to said Dulany; to Philip Rasin seventeen dollars, for balance due him on his account for seventeen days' attendance on the court of appeals not heretofore allowed.

Appropriation for the use of the Secretary's office;

to be ac-  
counted for.

SEC. 2. *Be it enacted*, That the State treasurer be and he is hereby authorized to pay to the Secretary of State the sum of one hundred dollars, for the purpose of paying all proper expenditures for the use of his office: an account of which shall be laid before the General Assembly at their next session.

**Auditor of  
accounts  
to settle the  
accounts of  
Daniel God-  
win, escheat-  
or of Kent  
and C. S.  
Layton, es-  
cheator of  
Sussex.**

SEC. 3. *Be it further enacted*, That the auditor of accounts be required to audit and settle, upon the proper vouchers being produced, the accounts of Daniel Godwin escheator of Kent county, and the accounts of Caleb S. Layton escheator of Sussex county; and upon ascertaining the amount due upon said accounts, that he draw his warrant on the State's treasurer, who shall pay the same out of any money in the treasury not otherwise appropriated.

PASSED AT DOVER, }  
February 11, 1825. }

## RESOLUTIONS.

## CHAPTER CCCVIII.

*House Representatives;**January 12th, 1825.*CHAP.  
CCCVIII.  
1825.

RESOLVED by the House of Representatives of <sup>W. W. Green</sup> the State of Delaware with the concurrence of the <sup>appointed</sup> Senate, That William W. Green be and he is hereby <sup>State-trea-</sup> <sup>surer.</sup> appointed State's treasurer.

PASSED AT DOVER, }  
January 19th, 1825. }

## CHAPTER CCCIX.

RESOLVED by the Senate and House of Represen- <sup>Directors of</sup> <sup>the Farmers'</sup> <sup>Bank—</sup> <sup>tatives of the State of Delaware in General Assem-</sup> <sup>bly met,</sup> That the following persons be and they are hereby appointed directors of the Farmers' Bank of the State of Delaware on the part of the State, that is to say, Thomas Clayton John Bell and Jacob at Dover—Raymond for the principal Bank; Cyrus Lamborn <sup>Wilmington—</sup> John Gordon and Joseph C. Gilpin for the Branch <sup>Newcastle—</sup> Bank at Wilmington; Samuel Meteer James Rogers and Levi Boulden for the Branch at Newcastle; William W. Green David Hazzard and Jehu Stock- <sup>Georgetown.</sup> ley for the Branch Bank at Georgetown.

PASSED AT DOVER, }  
January 25th, 1825. }

CHAP.  
CCCX.

## CHAPTER CCCX.

1825.

Amendment  
to the U. S.  
Constitution  
proposed by  
Georgia dis-  
approved.

RESOLVED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the amendment to the constitution of the United States, as proposed in the resolution from the State of Georgia passed the twenty-second December eighteen hundred and twenty-three, be and the same is hereby disapproved by this General Assembly.

*Resolved further,* That the Governour of this State be and he is hereby requested to communicate these resolutions to the executive of the State of Georgia, and to the executives of the several States, with a request that the same may be submitted to their respective legislatures.

PASSED AT DOVER, }  
January 8, 1825. }

## CHAPTER CCCXI.

RESOLVED *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That this legislature *do concur*, with the General Assembly of the State of Ohio, in opinion, that "a system of foreign colonization, with correspondent measures, might be adopted, that would in due time effect the entire emancipation of the slaves in our country without any violation of the national compact or infringement of the rights of individuals, by the passage of a law by the general government (with the consent of the slave holding states) which should provide, that all children of persons now held in slavery born after the passage of such law should be free at the age of twenty one years (being supported during their minority by the persons claiming the services of

Resolution of  
Ohio approved,

"their parents) provided they then consent to be  
"transported to the intended place of colonization."

CHAP.

CCGIX.

1825.

*Resolved*, That the governour of this State be requested to forward a copy of the above resolution to the governour of each of the States of the United States, with a request that the same may be laid before the respective legislatures;—and also a copy to each of our senators and representative in congress, requesting their co-operation in all national measures having a tendency to effect the object therein embraced.

PASSED AT DOVER, }  
February 3, 1825. }

## CHAPTER CCCXII.

*Resolved 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 empowered to borrow from the trustee of the fund for establishing schools in this State, the sum of one thousand dollars; and that the same shall be repaid as soon as the said treasurer may have in hand money belonging to the State sufficient to pay the aforesaid sum.

State-treas-  
urer authori-  
to borrow  
money from  
trustee of the  
school-fund.

PASSED AT DOVER, }  
February 11, 1825. }

## ERRATUM.

In page 407, sixth line from the bottom of the page,  
for "each" read "such."

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**SECRETARY'S OFFICE,**

**DOVER, 7 MAY, 1825.**

In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes," I have collated with, and corrected by, the original rolls, and caused to be published, this edition of the laws of the said State, passed during the last session of the General Assembly, which commenced on Tuesday the fourth day of January, and closed on Friday, the eleventh day of February, in the year of our Lord one thousand eight hundred and twenty-five.

**H. M. RIDGELY,**

Secretary of the State of Delaware.

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# LAWS

OF THE

## State of Delaware.

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### CHAPTER CCCXIII.

CHAP.  
CCCXIII.  
1826.

AN ACT to incorporate the "Methodist Benevolent Society of Wilmington."

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That Edward Worrell, Samuel Sappington, James A. Sparks, Henry J. Pepper, Miller Dunott, John Hagany, Thomas Young, Samuel Wood, John Taylor, James P. Merrihew, James Guthre, Charles Farra, William R. Cotter, William Baggs, Jeremiah Dodsworth, John Smith, John Bosler, Edward Kennard, William Torbert, jr. John Guyer, Lewis Ashton, James Simpson, jr. Charles Saunders, Edward H. Bonsall, George Young, David Webster and such other persons as are, or hereafter shall become members of the Methodist Benevolent Society of Wilmington, be, by virtue of this act, one body politic and corporate in fact and in law, and shall have continuance for twenty one years, by the name style and title of "The Methodist Benevolent Society of Wilmington."

Company incorporated.

SEC. 2. *And be it further enacted,* That the said corporation and their successors shall, for the said

may hold and  
dispos. of  
property.

term of twenty-one years, be able and capable in law to purchase, receive and hold any lands, tenements, rents, goods, or chattels or any property whatsoever, which may be given, conveyed, or devised to them and also to give, grant, let, sell or assign the same, and to do all other matters touching the same, by the name and title aforesaid; and they shall have a common seal, may sue and be sued, plead and be impleaded, in any court of law or equity in this State in all manner of actions, suits, complaints, pleas, causes, and matters whatsoever, and of what nature or kind soever.

have a seal;  
sue and be su-  
ed:—

may appoint  
officers and  
make by-  
laws.

SEC. 3. *And be it enacted*, That the members of the said society shall have power to appoint such officers as they may deem necessary or proper to conduct the affairs of the society; and from time to time, to make and establish such by-laws, rules and ordinances, not contrary or repugnant to the laws and constitution of this State or of the United States, as they shall deem necessary and proper for the good government of the society.

Limitation of  
its yearly in-  
come.

SEC. 4. *And be it enacted*, That it shall not be lawful for the said corporation, and it shall not have power, to have, possess nor in any manner hold, goods, chattels, rights or credits, lands or tenements or property of any kind, the clear yearly income or revenue of which shall exceed three thousand dollars.

PASSED AT DOVER, }  
January 15th, 1826. }

#### CHAPTER CCCXIV.

AN ACT to *authorize John Gibbons to remove a certain slave therein mentioned.*

PASSED AT DOVER, }  
January 16th, 1826. }

PRIVATE ACT,

## CHAPTER CCCXV.

CHAP.  
CCGXV.  
1826.

AN ACT *to authorize and empower Joel Clement to bring into the State of Delaware from the State of Maryland a certain negro slave named Jefferson.*

PASSED AT DOVER, }  
January 17th, 1826. }

PRIVATE ACT.

## CHAPTER CCCXVI.

AN ACT *relating to fugitives from labour.*

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* that when a <sup>Runaway servant or slave from</sup> other States— person held to labour or service in any of the United States or in either of the Territories thereof, under the laws thereof, shall escape into this State, the person to whom such labour or service is due, his <sup>under what process, and by whom to be arrested:</sup> or her agent or attorney is hereby authorized to apply to any judge or justice of any court of record, or to any justice of the peace or to any burgess of a Borough or Town corporate, who on such application, supported by the oath or affirmation of such claimant, agent or attorney that said fugitive hath escaped from his or her service or from the service of the person for whom he is agent or attorney, shall grant his warrant, under his hand and seal and directed to any sheriff or constable, authorizing and empowering said sheriff or constable to seize and arrest the said fugitive, who shall be named in said warrant, and to bring said fugitive before said officer issuing said warrant, or before some other judge or justice of a court of record, or some justice of the peace, or burgess of a borough or town corporate; which said warrant shall be in the form, or to the effect following, viz:

“State of Delaware,                      county ss, To the  
“sheriff or any constable of said county:—

CHAP. "This is to authorize and require you to seize and  
 CCGXVI. "arrest the body of said to  
 1826. "be the slave (or servant, as the case may be), of  
 " and him (or her) to bring  
 " forthwith before me or some judge of said State or  
 " justice of the peace in and for said county (if in  
 " New-castle county add "or some burgess of the  
 " borough of Wilmington") to be dealt with as the  
 " law directs"—by virtue of which precept the said  
 fugitive named therein may be arrested by the officer to whom the same is delivered in any part of this State.

certificate for their removal—  
 by whom and on what proof to be given: SEC. 2. *And be it enacted*, That the said fugitive when so arrested, shall be brought before the officer in that behalf named, and, upon proof to the satisfaction of such officer that the person so seized or arrested doth under the laws of the State or territory from which he or she fled, owe service or labour to the person claiming him or her, it shall be the duty of such judge or other officer aforesaid to give a certificate thereof to such claimant, his or her agent or attorney, which shall be sufficient warrant for removing the said fugitive to the State or territory from which he or she fled.

penalty for preventing their arrest or removal, &c. SEC. 3. *And be it enacted*, That if any person or persons shall obstruct or hinder such sheriff, constable, claimant, agent or attorney in so seizing, arresting or removing such fugitive from labour, or shall rescue or aid or abet the rescue of such fugitive from such sheriff, constable, claimant, agent or attorney or shall assemble together with the intention to interrupt such sheriff, constable, claimant agent or attorney in the due execution of this act, they shall on conviction thereof by indictment forfeit and pay a sum not exceeding five hundred dollars and be imprisoned for a period not less than three months nor more than twelve months, and shall be liable to an action at the suit of the owner of said fugitive for damages.

Penalty for carrying out of this State SEC. 4. *And be it enacted*, That if any captain or commander of any vessel, or other person, shall

carry or transport by water, or cause to be carried <sup>by water any</sup> or transported by water, out of this State, any person <sup>servant or</sup> held to labour or service by any citizen or inhabitant <sup>slave.</sup> of this State, or by any citizen or inhabitant of any other of the United States or either of the Territories thereof, and who may have escaped into this State, such captain commander or other person shall pay to the owner of such person held to labour or service the sum of five hundred dollars to be recovered by an action on the case, or on conviction thereof by indictment be subject to a fine not exceeding five hundred dollars and imprisonment not less than three nor more than twelve months at the election of the party aggrieved; and such election shall be determined by his bringing his action on the case or instituting his prosecution by indictment; and if any negro or mulatto shall carry or transport by water any person held to labour or service as aforesaid, he shall, on conviction thereof by indictment, be punished by fine and imprisonment, or by being whipped with thirty-nine stripes, in the discretion of the Court.

SEC. 5. *And be it enacted,* That if any suspicious coloured person shall be taken up travelling in <sup>Negroes and</sup> or through this government without having a sufficient <sup>mulattoes</sup> pass signed by some justice or proper officer of <sup>travelling</sup> the place from whence he or she came, approved and <sup>without a</sup> renewed by some justice of the peace in the parts <sup>pass, may be</sup> through which such person hath travelled, or shall <sup>taken up as</sup> not otherwise be able to give a good and satisfactory <sup>runaways.</sup> account of him or herself to the justice before whom he or she shall be brought, such person shall, by the said justice, be committed to the gaol of the county where he or she shall be taken up, and be deemed to be and dealt withal, as a runaway servant.

SEC. 6. *And be it enacted,* That this act shall be <sup>This act to</sup> given in charge to the grand juries, by the judges <sup>be given in</sup> of the court of quarter sessions of this State at their <sup>charge to the</sup> respective sessions of said court. <sup>grand juries.</sup>

PASSED AT DOVER, }  
January 19th, 1826. }

CHAP.  
CCCXVII.

## CHAPTER CCCXVII.

1826. AN ACT to enable Isaac Davis of Kent county in the State of Delaware, to remove for the purposes of his own employment, into and from the said State certain manumitted negro slaves now in the State of Maryland, and to remove out of this State into the State of Maryland certain indented negro apprentices and return them at his pleasure without affecting his property therein.

PASSED AT DOVER, }  
January 20, 1826. }

PRIVATE ACT.

## CHAPTER CCCXVIII.

A SUPPLEMENT to the 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 Redlion and St. George's hundreds and county of Newcastle, and for keeping the dykes and drains, belonging to the same, in good order and repair.

PASSED AT DOVER }  
January, 20, 1826. }

PRIVATE ACT.

## CHAPTER CCCXIX.

AN ACT to prevent swine from running at large in the town of Seaford and certain limits therein mentioned.

Swine of persons residing within certain limits

SEC. 1. BE 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 nor inhabitants or other person or persons whatsoever, residing within the limits and bounds hereinafter 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 at the mouth of Herring-creek, running with said creek to the line of the lands of the heirs of William Hazzard, deceased, thence with said line to the county road, thence with said county road to the north east corner of the lands formerly belonging to Bernard M'Gee deceased, now to M. O. Rust, thence with said line to the river Nanticoke, thence with said river to the place of commencement.

SEC. 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 March next, within the bounds or limits aforesaid, the owner or owners of all such hogs or swine, shall forfeit all such hogs or swine to the use of any person or persons who may take up and secure the same, unless the owner or owners may or shall pay to the person or persons so taking up and securing said hog, hogs or swine one dollar for each and every hog and swine, with the proper charges for keeping the same.

SEC. 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, within the bounds aforesaid, to shoot or kill every such hog hogs or swine so kept permitted or suffered to run at large as aforesaid, within the bounds or limits as aforesaid, and to give notice thereof within three hours thereafter to the owner or owners, or leave notice at his or her dwelling.

SEC. 4. *And be it enacted by the authority aforesaid*, That nothing in this act 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 the hog or hogs are kept

CHAP. or fed by any person or persons living or residing  
 CCCXX. within the bounds or limits aforesaid and suffered to  
 1826. run at large.

PASSED AT DOVER, }  
 January 20, 1826. }

### CHAPTER CCCXX.

AN ACT *to incorporate the trustees of the Middletown Academy.*

Trustees in-  
 corporated:

SEC. 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Richard Mansfield, John Eddowes, John Ginn, William H. Crawford and Arnold Naudain, 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 Middletown Academy,*" and by the same name shall have perpetual succession.

may acquire  
 and hold pro-  
 perty,

and dispose  
 of the same;

may sue and  
 be sued;

and do all  
 corporate  
 acts;

SEC. 2. *And be it further 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 institution, and to sell dispose of alien or demise the same, in such manner and form as they may deem most advantageous or beneficial to the said institution; and the said corporation, by the name of "*The trustees of the Middletown 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.

SEC. 3. *And be it further enacted,* That the trus-

tees aforesaid, or a majority of them; shall have full <sup>may make by-laws,</sup> power and authority to make, alter, repeal and again re-establish all by-laws regulations and ordinances (not inconsistent with the constitution and laws of this State or of the United States) 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 and <sup>and appoint tutors and officers.</sup> persons as they may deem requisite for the said Academy, under such rules and stipulations and for such pecuniary compensation as they shall deem adequate and proper; 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 treasurer secretary and such other officers as may be requisite, whose duties shall be prescribed by the ordinances of the said corporation; but the treasurer <sup>Treasurer to give bond.</sup> shall be required to enter into a bond to the corporation for the faithful performance of his trust before he shall officiate as treasurer aforesaid.

SEC. 4. *And be it further enacted,* That whenever a vacancy shall happen in the said board of trustees either by death, resignation, neglect or refusal <sup>Vacancies among trustees how filled.</sup> to serve, removal from Newcastle county or in any other manner, the remaining trustees shall have the power, and they are hereby authorized and empowered, to choose by ballot a person or persons to fill said vacancy.

SEC. 5. *And be it further enacted,* That the said <sup>Trustees may receive subscriptions and enforce payment;</sup> trustees shall have power to take and receive subscriptions for the use and benefit of the said institution, and in case any person shall fail to comply with his or her subscription, to enforce the payment thereof.

SEC. 6. *And be it further enacted,* That the said <sup>may have a common seal &c.</sup> 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 all acts, certified under the seal of the said corporation,

CHAP. relating to the affairs thereof, shall have full faith and  
 CCCXXI. credit in and before all and every the courts and ju-  
 1826. risdiction within this State.

PASSED AT DOVER, }  
 January 21, 1826. }

## CHAPTER CCCXXI.

AN ACT to incorporate the Delaware Fire Insu-  
 rance company.

Company in-  
 corporated:

SEC. 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That Jacob Alricks, Thomas C. Alricks, Mary Ann Alley, William Alley, ——— Alley, David Bush, George Bush, Mary Black, Jane Black, Mablon Betts, Thomas J. Boyd, Samuel Bush, Cornelius D. Blaney, Joseph Bailey, Sarah Black, Edward T. Bailey, Joseph T. Bailey, Cochran and Adams, William Chandler, Charles Canby, Jane Cochran, Mary Carpenter, Elihu Chauncey, Thomas Chandler, Sarah Donalson Isaac Flinn, Eliphalet W. Gilbert, Thomas Garrett, George Griffin, Joseph C. Gilpin, Joseph Grubb, Vincent Gilpin, John F. Gilpin, V. and J. F. Gilpin, Edward Gilpin, Naomi Gilpin, Henry Geddes, Sophia E. Geddes, Henry Heald, R. A. Henderson, Samuel Harker, John Hedges, John Hagany, William J. Hollowell, Sarah R. Hollowell, Rebecca P. Hollowell, John Hirons, jr. Ann F. Hirons, James Hemphill, George Jones, John Jack, John Johnson, Amer Jefferies, Theophilus Jones, Catharine Johnson, William Johnson, Gideon Jaques, J. and T. Janviers, William Kirk, Mary S. Kirk, Thomas T. Kirk, William Larkin, Thomas H. Larkin, Thomas Lyndon, Eli Mendinhall, Lydia Mendinhall, J. Mendinhall & Co. Susan E. Monro, Margaretta E. Monro, Samuel M'Clary, James M'Kean, Amelia T. Morris, John M'Lear, Moses Morrisson, Jesse Mendinhall, Isabella M'Bride, Rachel Mendinhall, Cornelius

Naudain, Thomas S. Newlin, Robert G. Patterson, Ross Patterson, John C. Patterson, John Patterson Mary Y. Patterson, Margaret R. Patterson Samuel G. Patterson, Henry G. Patterson, Thomas J. Patterson, Elizabeth Patterson, Robert Porter, Joseph Pogue, John Reynolds, William Reynolds, Susan H. Rodney, Lydia Seal, Isaac H. Starr, James Simpson, Samuel Sappington, Peter Stats, Joseph Scott, William Seal, Joseph Seeds, Rebecca Sebo, Irvine Shubrick, Evan Thomas, Mary Taylor, Joseph Thomas, Rebecca Topham, David C. Wilson, Jane K. Wilson, Latitia K. Wilson, David C. Wilson, jr. Latitia K. Wilson, jr. John Wales, Samuel Wollaston, Joseph P. Wollaston, George W. Worrel, Sarah Wayne and Louisa Webster, and such other persons as shall hereafter become stockholders in the said Corporation, shall be and are hereby created and declared to be a body politic and corporate, by the name, style, and title, of "*the Delaware Fire Insurance Company*," and by the same name shall have perpetual succession; and shall be able to sue and be sued implead and be impleaded in all courts of law or equity in this State or elsewhere; and to make and have a common seal, and the same to break alter and renew at their pleasure; and also to ordain and establish such by laws ordinances and regulations, as shall appear necessary for regulating the concerns of the said corporation, not being contrary to this act and the constitution and laws of this State or of the United States.

SEC. 2. *And be it further enacted*, That the capital stock of the said corporation shall be one hundred thousand dollars, divided into two thousand shares of fifty dollars each; and all such part or parts thereof, as shall not have been paid pursuant to the existing articles of association, shall be paid by the respective stockholders into the hands of the directors hereinafter named, by instalments not exceeding ten dollars, as may be required by the president and directors appointed in the manner hereinafter prescribed, upon their giving sixty days previous notice to the stockholders in two or more of the newspapers

CHAP. printed in the borough of Wilmington; and in case  
 CCCXXI. of failure in the payment of all or any part of the said  
 1826. instalment or instalments, at the time or times so re-  
 quired, every share on which such failure shall have  
 taken place, and the interest or dividends on all mo-  
 nies previously paid on such shares, shall be forfeited  
 to the corporation, or shall be sued for and recover-  
 ed at the option of the corporation.

Directors—  
 number of—  
 and how and  
 when to be  
 chosen;

SEC. 3. *And be it further enacted.* That, for the  
 well ordering of the affairs of the said corporation,  
 there shall be nine directors, being stockholders in  
 the said company, chosen by ballot, on the first Mon-  
 day of March in the year one thousand eight hundred  
 and twenty-six, and on the same day in every year  
 thereafter, by a plurality of votes of the stockholders  
 present, or by proxy pursuant to the regulations of  
 the by-laws, each stockholder having one vote for  
 each share; *Provided*, that no stockholder shall be  
 entitled to more than ten votes at any such election,  
 according to the following ratio, that is to say,—from  
 one to five shares, one vote; from five to ten shares,  
 two votes; from ten to twenty shares, three votes;  
 from twenty to thirty shares, four votes; from thirty  
 to forty shares, five votes; from forty to fifty shares,  
 six votes; from fifty to sixty shares, seven votes;  
 from sixty to seventy shares, eight votes; from seven-  
 ty to eighty shares, nine votes; and from eighty and  
 upwards ten votes;—and no share, which shall not  
 have been regularly transferred at least three calendar  
 months before the election, shall confer the right of  
 voting: And the directors so chosen shall serve  
 for one year next ensuing the election respectively,  
 and until others shall be chosen, and no longer; and  
 at their first meeting after each election they shall  
 choose one of their numbers as president; and should  
 it at any time happen, that an election of directors  
 shall not be made upon the day, when pursuant to  
 this act it ought to have been made, the said corpo-  
 ration for that cause shall not be deemed to be dis-  
 solved, but it shall be lawful upon any other day  
 within ten days thereafter, to hold and make an elec-  
 tion of directors, in such manner as shall have been

how long to  
 serve—

president of—

regulated by the by-laws and ordinances of the said corporation; and in case of death, resignation, or dis-<sup>vacancies</sup> qualification by ceasing to be a stockholder or other-<sup>how filled—</sup>wise, of a director, or in case of a vacancy by any other cause, such vacancy and the place of such director, for the remainder of the year, shall be filled up by the board of directors for the time being: *Provi-*<sup>notice of this</sup>*ded,*<sup>election of.</sup> that in all elections of directors by the stockholders, notice of the time and place of holding the same shall be given by the directors in two or more of the newspapers printed in the borough of Wilmington, at least ten days before the time of said election.

SEC. 4. *And be it further enacted,* That the pre-<sup>Present direc-</sup>sent president and directors of the said company, and <sup>tors how long</sup> the officers by them appointed pursuant to the arti-<sup>to serve—</sup>cles of association, shall be and remain in office, and exercise all the duties and functions to their respective offices appertaining, until the election of president and directors, under and in pursuance of the provisions of this act.

SEC. 5. *And be it further enacted,* That the pre-<sup>President and</sup>sident and directors shall have full power and au-<sup>directors—</sup>thority to make all kinds of insurances against <sup>their powers</sup>fire, and insurances on inland transportation of goods <sup>and duties—</sup>wares and merchandise and country produce, and <sup>to make insu-</sup>all kinds of marine insurance, when they shall so <sup>rance,</sup>determine; and generally to transact and perform all business relative to the objects aforesaid; and also to <sup>to invest and</sup>invest the capital and surplus funds of the company <sup>dispose of the</sup>from time to time in the public funds of the United <sup>money of the</sup>States or in any incorporated bank or banks or other <sup>company,</sup>incorporated company, or to loan the same to any individual or individuals upon good security, and to dispose of the money and property of the company (not being contrary to law) as to them shall appear most advantageous in prosecuting the objects of this institution; they shall also keep regular books con-<sup>to keep books</sup>taining full fair and correct entries of all their busi-<sup>of their trans-</sup>ness and transactions, to be open at all times to the <sup>actions,</sup>inspection of the stockholders; and shall have power

to purchase  
buildings:

to purchase one or more buildings in or near the borough of Wilmington, for the purposes and objects of this institution.

to appoint sec-  
retary survey-  
or and offi-  
cers—

SEC. 6. *And be it further enacted,* That the president and directors for the time being shall have power to appoint a secretary and surveyor and such other officers clerks and servants under them, as shall be deemed necessary for executing the business of the said company, and allow them such salaries as they may judge reasonable: And shall also have power to make ordain and establish such by-laws ordinances and regulations, as shall appear necessary for regulating the concerns of the said Corporation, not being contrary to this act or the constitution or laws of this State or of the United States.

to make by-  
laws

what number  
to constitute  
a board for  
the transac-  
tion of busi-  
ness.

See sec. 9.

SEC. 7. *And be it further enacted,* That not less than five directors shall form a board for the transaction of business, of whom the president shall be one, but in case of his sickness or necessary absence, his place may be supplied by another director to be appointed by a majority of those present.

Policies of in-  
surance how  
to be execu-  
ted:

losses how to  
be adjusted  
and paid:

president pro-  
tem.

SEC. 8. *And be it further enacted,* That all policies of insurance, made by this corporation, shall be signed by the president and sealed with the common seal; and all losses, on any such policy or policies, shall be adjusted by the president and board of directors, and paid agreeably to the terms of the policy, out of the funds of the corporation; and in case of the absence death resignation or disqualification of the president, the directors for the time being shall appoint a president, pro tem. to execute the several duties assigned to him, until the vacancy is filled up as provided for in this act.

Losses to be  
paid and cap-  
ital made up  
before divi-  
dends made;

SEC. 9. *And be it further enacted,* That the said corporation shall, from time to time, apply all sums of money, received by them for premiums, to the payment of losses in the first instance, and to make up the amount of their original capital whenever it shall have suffered any diminution by losses; and

that dividends shall be made of the nett profits <sup>dividends of</sup> arising on the capital stock, at such periods as the <sup>profits by</sup> president and directors may judge proper, not often <sup>whom and</sup> er than once in six months; and the same shall be <sup>when to be</sup> paid to the stockholders or their legal representatives; <sup>made:</sup> but if, at any time, a dividend shall be declared <sup>of liability of di-</sup> a greater amount than the nett profits of the said <sup>rectors to</sup> company at the time of making the same, each and <sup>make up cap-</sup> every director; that consented thereto, shall, and is <sup>ital injured</sup> hereby declared to be liable for in his individual ca- <sup>by dividends:</sup> pacity and bound to contribute to make good the de-  
ficiency in the capital stock, occasioned by such <sup>quorum to</sup> improper dividend: and to form a quorum for such <sup>make divi-</sup> purpose, the board shall not be less in number than <sup>dends:</sup> six, including the president, and the resolution shall <sup>resolution for</sup> be laid before the directors six days before they <sup>are divid-</sup> called upon to decide; for all other purposes, the pre- <sup>See sec. 7.</sup> sident and four directors shall be a quorum.

SEC. 10. *And be it further enacted,* That the <sup>Stock of the</sup> stock of this institution is hereby declared to be <sup>company—</sup> personal and not real estate, and may be assigned and <sup>to be person-</sup> transferred on the books of the company in person or <sup>al estate—</sup> by power of attorney only, conformable to the regula- <sup>how to be</sup> tions to be prescribed by the directors; but no trans- <sup>transferred—</sup> fer of stock shall be binding upon the company, if <sup>when not</sup> made within thirty days after a loss shall have occur- <sup>binding on</sup> red, or if not made in a book or books kept by the com- <sup>the company;</sup> pany for that purpose; and no stockholder indebted to <sup>stockholder</sup> the company shall be permitted to make a transfer or <sup>indebted to</sup> receive a dividend until such debt is paid or secured <sup>company</sup> to the satisfaction of the president and board of di- <sup>when not to</sup> rectors. <sup>make transfer</sup> or receive di- <sup>dividends.</sup>

SEC. 11. *And be it further enacted,* That the said <sup>Company not</sup> corporation shall not be competent to purchase or <sup>to hold real</sup> hold any real or leasehold, other than such as may <sup>estate except</sup> be recovered by them for premiums or debt and may <sup>&c.</sup> be necessary for their immediate accommodation in business.

SEC. 12. *And be it further enacted,* That the president and directors may call a general meeting of

General  
meetings of  
stockholders,  
how and by  
whom may be  
called.

the stockholders for any purpose relative to the affairs of the institution, giving at least fourteen days public notice in two or more of the newspapers published in Wilmington; and any number of stockholders, not less than twenty, who together shall be proprietors of five hundred shares, may at any time apply to the president and directors to call a general meeting of the stockholders for any purpose relative to the affairs of the institution; and if the president and directors shall refuse to call such meeting, the said number of twenty stockholders, proprietors of not less than the aforesaid number of shares, shall have power to call a general meeting of the stockholders, giving at least fourteen days public notice in two or more of the newspapers printed in Wilmington, specifying in such notice the object or objects of such meeting.

Continuance  
of this act.

SEC. 13. *And be it further enacted*, That this act shall continue and be in force until the thirty first day of December in the year eighteen hundred and forty, and until the end of the next session of the General Assembly thereafter, unless the said corporation shall be sooner dissolved by the concurring votes of the stockholders of two thirds of the capital stock, given at a meeting called for the express purpose, in the manner prescribed by this act.

PASSED AT DOVER, }  
January 21, 1826. }

## CHAPTER CCCXXII.

AN ACT to vest the power of vacating county roads in the court of quarter sessions.

Petition to  
vacate road;

SECTION I. 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, whenever it shall be represented to the court of quarter sessions in and for any of the counties of this State that a public county

road is useless and inconvenient, the justices of the appointment court, upon the application in writing of two or more <sup>of freeholders;</sup> freeholders of the county in which such road is situated praying that the same may be vacated, may and the said justices or any two of them in open court are hereby empowered and required to nominate and appoint five good and substantial freeholders of the neighbourhood to view and examine whether such road ought to be vacated; and, if upon <sup>return of freeholders,—</sup> viewing the premises the said freeholders or a majority of them shall think such road detrimental to the interest of the persons making such application or to any of them and should be of opinion that the same <sup>that road</sup> might be vacated and inclosed without prejudice to <sup>should be vacated,—</sup> public convenience, they are hereby ordered to return the fact in writing under their hands or the hands of a majority of them to the said justices at the next succeeding term of the court of quarter sessions to be held in the county where such road is situated, describing in said return the said road so proposed to be vacated, with the courses and distances thereof, and setting forth the name or names of the person or persons who in the opinion of the said freeholders <sup>(Sec. 4.)</sup> or a majority of them ought to be permitted to enclose the same: but if the said freeholders or a majority of them shall upon viewing the premises <sup>that it should not be vacated.</sup> think the public convenience would be prejudiced by vacating the said road, it shall be their duty to return the same; and if the said return is not objected to according to the provisions of the second section of this act the said justices shall confirm the same, and the same shall be and remain firm and stable forever.

SEC. 2. *And be it enacted,* That if any person <sup>Freeholders</sup> or persons shall file in the said court objections to <sup>to review,—</sup> the return of the freeholders appointed and acting <sup>when and under what circumstances to be appointed;</sup> under the provisions of this act, during the term in which said return is made, and such objections shall appear reasonable to the said justices, the said justices or any two of them in open court shall have power and authority and they are hereby required to appoint other five good and substantial freeholders

their powers  
and duties;

their return  
affirming the  
return of the  
first freehol-  
ders to be  
conclusive;—

if their return  
disaffirm the  
return of the  
first freehol-  
ders other  
freeholders to  
be appointed,

and their re-  
turn to be  
conclusive.

Freeholders  
to be sworn  
&c.

of the county to make review of the premises; which said freeholders or a majority of them shall have the same power and authority and perform the same services which by the first section of this act are vested in and required of the freeholders or a majority of them in said section mentioned; and if the said freeholders so appointed to make review or a majority of them shall affirm the proceedings and return of the freeholders or a majority of them first appointed, the said justices or any two of them shall confirm the same, and the same shall be, remain and abide forever firm and conclusive upon all parties; but if the said freeholders so appointed to make review or a majority of them shall disaffirm the return of the freeholders first appointed or a majority of them, the said justices, or any two of them in open court, are hereby authorized and required, upon the application of any person or persons in writing, to appoint other five good and substantial freeholders of the county, whose duty it shall be and they or a majority of them are hereby authorized and required to view the said road so proposed to be vacated and make return in writing to the said justices at the court of quarter sessions then next to be held for the county where such road is situated whether in their opinion the public convenience would be prejudiced by the vacation of said road and whether the same ought to be vacated or not, which said return shall be confirmed by the said justices and shall be and remain forever firm and conclusive upon all parties.

SEC. 3. *And be it enacted*, That the freeholders appointed by virtue of this act, before entering upon the duties by this act assigned to them, shall respectively take an oath or affirmation (the form whereof shall be furnished by the said justices) faithfully and impartially to discharge the duties of their said appointment, to be administered by the persons and in the manner as is provided for administering oaths and affirmations to freeholders appointed by the court of quarter sessions to view and examine whether any road petitioned for is necessary and convenient, in and by an act of the general assembly, passed

at Dover on the third day of February in the year of our Lord one thousand eight hundred and seventeen, entitled "An act for administering certain oaths and affirmations." 5. vol. 238.

SEC. 4. *And be it enacted*, That every return of freeholders, made in pursuance of the provisions of this act, after the same shall have been confirmed by the said justices or any two of them in open court, shall be entered of record by the clerk and shall be and remain a part of the record of said court; and in all cases in which the freeholders appointed by authority of this act shall return that any existing road is detrimental to the interest of the person or persons making application for its vacation and may be vacated without prejudice to the public convenience, and the said justices or any two of them in open court shall confirm said return either after review or otherwise, it shall and may be lawful for the person or persons named for this purpose in said return and he she or they are hereby authorized and empowered to enclose said road and to use have and hold all the land contained therein as his her or their private property and estate in fee simple; and if more than one, then in such quantities and by such metes and bounds to each as the said freeholders in their said return shall designate; and an exemplified copy of said record shall be competent evidence in all the courts of law and equity in this state. *Provided nevertheless*, That no road vacated in pursuance of this act shall be enclosed until all the costs and charges incurred in procuring its vacation shall have been paid as hereafter is provided for.

Returns of freeholders when confirmed &c. to be entered of record by clerk &c.

land of road vacated—by whom to be enclosed etc.

(Sec. 1.)

not to be enclosed till all costs paid etc.

SEC. 5. *And be it enacted*, That the freeholders appointed under this act shall have and receive, for every day they shall attend the viewing and determining the expediency of vacating any road according to the provisions aforesaid, the sum of one dollar each, which together with all costs and charges in the premises shall in all cases where the said freeholders return it inexpedient to vacate be paid by the

Fees of freeholders—by whom to be paid.

CHAP. petitioners, and in cases of vacated road by the per-  
 CCCXXV. son or persons entitled to inclose the same.  
 1826.

PASSED AT DOVER, }  
 January 23, 1826. }

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CHAPTER CCCXXIII.

AN ACT to annul the marriage of Mary Bryan  
 and John Bryan.

PASSED AT DOVER, }  
 January 24, 1826. }

PRIVATE ACT.

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CHAPTER CCCXXIV.

AN ACT divorcing Elizabeth King, late Elizabeth  
 Huyes, from her husband John King.

PASSED AT DOVER, }  
 January, 24, 1826. }

PRIVATE ACT.

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CHAPTER CCCXXV.

6. vol. 519. A SUPPLEMENT to the act entitled "*A sup-  
 plement to an act entitled an act to enable the  
 persons therein named to raise a sum, not exceed-  
 ing two thousand dollars, by a Lottery for the  
 purpose of improving the navigation of Little  
 Creek.*"

Repeal of  
 proviso in  
 sec 4. ch.  
 279. vol. 6., p.  
 520.

SEC. 1. BE IT ENACTED, by the Senate and  
 House of Representatives of the State of Delaware,  
 in General Assembly met, That the proviso in the  
 fourth section of the act to which this is a supple-  
 ment, and which proviso is in these words, "Pro-  
 vided that the canal to be cut from Mahan's ditch

to Little Creek Landing shall intersect Little Creek at or below the mouth of Taylor's gut which empties into said Creek," be and the same is hereby repealed, and that all the other provisions of the said act shall be in full force and effect. CHAP. CCCXXVI. 1826.

PASSED AT DOVER, }  
January 24th, 1826. }

### CHAPTER CCCXXVI.

AN ACT to incorporate the subscribers of the Brandywine Chalybeate Spring Company their heirs and assigns.

SECTION 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware, Company incorporated; in General Assembly met; That the subscribers to the Brandywine Chalybeate spring company their heirs and assigns, together with those persons who may hereafter become subscribers of the said company their heirs and assigns, be and they are hereby constituted a body politic and corporate in law to have continuance, by the name of "The Brandywine Chalybeate spring company," for the term of twenty years from the passing of this act, and no longer.

SEC. 2. And be it further enacted by the authority aforesaid, That the Brandywine Chalybeate spring company shall and may hereafter be authorized in law and equity to purchase take hold receive and enjoy any messuages, lands, tenements or hereditaments in fee simple or otherwise, and also goods and chattels rights and credits, to any amount not exceeding twenty five thousand dollars, and to grant alien demise sell and dispose of the same in such manner and form as the said company may deem expedient. may hold and dispose of property—

SEC. 3. And be it further enacted by the authority aforesaid, That the said corporation shall be may sue and be sued—

and have a  
seal—

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 aforesaid 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 deemed expedient.

By-laws.

(Sec. 6.)

Company not  
to discount  
notes or emit  
bills of credit  
etc.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the president and directors of the said company and their successors shall and may make alter repeal and again re-enact all laws regulations and ordinances which they may deem expedient for the government and management of the concerns of the said company, which are not repugnant to the constitution and laws of this State or the constitution and laws of the United States: *Provided* that nothing herein contained shall be construed to authorize the said company to discount notes or bills, emit bills of credit or exercise any banking powers whatever.

Fundamental  
articles.

SEC. 5. *And be it further enacted by the authority aforesaid,* That the following rules restrictions limitations and provisions shall form the fundamental articles of the constitution of the said corporation that is to say:

Shares and  
certificates of  
stock.

*First.* The stock of the said corporation shall be divided into shares of one hundred dollars each, for which certificates shall issue under the common seal of the corporation, or signed by the president of the company and countersigned by the treasurer, and which shall be assignable and transferable, according to such rules as shall be instituted in that behalf by the laws and ordinances of the same.

Officers—by  
whom to be  
chosen and  
appointed;

*Second.* The officers of the corporation shall be a president and twelve managers to be chosen by the stockholders, and a treasurer and secretary to be appointed by the president and managers;—the present president and managers shall continue in office, until

an election shall take place under this act:—An annual meeting of the stockholders shall take place (at such place as the managers for the time being shall appoint) on the last Saturday in September in the present year, and on the last Saturday of September in each succeeding year; at which annual meetings an election for a president and twelve managers shall take place: The president and managers must be stockholders, and if they cease to be stockholders their offices shall be vacated. Whenever a vacancy happens in either office, it shall be filled up by the board of managers, and the person thus appointed shall continue in office until the next succeeding election.

CHAP.

CCCCXXVI.

1826.

vacancies.

*Third.* If an election shall not be held at the annual meeting of the stockholders, or if a meeting should not take place on the day appointed in any year, the corporation shall not for that cause be dissolved; but in such cases the president and managers may be chosen, at any occasional meeting regularly held.

Election  
not held on  
day appointed.

*Fourth.* Each stockholder shall be entitled to one vote and no more.

Votes.

*Fifth.* The business and concerns of the corporation shall be managed by the president and managers, who shall have power and authority to superintend govern and direct the affairs and business of the corporation generally, and to project erect authorize and superintend such buildings and improvements upon the lands of the company as they may deem expedient, and for that purpose to employ such agents and servants under them as they may consider necessary: They shall have power and authority to demise and lease the property of the corporation, and to do all acts requisite to carry into effect the objects for which the said company is established; and for this end to use and employ the capital stock and funds of the company, under such regulations as the laws and ordinances of the corporation may prescribe, and to bind by their contracts deeds and writings

President  
and managers,  
their powers.

CHAP. under the hand of the president and common seal of  
 CCCXXVI. the corporation all the property estate common stock  
 1826. and joint funds, belonging to the corporation, but not  
 the persons or separate property of themselves or any  
 of the stockholders; and shall be further 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 determin-  
 ed by the laws regulations and ordinances of the  
 same.

Occasional  
 meetings of  
 managers.

*Sixth.* The president and managers shall hold occasional meetings at such times and places as may be previously appointed by them.

Occasional  
 meetings of  
 stockholders.

*Seventh.* The president shall call a general meeting of the stockholders, whenever required so to do by fifteen or more of the stockholders of the company, and shall give at least ten days notice thereof by advertisements in one or more of the newspapers in the borough of Wilmington and in one in the city of Philadelphia.

Annual state-  
 ment of the  
 funds.

*Eighth.* The president and managers shall once in every year lay before the stockholders at a general meeting an account of the stock funds estate debts credits property profit and loss of the corporation.

Emolument to  
 president and  
 managers.

*Ninth.* No president or manager shall be entitled to any emolument except the same shall have been allowed by the stockholders in regular meeting.

Treasurer  
 to give bond.

*Tenth.* Every treasurer before he enters on the duties of his office shall give bond with one or more sureties, to the satisfaction of the managers, in such sum as may be directed by the laws and ordinances of the corporation, conditioned for the faithful discharge of the trust reposed in him.

By-laws al-  
 ready esta-  
 blished;  
 (Sec. 4)

SEC. 6. *And be it further enacted, by the authority aforesaid,* That the rules laws and ordinances already established by the said company for the government thereof shall be taken and considered as

rules laws and ordinances of the said corporation; and the said corporation may repeal and annul the same or any part thereof and make ordain and establish such other rules and ordinances for the government thereof as may be deemed proper and necessary: *Provided as aforesaid*, That the same be not repugnant to the constitution and laws of this State or of the United States.

SEC. 7. *And be it further enacted by the authority aforesaid*, That in all suits to be brought against the said corporation, service of the process that may be issued therein upon the president of the corporation or a majority of the managers, shall be sufficient notice and summons of such corporation.

PASSED AT DOVER, }  
January 24, 1826. }

## CHAPTER CCCXXVII.

### AN ACT directing the election of Assessors and Inspectors.

SEC. 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware in General Assembly met*, That an election shall be held every year on the fifteenth day of September, except when that day shall be the Sabbath, and then on the next day following, in each hundred of this State, at the place appointed by law for holding the general election, for the purpose of electing an assessor and inspector of such hundred: in such election every citizen residing in such hundred and qualified to vote in elections of governor, senators and Representatives and no other, shall be entitled to vote; and no person shall be capable of being elected assessor or inspector of a hundred unless he shall at the time of the election be a freeholder within such hundred and an inhabitant thereof; the election shall be opened between the hours of eleven of the

CHAP.

CCCXXVI.

1826.

suits against  
the company.Assessors and  
inspectors —  
to be e-  
lected,  
(Sec. 3)and where,  
and by  
whom;—their qualifi-  
cations;  
Sec. 4.

elections for;  
when to be  
opened,  
and when closed;  
to be by ballot;

casting vote  
in case of  
equality.

clock in the forenoon and twelve of the clock, noon, and shall continue open till six of the clock in the afternoon, when the election shall be closed; the election shall be by ballot, and the persons having the highest number of votes for said offices respectively shall be chosen; but if two or more persons shall have an equal and at the same time the highest number of votes for either of said offices, the presiding officer shall give an additional casting vote.

Election of  
assessor and  
insp. ctor—  
who to be  
presiding officer;  
(Sec. 5.)

SEC. 2. *And be it further enacted,* That the collector of each hundred shall be the presiding officer at the election of assessor and inspector of his hundred; but if at the time there happen to be no collector, or if the collector shall be absent from the place of election at eleven of the clock in the forenoon of the day of holding it, the electors there shall proceed forthwith, without ballot, to choose from the freeholders of the hundred present a presiding officer for the election in place of the collector; and in choosing this presiding officer the justice or justices of the peace residing in the hundred who may be present, —or if no such justice shall be present, then the constables or constable of the hundred who may be present,—and if no such constable be present, then two freeholders to be nominated and appointed by the electors, shall be the judges or judge; and before opening the election, the collector or the presiding officer so chosen shall take to his assistance two freeholders of the hundred there present, and the collector, or the presiding officer so chosen and said freeholders shall be judges of the election, and before opening the same shall take an oath or affirmation as follows— “ I do solemnly swear  
“(or affirm) that in judging concerning the election  
“here to be held, I will determine every matter truly  
“faithfully and impartially according to the best of  
“my skill and judgment. So help me God (or so  
“I do solemnly affirm);” which oath or affirmation the collector or other presiding officer shall administer to the freeholders and one of them to him; and when the election shall be closed, the collector or other presiding officer and freeholders shall read and

who to be  
judges of;

oath of  
judges;

votes by  
whom to be  
read, counted  
etc.;

count the votes given and ascertain the number given to each candidate voted for as assessor or as inspector, and shall make and sign four certificates of the election, and shall cause the same to be transmitted without delay, to wit; one to the assessor elected, one to the inspector elected, one to the clerk of the peace of the county to be laid before levy court and court of appeals, and one to the sheriff of the county—and said certificates shall be according to the following form; viz:

“ County ss. At an election held in their form;  
 “ hundred, on the day of  
 “ September in the year of our Lord one thousand  
 “ eight hundred and for the purpose of e-  
 “ lecting an assessor and inspector of said hundred,  
 “ was duly elected assessor, and  
 “ was duly elected inspector.  
 “ In testimony whereof we, the judges of said election,  
 “ who were in due manner sworn or affirmed before o-  
 “ pening said election, have hereunto set our hands, and to be  
 “ the day and year aforesaid:”—which certificate shall conclusive;  
 be conclusive, and the election shall not be liable to be if person not  
 contested; but if any person who shall be so certi- capable be  
 fied to be elected shall not have been capable of be- elected, the  
 ing elected to the office, then the office shall be deem- office to be  
 ed vacant, and an assessor or inspector shall be ap- vacant and a  
 pointed in the same manner as if the person elected new appoint-  
 had died after the election. ment to be  
 (Sec. 4)  
 6 vol. ch. 257,  
 sec. 4 p. 393.

SEC. 3. *And be it further enacted,* That if it shall be impracticable to hold an election at any place as directed by this act, the collector or other presiding officer to be chosen as aforesaid may appoint some other place as near as can be conveniently obtained to the place herein directed.

SEC. 4. *And be it further enacted,* That if there shall be an omission in any hundred to elect an assessor in any year, the levy-court and court of appeal of the county shall appoint the assessor of such hundred; and the said court shall have power to appoint an assessor to fill any vacancy that shall happen in the office of assessor of any hundred, by the death of

the assessor, or by his removal from the hundred, or his refusal to appear and take the oath or affirmation as required by law, or his refusal or neglect to perform the duties of his office or otherwise; and if a vacancy shall happen in the office of assessor after the duties shall be in part performed, the assessor appointed to fill such vacancy shall return the rates and valuations made by his predecessor if he can obtain the same, and the same shall be accepted and deemed as regularly returned, and in that case there shall be allowance made to the first assessor according to the discretion of the court: and an assessor appointed by said court shall take the same oath or affirmation and be vested with the same powers and liable to the same duties as an assessor elected as aforesaid;—but no person shall be appointed an assessor of a hundred but a freeholder and inhabitant of such hundred.

duties and powers of assessor appointed to fill vacancy—

6 vol 497.

and qualification s.  
(Sec. 1)

Penalty—on collector neglecting to perform his duties under this act—

on assessor failing to perform the duties required of him by law.

SEC. 5. *And be it further enacted,* That if any collector shall refuse or neglect to serve as presiding officer at the election of assessor and inspector of his hundred or to perform the duties of such officer, every collector for every such refusal or neglect shall, upon being indicted and convicted thereof in the court of general quarter sessions of the peace and gaol delivery within the county, be fined at the discretion of the court a sum not less than twenty dollars nor more than fifty dollars, and be adjudged to pay the costs of prosecution; and if any person who shall be elected an assessor, or who shall be appointed an assessor of a hundred, pursuant to this act, shall neglect or refuse to serve as such assessor, or shall fail neglect or refuse to do observe and perform all the acts and duties required of or enjoined upon him as such assessor by law, every such person shall, upon being indicted and convicted in the said court of general quarter sessions of the peace and gaol delivery within the county of any such failure neglect or refusal, be find at the discretion of the court in a sum not less than twenty dollars nor more than one hundred dollars and shall pay the costs of prosecution.

SEC. 6. *And be it further enacted,* That the act <sup>Repeal of—</sup> entitled "An act directing the choice of inspectors, <sup>ch. 187, a 1.</sup> and assessors in this government, and for the amend- <sup>vol. 439,</sup> ment of an act, entitled, an act for raising county rates and levies,"—and the twelfth section of the act <sup>sec 12, ch 98,</sup> entitled "An act for the valuation of real and per <sup>c 2 vol 1254,</sup> sonal property within this State,"—and the sixth and <sup>secs 6, 7 ch.</sup> seventh sections of the act entitled "An act provi- <sup>165, 6. vol.</sup> ding for the election of constables and concerning <sup>267.</sup> elections of inspectors and assessors," be and the same hereby are repealed.

SEC. 7. *And be it further enacted,* That if at <sup>Penalty—</sup> any election held for the purpose of electing an as- <sup>on the judges</sup> sessor and inspector, in pursuance of this act, any <sup>of election of</sup> collector or presiding officer or freeholder taken by <sup>assessor and</sup> such collector or presiding officer to his assistance <sup>inspector,</sup> shall knowingly and wilfully take and receive or ad- <sup>for receiving</sup> vise and consent to the taking and receiving of the <sup>t e vote of a</sup> vote of any person not entitled to vote at such elec- <sup>person not en-</sup> tion,—or shall knowingly and wilfully reject or ad- <sup>titled to</sup> vise and concur in rejecting the vote of any person <sup>vote,—</sup> entitled to vote at such election, or shall use any <sup>for rejecting</sup> fraud falsehood or deceit in doing or performing any <sup>the vote of a</sup> the duties matters or things by this act required of <sup>person enti-</sup> him,—or shall refuse or wilfully neglect to perform <sup>tled:—</sup> any the said duties, matters or things,—every such <sup>for using</sup> collector presiding officer or freeholder shall, for e- <sup>fraud or de-</sup> very such offence, forfeit and pay to the State a fine <sup>ceit,—</sup> of two hundred dollars: and that if any person not <sup>for neglecting</sup> entitled to vote at any such election shall vote at any <sup>their duties</sup> such election,—or if any person shall vote or offer <sup>under this</sup> to vote more than once at any such election,—or if <sup>act:</sup> any person shall influence or attempt to influence any <sup>penalty—for</sup> man in giving his vote by any reward gift or benefit <sup>voting at such</sup> or promise of favour or advantage,—every such per- <sup>election</sup> son for every such offence shall pay to the State <sup>when not en-</sup> fine of fifty dollars; and that for any offence against <sup>tled.—</sup> this act the proceeding shall be by indictment in the <sup>for voting or</sup> court of general quarter sessions of the peace and <sup>offering to</sup> gaol delivery within the county where the offence <sup>vote more</sup> shall be committed, and the offender besides the fine <sup>than once.—</sup> shall pay the costs of prosecution: *Provided,* that <sup>for influen-</sup> indictment;

(Sec. 5.)

nothing in this section shall extend to the case of a collector refusing or neglecting to serve as presiding officer at an election of assessor and inspector which is herein before provided for.

PASSED }  
January 25th, 1826. }

## CHAPTER CCCXXVIII.

AN ACT *requiring certain officers to give security for the faithful performance of their official duties.*

Certain officers to give bond with sureties for performance of their duties,—

before whom and when;—

condition of bond:

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That every coroner, register for the probate of wills and granting letters of administration, recorder of deeds, clerk of the supreme court, prothonotary of the court of common pleas, clerk of the peace and clerk of the orphans' court, hereafter to be appointed in the several counties of this State, shall, in the court of common pleas in the county in and for which he shall be appointed, at the next term after his appointment, with two or more sufficient sureties being freeholders of such county, become bound to the State of Delaware by a joint and several obligation, to be, together with the sureties therein, approved by the said court, in the penalty of three thousand dollars lawful money of the United States of America, with condition according to the following form :

“The condition of the above written obligation is  
“such, that if the above named  
“who has been duly appointed to be  
“shall and do well and diligently execute his office of  
“as aforesaid, and duly and  
“faithfully fulfil and perform all the trusts and  
“duties to the said office appertaining, and truly and  
“without delay deliver to his successor in office the  
“seal and all the books records and papers belong-

"ing to said office safe and undefaced;—then the CHAP.  
 "said obligation shall be void and of no effect, or CCCCXVIII  
 "else shall remain in full force and virtue;—except 1826.  
 that in the condition of the obligation of coroner and  
 his sureties, the clause beginning with the words  
 "and truly" and ending with the word "undefaced"  
 shall be omitted: such obligation shall be acknow-  
 ledged by the obligors; and upon its being appro- certificate of  
 ved a certificate shall be endorsed thereon and sign- approval of  
 ed by the judges present according to the following the bond and  
 form,—viz: sureties:

" County ss. In the court of common  
 "pleas in said county at the  
 "day of 18 this obligation was ac-  
 "knowledged by to be their act  
 "and deed, and, being inspected, was, together with  
 "the sureties therein, approved. Witness our hands  
 "the day and year aforesaid."

The obligation of the recorder of deeds shall be  
 filed in the court wherein it shall be acknowledged, said bonds—  
 and the prothonotary shall record it in the judgment where to be  
 docket of said court;—each of the other obligations recorded and  
 executed pursuant to this act shall immediately, filed:  
 upon being certified as aforesaid, be delivered, under  
 the direction of the court, by the sheriff or his deputy  
 to the recorder of deeds of the same county, who  
 shall forthwith record the same, and keep the same  
 on file in his office: and the record of every obli- record, or co-  
 gation made pursuant to this act, or a certified copy py thereof, of  
 thereof, shall be admitted as competent evidence; such bonds to  
 and every obligation executed and acknowledged and the evidence;  
 approved pursuant to this act, shall, from the time of and the bonds  
 the acknowledging and approving of the same, be to be liens on  
 the lands of  
 the officers,  
 lien upon all the lands tenements and hereditaments of  
 the officer, being the principal obligor therein, with-  
 in the county wherein such obligation shall be ac-  
 knowledged and approved; but the same shall not but not of the  
 be a lien upon the lands tenements or hereditaments sureties.  
 of the sureties therein.

SEC. 2. *And be it further enacted.* That every For whose  
 obligation, executed pursuant to this act, shall be use and by  
 not only for the benefit of the State, but also upon whom such

bonds may be sued: trust for every the persons and corporations that shall be damnified by any breach of the conditions of such obligation, and any person persons or corporation so damnified shall have right to cause suit to be instituted in the name of the State of Delaware for his her or their use upon any such obligation for recovering the damages sustained on occasion of the breach or breaches of the condition thereof; and the

proceeding in such suit: proceedings in any suit instituted upon such obligation, whether for the benefit of the State or for the use of any person or corporation, shall be according to the form of the act of the General Assembly of this State entitled "An act concerning suits upon administration or testamentary bonds,"—all the provisions of which act are hereby extended to every action upon an obligation executed pursuant to this act.

6. vol. 255. *Provided* that no action shall be commenced upon any obligation executed pursuant to this act after the expiration of three years from the time when the right of action shall accrue, saving to any person, who at the time of the accruing of a right of action shall be a married woman, or an infant, or non compos mentis, the right to commence such action at any time within three years from the removal or ceasing of such disability; and also if a judgment shall be rendered for the plaintiff in an action on such obligation and shall be reversed on writ of error,—or if a verdict shall be given for the plaintiff in such action and judgment shall be arrested,—in either case a new action may be instituted upon such obligation at any time within one year from such reversal or arrest of judgment: *provided always*, That the first action were commenced within the time herein before allowed for that purpose.

limitation of suits on such bonds.

Recorder of deeds to deliver a list of books and records in his office to prothonotary, and where such list to be recorded and

SEC. 3. *And be it further enacted*, That every recorder of deeds hereafter to be appointed shall, upon entering upon his office, make out and deliver to the prothonotary for his county a list of all the books and records belonging to said office; and the prothonotary shall record said list, and such record or a copy of it shall be competent evidence; any re-

corder or prothonotary refusing or neglecting to comply with this section shall forfeit and pay to the State a fine not exceeding fifty dollars, to be recovered, with costs of prosecution, by indictment.

the record or a copy of the evidence; penalty on record for neglect of this duty.

SEC. 4. *And be it further enacted*, That every officer coming within the purview of the first section of this act, who shall refuse or neglect to observe and comply with the said section according to the true intent and meaning thereof, shall, for such refusal or neglect, forfeit and pay to the State a fine of not less than five hundred dollars nor more than one thousand dollars, to be recovered, with costs of prosecution, by indictment; and furthermore such officer so refusing or neglecting shall *ipso facto* forfeit his office.

penalty on the officers mentioned in the first section of this act for neglecting to comply with that section.

SEC. 5. *And be it further enacted*, That the act entitled "An act obliging the officers of this government to give security,"—and the eleventh section of the act entitled "An act for acknowledging and recording deeds,"—and the sixth section of the act entitled "An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes,"—and the twenty second section of the 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,"—and the first section of the act "to compel clerks of the peace to find sureties for the faithful performance of the duties of their office and for other purposes,"—and the act entitled "An act requiring certain officers to give security," be and the same are hereby repealed—excepting so far as shall concern any bond or recognizance heretofore taken, any penalty heretofore incurred and any offence heretofore committed; and as to every such bond and recognizance, penalty and offence, said acts and sections shall remain as effectually and as fully in force as if this act had not been passed.

Repeal of—  
ch. 19, a. 1  
vol. 60.  
sec. 11. ch.  
83, a. 1 vol.  
2. 4  
sec. 6 ch. 5.  
2 vol. 1056.  
sec. 22 ch. 21,  
vol. 4 p. 45.  
sec. 1. ch. 87,  
vol. 4 p. 206.  
ch. 144 vol.  
4 p. 395.  
except as to  
bonds heretofore  
given &c.

PASSED  
January 25, 1826. }

CHAP.  
CCCXXIX.

## CHAPTER CCCXXIX.

1826.  
G. vol, 97. 227.

AN ADDITIONAL SUPPLEMENT *to the act to establish a bank, and to incorporate a company under the name of the bank of Smyrna.*

Bank of  
Smyrna au-  
thorized to  
establish an  
office of dis-  
count and de-  
posite at Mil-  
ford.

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the President directors and company of the bank of Smyrna shall have power, and they are hereby authorized, to establish an office of discount and deposite at the town of Milford, in Kent county, and to conduct regulate and govern the said office.

This act if  
accepted to  
be a part of  
the charter of  
incorporation:

acceptance to  
be certified  
to the gover-  
nour &c.;

and heto com-  
municate to  
the General  
Assembly—

this act to be  
void if not  
accepted.

This act, if it shall be accepted by the president directors and company of the bank of Smyrna, shall become and be a part of their charter of incorporation, in the same manner and as effectually as if it had been contained in the aforesaid act to which it is an additional supplement: and such acceptance shall be made known to the governour by certificate under the seal of the corporation and the hand of the president; the tenor of which certificate the governour shall communicate to the General Assembly at their session next after receiving it, and the printed journal of the Senate or of the House of Representatives shall be good evidence of such communication and of the facts therein stated: if this act shall not be accepted by said corporation, it shall cease and be void.

PASSED AT DOVER, }  
25 January, 1826. }

## CHAPTER CCCXXX.

CHAP.  
CCCXXX.AN ACT *establishing certain fees for the use of* 1826.  
*the State.*

SEC. 1. BE IT ENACTED, *by the Senate and* Fees to the  
*House of Representatives of the State of Dela-* State—  
*ware in General Assembly met,* That there shall be  
 demanded and received, for the use of the State, the (2. vol. 1101.)  
 fees hereinafter mentioned that is to say;—by the  
 secretary of State—for commission to sheriff, inclu- for commis-  
 ding fee for writ of assistance, to be paid by every sions to offi-  
 sheriff upon issuing his commission, twenty dol- cers;  
 lars:—For commission to attorney general, coroner,  
 register, recorder, justice of the peace, clerk of the  
 high court of errors and appeals, clerk of the supreme  
 court, prothonotary, clerk of the peace, clerk of the  
 orphans' court, and register of the court of chancery,  
 to be paid by each of said officers, upon issuing his  
 commission, ten dollars:—for every impression of impressions  
 the great seal in private cases, one dollar:—By the of great seal;  
 clerk of the peace—for every marriage license, two marriage li-  
 dollars; for every license for keeping a public house censes,  
 of entertainment, tavern, inn, alehouse, ordinary or tavern licen-  
 victualling-house, twelve dollars: recommendation recommenda-  
 for such license may be granted at any term of the tions for ta-  
 court of general quarter sessions of the peace and vern licenses  
 gaol delivery, the said fee being always first paid to by whom and  
 the clerk of the peace, who shall give a receipt there- when to be  
 for; and the judges composing said court shall list of persons  
 cause to be delivered to the Secretary of State a list recommen-  
 certified under their hands of all the persons recom- ded to be de-  
 mended at any term for such licenses as soon as livered to sec-  
 convenient after the end of the term; and the clerk retary of  
 of the peace shall, within sixty days after the end of State;  
 such term, pay to the Secretary of State all and eve- fees received  
 ry the sums of money which shall have been paid to by clerk of  
 the said clerk for fees for such licenses by the per- the peace for  
 sons recommended as aforesaid; and if any clerk of tavern licen-  
 the peace shall neglect to do so he shall ipso facto ses to be paid  
 forfeit his office, and the secretary shall direct suit to over to secre-  
 instituted against him and his sureties upon his bond: tary of State;  
 lect, and within  
 what time;  
 penalty on  
 clerk of the  
 peace for neg-  
 lect;

date and con-  
tinuance of li-  
cense:

fees paid by  
persons not  
recommen-  
ded to be re-  
funded.

*Fees to the  
State.—*  
for licenses to  
vendors of tin  
and japanned  
wares,

and penalty  
for acting  
without li-  
cense:—

for licenses to  
hawkers, ped-  
dlers and pet-  
ty chapmen.

and penalty  
for dealing  
without,—

travelling  
contrary to,—

or lending or  
transfer-  
ring,—  
or borrowing

—The license shall bear date of the last day of the term, wherein the recommendation therefor shall be granted, shall continue in force one year from such date, and shall relate to the day on which the recommendation was granted: Any fee paid by or for a person, who shall not be recommended, shall be refunded by the clerk of the peace, on demand:—For every license to a vender of tin and japanned wares,—1st to travel without a cart or other carriage, but with horses or beasts of burden, one or more, ten dollars:—2nd to travel with a cart or other carriage drawn by horses or beasts of burden, one or more, twenty dollars:—and any person, who shall in this State carry about for sale, either with a horse or beasts of burden, one or more, or with a cart or other carriage, any tin or japanned wares without a license for that purpose first obtained, shall forfeit and pay for every offence the sum of thirty dollars to be recovered before any justice of the peace, with costs of suit, by any person who will sue for the same, and applied one half to the use of the person suing and the other half to the use of the State:—For every license to a hawker, pedler or petty chapman—1st *to travel without a horse or beast of burden*, eight dollars: 2nd *to travel without a cart or other carriage*, but with one horse or beast of burden, sixteen dollars,—with two horses or beasts of burden, thirty dollars,—for every additional horse over two to be included in a license, ten dollars shall be added to the last mentioned fee:—3rd *to travel with a cart wagon or other carriage* drawn by one horse or beast of burden, twenty five dollars,—drawn by two horses or beasts of burden, thirty-five dollars, and for every additional horse or beast of burden to be included in the license, ten dollars shall be added to the last mentioned fee:—and any person, who in this State shall deal trade or traffic as a hawker pedler or petty chapman without license as aforesaid first obtained for that purpose, or shall travel otherwise than his license shall permit and justify, and also any hawker pedler or petty chapman who shall lend or transfer his license, and also any person who shall borrow or receive such license for the purpose of

dealing or travelling under the same,—shall forfeit <sup>or receiving</sup> such license; and pay the sum of five hundred dollars, to be recovered by action of debt in the supreme court or court of common pleas, at the suit of any person who will sue for the same and applied one half to the use of such person and the other half to the use of the State: And every hawker pedler or petty chapman <sup>penalty for</sup> upon his license being required by a justice of the peace, constable or other civil officer, shall exhibit <sup>his license on request of</sup> the same upon pain of forfeiting, for every refusal, ten dollars to be recovered before any justice of the peace, other than such as shall make the requirement, at the suit and for the use of the State:—No license <sup>No license to</sup> shall be granted to any hawker pedler or petty chapman, until he shall, in the court of general quarter sessions of the peace and gaol delivery, with two <sup>a hawker pedler or petty chapman until he enters</sup> sufficient sureties to be approved by the court, enter into recognizance to the State of Delaware in the <sup>into recognizance with</sup> penalty of five hundred dollars, conditioned to be void if he shall observe and conform to the laws of said State, pay all duties and taxes that shall be legally assessed or imposed upon him, and shall in all things behave himself well during the continuance of the license to be granted pursuant to such recognizance:

But none of the foregoing provisions in relation to <sup>Exceptions</sup> a hawker pedler or petty chapman shall extend to <sup>from the above provisions.</sup> any manufacturer selling or carrying about for sale any articles manufactured in this state, or to any person selling or carrying about for sale any grain provisions provender or fruits, or to any person travelling exclusively for the sale of books:—

No hawker pedler or petty chapman shall sell or <sup>Penalty on</sup> expose to sale any drugs or medicine, upon pain of <sup>hawkers, &c.</sup> exposing, &c. forfeiting for every offence one hundred dollars, to be recovered by action of debt in the Supreme Court or Court of Common Pleas at the suit of any person who will sue for the same and applied one half to the use of such person and the other half to the use of the State:—Every license for carrying about for sale <sup>continuance</sup> tin or japanned wares, and every license to a hawker <sup>of license to</sup> pedler or petty chapman shall continue in force one <sup>venders of tin</sup> &c.

and to hawk- year from the date and no longer, and shall be so ex-  
ers, &c. pressed :

Special bail in In every action for a penalty under this act, special  
suits for pe- bail may be required in the amount of the penalty or  
nalties under penalties sued for, upon affidavit of the offence or  
this act. offences having been committed.

Secretary of The Secretary of State shall supply to the clerks  
State to sup- of the peace blanks duly signed and sealed for mar-  
ply the clerks riage licenses, licenses to venders of tin and japanned  
of the peace wares, and licenses to hawkers pedlers and petty  
with blank li- chapmen, and shall keep a true account thereof: the  
censes, etc. clerks of the peace may appoint such justices of the  
marriage li- peace in their respective counties. but not less than  
censes, to be six in each county, as they may respectively select  
distributed by as most proper for distributing marriage licenses,  
clerks of the and furnish to each justice a proper supply of blanks:  
peace and jus- no person but clerks of the peace, and justices by  
tices appoint- them selected as aforesaid, shall distribute marriage  
ed by them; licences: the clerk or justice issuing such license  
marriage bonds,— shall take from the party applying for it, bond to the  
by whom to State of Delaware, with good security, in the penal-  
be taken, ty of two hundred dollars, with condition according  
condition to the following form, viz.—“The condition of the  
thereof, “above written obligation is such, that if  
“and may lawfully unite themselves in  
“marriage, and if there be no legal objection to ce-  
“lebrating the rites of marriage between them, then  
“the said obligation shall be void, otherwise in force;”

to be furnish- blanks for which bonds shall be supplied by the Se-  
ed by Secre- cretary of State with the blanks for the licences; and  
tary of State, all the bonds taken in any county shall be filed in  
to be filed in the office of the clerk of the peace for such county  
the office of in alphabetical order, with a label on each file shew-  
the clerks of ing the year or years embraced; the clerks of the  
the peace for peace shall on the fourth Tuesday of January, April,  
accounts of July and October, or within ten days after each of  
the clerks of said respective days, render and transmit to the Se-  
the peace for cretary of State full and true accounts of all monies  
marriage pe- by them respectively received for fees for marriage  
d- licenses, licenses to venders of tin and japanned  
lers' and tin wares, and licenses to hawkers pedlers and petty  
venders' licen- chapmen, each account shewing the number of  
ses to be set- blanks received and the number remaining on hand,  
tled quarter  
yearly with  
Secretary of  
State;—

and pay to the Secretary of State the sum due upon such account; every failure to transmit such account <sup>failure to be a</sup> or to make such payment shall be deemed a misde- <sup>misdemean-</sup> meanour in office and shall be certified by the Secre- <sup>hour in office,</sup> tary of State to the General Assembly at the next session after it shall happen. The clerks shall be re- <sup>Clerks to be</sup> sponsible for the justices whom they may appoint to <sup>responsible</sup> distribute marriage licenses, and may demand the <sup>for justices,</sup> fees on furnishing the blanks. Blanks for tavern li- <sup>Tavern licen-</sup> censes shall be supplied by the Secretary of State <sup>ses to be sup-</sup> according to the lists delivered to him. For all pay- <sup>plied accord-</sup> ments made by clerks of the peace to the Secretary <sup>ing to lists.</sup> of State duplicate receipts shall be taken, of which <sup>Duplicate re-</sup> the clerks shall transmit one to the auditor of ac- <sup>ceipts to</sup> counts. The decease of the Governour or of the <sup>clerks for</sup> Secretary of State shall not avoid blank licenses duly <sup>payments etc;</sup> signed and sealed. All monies, that shall be receiv- <sup>Blank licen-</sup> ed for fees for marriage licenses and tavern licenses, <sup>ses not avoi-</sup> shall be appropriated to "the fund for establishing <sup>ded by death</sup> schools in the State of Delaware," subject to be <sup>or Governour</sup> applied in case of necessity to the payment of the <sup>or Secretary</sup> salaries of the Chancellor and Judges according to <sup>nominate re-</sup> the law in this behalf provided; all other fees receiv- <sup>ceived for mar-</sup> ed under this act shall belong to the funds of the <sup>riage and ta-</sup> state. <sup>vern licenses</sup> <sup>appropriated</sup> <sup>to school</sup> <sup>funds,</sup> <sup>subject &c.;</sup> <sup>all other fees</sup> <sup>under this act</sup> <sup>to the funds</sup> <sup>of the State.</sup> <sup>Secretary of</sup> <sup>State to pay</sup> <sup>over monies,</sup> <sup>etc.</sup>

The Secretary of State shall pay over all monies, that shall come to his hands belonging to the funds of the state or to "the fund for establishing schools in the State of Delaware," to the State treasurer or to the trustee of the said fund, as the same shall belong, and shall in December in every year settle his account before the auditor of accounts, and shall, at the session of the General Assembly next after said setlement, lay a copy of the account so settled before each house of the General Assembly.

SEC. 2. *And be it enacted,* That the second sec- <sup>Repeal of—</sup> tion of the act "for regulating inn-holders, tavern <sup>part of Ch. 75.</sup> keepers, and other public housekeepers within this <sup>A. 1 vol.</sup> government, and empowering the justices to settle <sup>193;—</sup> the rates of liquors," and the following words, to wit, "to be held in August term in each county within this government" part of the first section of

- ch. 59 a. 1. said act, and the act "for regulating pedlers within  
vol. 135.— the government of the counties of Newcastle, Kent  
and Sussex upon Delaware," and the fourth and  
Sec 4 5. 2. b. 2 vol. fifth sections of the act "to render parts of divers  
597. acts of Assembly and certain law proceedings more  
parts of ch conformable to the present constitution,"—and the  
211 b. 2. vol. fifth and sixth sections and the clause beginning with  
972. the words, "that the fees" and ending with the  
words "for the same" in the eighth section of the  
ch. 20. c. 2. act "to regulate marriages,"—and the act "to vest  
vol. 1092 certain powers in the judges of the court of common  
Sec. 5 ch. 5. pleas,"—and the fifth section of the act "to enjoin  
c. 2. vol. 1065 certain duties to be performed by the Secretary of  
State and for other purposes,"—and the third, fourth  
sec 3 4. 5. and fifth sections of the act "to regulate and appro-  
ch. 28 c. 2. priate certain finances of this state,"—and the fourth,  
vol. 1127. fifth, sixth and seventh sections of the act "direct-  
sec 4 5 6. 7. ing the time of service of the auditor of accounts  
ch. 34 vol. 3. hereafter to be appointed, and for other purposes,"—  
p. 73. and the first and second sections of the act "enjoin-  
sec. 1. 2. ch. ing certain duties on the Secretary of State and other  
103 vol. 3. p. officers therein mentioned,"—and the second, third,  
234. fourth and fifth sections of the act "to compel clerks  
s-c 2 3 4 5 of the place to find sureties for the faithful perfor-  
ch. 67. vol. 4 mance of the duties of their office and for other pur-  
p. 261. poses,"—and the act "requiring the fees therein  
ch 191 vol. 4 mentioned to be paid to the Secretary of State for the  
p. 519. use of the State,"—and the act "to increase the  
ch 68 vol. 5. fees for licenses to hawkers, pedlers, petty chapmen  
p. 118. and venders of tin and japanned wares,"—and the  
ch. 77 vol 6 act "for the regulation of hawkers, pedlers and pet-  
p. 110. ty chapmen in the State of Delaware, and for en-  
forcing the payment of the prices of their licenses,"—  
Exceptions be and are hereby annulled and repealed :—excepting  
from the op- that all licenses now in force shall so continue until  
erations of this their regular expiration according to the law under  
repeal. which they were issued, and all offences against any  
the acts or sections aforesaid heretofore committed  
shall be punished, and all matters that have been  
done according to any the same acts and sections  
shall stand and avail, and all matters which ought to  
have been done under said acts and sections, or  
ought to be done in pursuance of what has taken

place under the same, may be required, and all blanks for licenses supplied according to any the said acts and sections, and all monies received or to be received for fees on such licenses, or in any manner in pursuance of any the said acts and sections, or of any matter which has taken place or shall take place in consequence thereof, shall be accounted for and paid over in the same manner, under the same penalty and as fully, as if this act had not been passed.

PASSED AT DOVER, }  
January 26, 1826. }

### CHAPTER CCCXXXI.

AN ACT to improve the navigation of Broadkill Creek, by cutting and making a canal between Cedar Landing and the drawbridge over said creek.

SEC. 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That Jehu Stockley, John Wilbank, David Wilson, Thomas Davis and Wallace Waples, be, and they are hereby appointed commissioners with full power and authority to view and examine whether the said canal be convenient and necessary; and upon viewing the grounds and marsh through which it is proposed to cut and make it, if the said commissioners or a majority of them shall be of opinion that it is convenient and necessary, then they are hereby ordered to lay out the same, in such manner, as they or a majority of them shall judge most proper to avoid the shoal in said creek, known by the name of Stuart's shoal.

SEC. 2. And be it enacted, That the said commissioners are further directed and required to assess damages to persons injured; and to allow to the person or persons through whose lands or marsh the said canal may pass, such damages as they shall think such person or persons

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may be entitled to in consequence of the cutting and making of the said canal, which damages shall be paid or tendered before the said improvement is commenced and undertaken.

appeal from  
their deci-  
sion as to  
damages.

SEC. 3. *And be it enacted,* That in case any person or persons, through whose lands or marsh the said canal may pass, shall be dissatisfied with the damages which shall be assessed by the said commissioners, or with their decision if no damages are assessed, it shall and may be lawful for him her or them to appeal from the determination of the said commissioners to the supreme court held in and for the county of Sussex; who are hereby authorized and required to appoint five substantial and disinterested freeholders to go upon and view the said lands or marsh, whose duty it shall be to assess such damages as they shall deem proper and right; which assessment when made and returned under their hands and seals, or the hands and seals of a majority of them, shall be final and conclusive: provided the said appeal be made within six months after the damages assessed by the said commissioners shall be made known to the persons respectively in whose favour they are so assessed.

Managers for  
cutting the  
canal.

SEC. 4. *And be it enacted,* That John Ponder, David Hazzard and Peter S. Parker be and they are hereby appointed managers for cutting and making the said canal, 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 subscribe thereto; and when the said managers shall have collected from the subscribers a sufficient sum to enable them to cut and make the said canal, it shall and may be lawful for them or a majority of them, and they are hereby required and enjoined, to lay out and expend the same in making and completing the said improvement.

Vacancy a-  
mong com-

SEC. 5. *And be it enacted,* That if either of the said commissioners, or either of the said managers,

shall die resign or refuse or neglect to act, it shall <sup>missioners or managers</sup> and may be lawful for the governor of this state, for the time being, to appoint others in their place or stead.

SEC. 6. *And be it enacted,* That every commis- <sup>Oath of com- missioners and mana- gers;</sup> sioner and manager before acting under this act shall take an oath or affirmation before a justice of the peace, in and for Sussex county, to perform all the duties required of him by this act with impartiality and fidelity.

SEC. 7. *And be it enacted,* That if any person or <sup>Penalty for obstructing canal etc.</sup> persons shall designedly fill up or obstruct the said canal when cut and made, or shall injure or obstruct the navigation of said creek, he she or they so offending shall incur a penalty of any sum not exceeding one hundred dollars, with full costs of prosecution, to be recovered by indictment in any court of general quarter sessions of the peace for Sussex county.

SEC. 8. *And be it enacted,* That, until the amount <sup>In what case.</sup> expended in cutting and making the said canal with <sup>for what length of time, from whom, and by whom,</sup> all costs attending the same with legal interest shall <sup>toils may be demanded on vessels passing said creek from above or below said canal.</sup> be fully satisfied and paid, it shall and may be lawful for the managers aforesaid or any person authorized by them to demand and receive from the master or commander of every vessel navigating said creek, the sum of two cents per ton for every time such vessel shall pass up the said creek above the said canal, or shall pass down the said creek from above the said canal; and in case the master or commander of any vessel as aforesaid shall neglect or refuse to pay the said sum of two cents per ton, for every ton she may measure, to the said managers or to any person authorized by them to demand and receive the same as aforesaid, then and in every such case it shall and may be lawful for the said managers and they are hereby authorized and empowered to issue a warrant in the name of the State of Delaware directed to any constable in and for Sussex county commanding him to levy the said sum by distress and sale of any part <sup>(Sec. 13.)</sup>

CHAP. of the rigging tackle or furniture belonging to such  
 CCCXXXI. vessel, and after retaining the sum or sums which  
 1826. may be due and the costs which have accrued on  
 the sale of said rigging tackle or furniture to return  
 the balance of proceeds of such sale to the said  
 master or commander of such vessel or to the owner  
 or owners thereof: provided however that every  
 master or commander of a vessel, who shall have  
 subscribed to the cutting and making of the said can-  
 al, shall have the privilege of navigating the said  
 creek free from the payment of tolls, until their  
 amount, at the rate of two cents per ton for every  
 time the vessel he commands ascends or descends  
 the said creek as aforesaid, shall equal his subscrip-  
 tion: *Provided nevertheless*, That no toll shall be  
 demanded from any flat, lighter, or open boat pass-  
 ing or repassing the same.

*Managers—*  
 to stop the  
 creek when  
 the canal is  
 completed  
 &c.

SEC. 9. *And be it enacted*, That it shall be the  
 duty of the managers aforesaid, and they are hereby  
 authorized and empowered, as soon as the said canal  
 shall be completed so that a vessel drawing five feet  
 water may pass through the same at a common tide,  
 to stop or dam up said creek at each extremity of the  
 said canal so as to turn the waters of said creek  
 through the same.

To keep a  
 book show-  
 ing the mon-  
 ies received  
 and expen-  
 ded for canal  
 etc.

SEC. 10. *And be it enacted*, That it shall be the  
 duty of the managers aforesaid to keep a book, and  
 have entered therein all monies received by them,  
 and from whom, and also the monies expended by  
 them in cutting and making the said canal, and to  
 whom paid, which book shall be open to the inspec-  
 tion of all subscribers to the said improvement and  
 to all other persons who may have any interest in  
 the navigation of said creek.

To give bond  
 etc.

SEC. 11. *And be it enacted*, That the managers  
 aforesaid, before entering upon the duties required  
 by this act, shall give bond jointly and severally to  
 the Governor of the State of Delaware in the sum  
 of two thousand dollars conditioned for the faithful  
 discharge of the trust reposed in them.

SEC. 12. *And be it enacted,* That every commis-<sup>Pay of com-</sup>sioner and manager shall, for every day's service un-<sup>missioners</sup>der this act, receive one dollar.<sup>and mana-</sup><sup>gers.</sup>

SEC. 13. *And be it further enacted,* That for the Mode of as-  
purpose of ascertaining the amount or rate of toll each<sup>certaining the</sup>  
and every vessel may be liable to pay under the provis-<sup>amount of</sup>  
ions of this act, that it shall be the duty of each and<sup>tolls to which</sup>  
every captain or commanding officer of any, such<sup>vessels may</sup>  
vessel to produce to the treasurer or other officer au-<sup>be liable un-</sup>  
thorized to collect any such toll the register or li-<sup>der this act;</sup>  
cense of every such vessel when demanded, under<sup>(Sec. 8.)</sup>  
the penalty of five dollars, with costs of suit, to<sup>penalty on</sup>  
be recovered before any justice of the peace, in and<sup>captain of</sup>  
for Sussex county, to be applied to the use and be-<sup>vessel not</sup>  
nefit of the canal as aforesaid.<sup>complying</sup>  
<sup>with this pro-</sup>  
<sup>vision.</sup>

PASSED AT DOVER, }  
January 27, 1826. }

## CHAPTER CCCXXXII.

A FURTHER SUPPLEMENT to the act enti-<sup>4. vol. 662.</sup>  
tled "*An act to alter the times of holding the*"<sup>6. vol. 305.</sup>  
*courts of law and equity in this state."*

SEC. 1. BE IT ENACTED, *by the Senate and*<sup>Terms of the</sup>  
*House of Representatives of the State of Dela-*<sup>Courts—</sup>  
*ware in General Assembly met,* That from and after  
the passing of this act, there shall be two terms in  
every year, in each of the counties of this state, of  
the court of chancery, the supreme court, the court  
of common pleas and court of general quarter ses-  
sions of the peace and gaol delivery, which shall  
commence and be held as follows, that is to say;  
the court of chancery shall commence and be held,<sup>of Chanco-</sup>  
in Kent county on the second Monday of February<sup>ry —</sup>  
and the fourth Monday in July,—in Newcastle<sup>in Kent—</sup>  
county on the fourth Monday of February and se-<sup>Newcastle.</sup>  
cond Monday in July,—and in Sussex county on<sup>Sussex—</sup>  
the Monday next following the Monday on which

the supreme court shall commence in Newcastle county in the month of March, and on the second Monday next after the fourth Monday of July :—

*Supreme Court,—*  
*in Sussex—*  
 Kent— and the supreme court shall commence and be held, in Sussex county on the second Monday of March and second Monday of October,—in Kent county on the third Monday of March and third Monday of October,—in Newcastle county on the fourth Monday of March and on the second Monday next after the term 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 commencement of the term of the supreme court in March in Newcastle county, and in November on the second Monday after the commencement of the term of the supreme court in October or November in Newcastle county,—in Kent county on the second Monday after the commencement of the respective terms of the court of common pleas in Sussex county,—and in Newcastle county in May on the third Monday after the commencement of the term of the court of common pleas in April or May (as the case may be) in Kent county,—and in December on the second Monday after the commencement of the term of the said court of common pleas in November or December (as the case may be) in Kent county.

*Common Pleas and quarter Sessions,—*  
 in Sussex—

Kent—

Newcastle.

*Term of the High Court of Errors and Appeals.* SEC. 2. *And be it further enacted by the authority aforesaid,* That the high court of errors and appeals shall be held once in every year, in the town of Dover in Kent county, on the second Monday in June, to receive hear and judge of appeals and writs of error, and in all matters of law and equity which shall come before the said court.

*Continuance of process etc.* SEC. 3. *And be it further enacted, by the authority aforesaid,* That all appeals, writs of error, bills, actions, suits, indictments, answers, pleas, commissions, writs, processes, bail bonds, and all other proceedings matters and things, relating to any cause at

law or in equity, civil or criminal, which now is or hereafter shall be depending in or returnable to the high court of errors and appeals, the court of chancery, the supreme court, the court of common pleas or the court of general quarter sessions of the peace and goal 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 a manner as any appeal, writ of error, bill, action, suit, indictment, answer, plea, writ, process, bail bond or other proceeding, matter or thing, now can or ever could have been tried heard and determined before any such court.

SEC. 4. *And be it further enacted by the authority aforesaid,* That the registers in chancery, prothonotaries of the court of common pleas, the clerks of the peace, and clerks of the supreme court, in the several counties of this state, shall, at each term of the court to which they respectively belong, enter on the docket of such court a record of the number of days which such court remains in session, and the names of the judges attending on each day of such session; and a like record shall be made by the clerk of the high court of errors and appeals on the docket of the said court, of the session of the said court, and of the names of the judges who shall, on each day of the holding of the said court, be in attendance therein; and the respective clerks shall make and transmit a true and certified copy of the same to the Secretary of State on every second Tuesday of January hereafter; and the said secretary shall immediately lay a copy of the same before the General Assembly: and in all cases that shall be removed from the supreme court, court of common pleas or court of general quarter sessions of the peace or court of oyer and terminer, in either of the counties of this state, to the high court of errors and appeals by writ of error or otherwise, the prothonotary or clerk, by whom the record shall be transmitted to the

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Clerks to  
make a re-  
cord of the  
number of  
days of each  
session of the  
said courts,

and the  
names of the  
judges atten-  
ding on each  
day,

and transmit  
a copy thereof  
to the secre-  
tary of State  
&c.;

who shall lay  
a copy there-  
of before the  
General As-  
sembly &c.;

in the records  
of all cases  
removed to  
the court of  
appeals the  
clerks shall  
state the

names of the  
judges by  
whom the  
same were  
decided.

said high court of errors and appeals, shall state in such record the names of the judges who were present at the trial of the cause so removed, or by whom the same was decided.

Appeals from  
justices of the  
peace to com-  
mon pleas in  
Kent county,  
how to be  
marked for  
trial at the  
spring terms.

SEC. 5. *And be it further enacted by the authority aforesaid,* That all appeals from the judgment of any justice of the peace, which shall be for trial in the county of Kent at the terms of the court of common pleas which shall be held in and for the said county in April or May (as the case may be,) shall be marked for trial on the third Monday of such term; and all subpoena process in such cases shall be made returnable on the said third Monday of such term.

Repeal of  
parts of—  
ch. 244, vol. 4.  
p. 16, ch.  
136, vol. 5, p.  
234, ch. 187  
vol. 6, p. 305

SEC. 6. *And be it further enacted by the authority aforesaid,* That so much of any act of the General Assembly of this state as appoints a different time for holding the aforesaid courts be and the same is hereby repealed.

PASSED AT DOVER, }  
January 27th, 1826. }

## CHAPTER CCCXXXIII.

AN ADDITIONAL SUPPLEMENT to an act  
entitled "*An act to authorize the owners and  
possessors of the marsh or low ground common-  
ly called and known by the name of the Cow  
Marsh situate in the forest of Murderkill hun-  
dred in Kent county, to cut a ditch or drain  
through the same.*"

2. vol. 1132,  
1219.

The Cow  
marsh com-  
p-ny incor-  
porated;

SEC. 1. BE IT ENACTED, *by the Senate and  
House of Representatives of the State of Dela-  
ware in General Assembly met,* That the owners and  
possessors of the marsh or low ground commonly  
called or known by the name of the Cow Marsh,  
situate in the forest of Murderkill hundred in Kent

county, and mentioned in the act to which this is an additional supplement, passed at Dover the seven-<sup>CHAP. CCCXXXIII</sup>teenth day of June in the year of our Lord one thousand seven hundred and ninety-three, and the supplement to the said act passed the seventh day of February seventeen hundred and ninety five, shall compose a company to be called "The Cow Marsh Company," and shall hold a meeting on the first<sup>1826.</sup> annual meeting, hereafter, at the Willow Grove in Murderkill hundred and Kent county, or at such other place as the said owners and possessors of the said marsh and low ground shall have determined by a resolution adopted at a previous meeting of the said company; at which annual meeting the said company shall choose, by ballot and by a majority of votes, one treasurer and three managers, and may do and determine all such matters and things as the said company may deem requisite for effectually draining and reclaiming the said marshes and low grounds; and such annual meeting of the said company may be adjourned from time to time, and occasional or stated meetings may be called from time to time by the managers for the time being, or a majority of them, or by the survivor or survivors of them, if any of them be dead, at such times and places as the said managers or a majority of them or the survivors of them may appoint, by giving ten days public notice by advertisements put up in at least five of the most public places in Murderkill hundred aforesaid; and if the managers and treasurer shall not all or any of them, be chosen at the stated annual meeting for the current year, and if any manager or treasurer shall die resign refuse or neglect to act, such vacancies may be filled at an adjourned or occasional meeting by ballot and majority of votes as aforesaid; and if any manager or treasurer shall remove from the neighbourhood of the said marsh and low ground, the said company may at any of their meetings declare the place of such manager or treasurer vacant, and elect another in his place: and further the said owners and possessors of the said marsh and low ground at an adjourned or occasional meeting may

and powers of the company  
thereat in appointing treasurer and managers, &c.

adjourned and occasional meetings;

and powers of the company thereat;

voting.

do all such acts as may or might be done at an annual meeting ; and at all meetings of the said Cow Marsh company every owner of any marsh or low ground within the company's boundaries, and every guardian to an infant owner, may vote, if present ; and every female owner may vote by proxy regularly constituted by a note in writing signed by such female owner.

Continuance  
in office of the  
managers and  
treasurer.

SEC. 2. *And be it enacted,* That every manager and treasurer chosen in pursuance of this act shall continue in office until the first Monday in the month of May next ensuing his election, and until a successor to him shall be duly elected.

Commission-  
ers appointed  
to value  
marshes etc.,

their duties  
and pow-  
ers:—

SEC. 3. *And be it enacted,* That William K. Lockwood, Nathan Green and Thomas Green be and they are hereby appointed commissioners to make a valuation of the said marshes and low grounds ; and the said commissioners or a majority of them are hereby authorized and empowered to enter upon and view all the said marsh or low ground adjacent to the said ditches or drains, and shall ascertain all the owners, and determine who will be benefitted by the aforesaid ditch or ditches, or any ditch or ditches which they shall direct to be opened or cut under the power herein after given to them, and the quantity held by each owner, or by joint owners, if any be held undivided, and shall appraise all the said marshes and low grounds which in their opinion or the opinion of a majority of them are or will be benefitted or improved by the said ditch or ditches, having regard to the original or unimproved value of the said marsh, so that the said appraisement may be made on such principles as will do equal justice to all the owners and possessors of said marsh ;— which said appraisement shall be the valuation upon which all taxes assessed and levied by virtue of this act shall be assessed and levied ; and the said commissioners or a majority of them shall make a certificate, under their hands or the hands of a majority of them, containing the names of the respective owners of the said marsh and low ground, the quan-

tity held by each owner and by joint owners, if any be held undivided, and the appraisement of the said several quantities or parcels so by the said commissioners to be made as aforesaid; and shall make return of the said certificate into the prothonotary's office for Kent county aforesaid; which said certificate shall be final and conclusive upon all parties; and shall remain and be the true appraisement and valuations upon which all and every the tax or taxes which may be necessary for the purposes of this act shall be assessed levied and raised.—Each commissioner before he enters upon the duties required of him by this act shall be sworn or affirmed by some judge of the state, or justice of the peace in and for Kent county, to exercise the said duties faithfully and impartially according to the best of his skill and judgment. And the said commissioners, or a majority of them, are hereby further authorized and empowered to go upon the said marsh and low ground and to view examine and direct the extension of the ditches or drains already cut as far down the ditch or drain known by the name of Brice's ditch as they may think proper and necessary; and may ascertain the width and depth of the said ditch or drain; and may extend the three separate prongs of the ditch or drain already cut or any one of said prongs as far as they may think proper and necessary, and may locate and lay out such other prong or prongs as they may think proper and necessary, and of such width and depth as they may deem fit and proper for draining the said marsh and low ground: provided that the person or persons into whose land any such new or additional prong or prongs shall be so located by the commissioners and directed to be opened, and all such persons as will be benefitted by the opening of such new or additional prong or prongs, shall, before any such prong or prongs shall be opened or cut, bind themselves by agreement to and with the Cow Marsh company to pay the original costs and charges for cutting and opening the said new or additional prong or prongs without charge or incumbrance on the company; and the said prong or prongs shall then become a part of the improvements of the Cow

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CHAP. Marsh Company under this act, and shall be kept  
 CCCXXXIII open and in good order at the charge of the owners  
 1826. and possessors of the said Cow Marsh in communion  
 with such owners and possessors as are particularly  
 benefitted by such prong or prongs. And the said  
 commissioners are hereby further authorized and em-  
 powered, after viewing the ditches or drains already  
 cut, and directing the extension of such ditches or  
 drains as far as they may think proper, and after lo-  
 cating and directing the opening and cutting of such  
 other ditches or drains or prongs to ditches or drains  
 as they may deem fit and proper,—to estimate the  
 probable expense of cutting and opening such ditches  
 or drains as they or a majority of them may direct to  
 be cut and opened, and of extending such ditches as  
 they may direct to be extended; and the said com-  
 missioners or a majority of them shall certify to the  
 managers for the time being the amount of such es-  
 timate or valuation. If either of the said commis-  
 sioners shall die resign remove from the county or  
 refuse to act before all the duties of the said com-  
 missioners shall have been completed, then and in  
 that case the said Cow Marsh company may, at any  
 annual adjourned or occasional meeting, choose a  
 commissioner or commissioners to fill the vacancy or  
 vacancies, and so from time to time until all the du-  
 ties of the said commissioners under this act shall  
 have been completed.

vacancies a-  
 mong them  
 how filled.

Duties and power of the managers. SEC. 4. *And be it enacted,* That for the purpose  
 of raising the necessary sums of money under this  
 act for answering the purposes by this act, the act to  
 which this is an additional supplement and the sup-  
 plement to said act, intended, it shall and may be  
 lawful for the managers for the time being, or a ma-  
 jority of them, and they are hereby authorized and  
 required (after the appraisement and valuation afore-  
 said shall be made and returned as aforesaid, and the  
 estimate of probable expense shall be made and cer-  
 tified to them as aforesaid) to lay and assess, upon  
 the value of the said marshes or low grounds men-  
 tioned in said return to the prothonotary, such  
 sum of money as the said commissioners or a majo-

rity of them shall have estimated and judged to be necessary for the completion and extension of said ditches or drains, which sum shall be apportioned among the several owners of the said marshes and low grounds, which shall be mentioned in said return to the prothonotary, according to and upon the value of the respective quantities or parcels of the said marshes and low grounds which such owners respectively shall hold, according to a certain rate upon and for each and every dollar of said value, and so pro rata: and for the raising of any further or other sum or sums of money which may be necessary either for the completion of the work, or to keep the ditches or drains open and in good repair, it shall and may be lawful for the managers for the time being, or a majority of them, and they are hereby authorized and required to lay and assess, upon the value of the said marshes or low-grounds mentioned in the return to the prothonotary aforesaid, all and every such sum or sums of money as the company at any of its meetings shall by a majority of votes at any such meeting or meetings, from time to time, determine ought to be levied and raised; and all such sums of money or taxes shall be apportioned in the same manner as is herein directed for the apportionment of the first tax to be levied and raised under this act; and the said managers, or a majority of them, shall from time to time make out duplicate lists under their hands of all the assessments and taxes by them to be made and laid as aforesaid, which lists shall also contain a minute of all changes of ownership and transfers of any of the said marshes and low grounds; and one of the said lists shall be delivered to the treasurer for the time being and the other shall be retained by the managers; and such assessments and lists shall be final and conclusive upon all parties; and the said lists so delivered to the treasurer shall be a sufficient warrant to him or his successor in office for levying and collecting all and every the sums of money or taxes in said lists mentioned: *And furthermore*, it shall be the duty of the managers and they are hereby vested with full power and authority to cut such ditches or

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(Sec. 6.)

CHAP. drains as the said commissioners shall by their re-  
 GCGXXXIII turn direct to be cut and opened (subject however  
 1826. to the proviso in the third section of this act con-  
 tained), and to open and clear out the part which was  
 cut by virtue of the act to which this an additional  
 supplement or by virtue of the supplement to the  
 said act, and shall cause the same to be kept open  
 and in good repair; and generally, the managers  
 shall carry into full effect all the directions of the  
 company which shall from time to time be given  
 them in relation to their aforesaid trust; for which  
 purpose the said managers shall have power to em-  
 ploy such workmen as may be necessary for com-  
 pleting the work assigned to them, at the common  
 expense of the company: and all hire wages and  
 expenses in and about said work shall be paid by  
 orders drawn by the managers or a majority of them  
 on the treasurer. Every order shall specify the ser-  
 vices wages or expense for which it is drawn; and an  
 exact account shall be kept by the managers of all  
 orders drawn by them, or a majority of them; and  
 such accounts shall be particular, specifying the ser-  
 vices or expenses for which each order is drawn,  
 and said accounts shall be laid before the annual  
 meetings or other meetings of said company as said  
 company may direct.

Managers  
 laying the taxes  
 to appoint  
 the time of  
 payment.

SEC. 5. *And be it enacted,* That the managers  
 laying the taxes shall appoint the time for the pay-  
 ment of them; and it shall be the duty of the own-  
 ers respectively to pay to the treasurer the taxes  
 (which according to the lists aforesaid to be deliv-  
 ered to the said treasurer from time to time as a-  
 fforesaid they shall be liable to pay) at the time or  
 times appointed for such payment by the mana-  
 gers as aforesaid.

Treasurer,  
 his duties and  
 powers.  
 (Sec. 7)

SEC. 6. *And be it enacted,* That the the treasur-  
 er for the time being, and every treasurer to be cho-  
 sen as aforesaid for the time being, shall have full  
 power and authority to demand and receive levy  
 and make all and every the taxes which shall be laid  
 and assessed pursuant to this act by the managers or

a majority of them, according to the certificate or CHAP.  
the lists which shall be delivered to such treasurer; CCCCXXXIII  
and in case any tax or taxes so laid and assessed, or 1826.  
any part thereof, shall remain unpaid for the space of  
ten days after the time appointed for the payment (Sec. 5.)  
thereof, the treasurer for the time being, and every  
treasurer for the time being, may and shall proceed  
to make and levy all such taxes so remaining unpaid,  
or any part thereof remaining unpaid, in the same  
manner and by the same means as are provided by  
law for the recovery of public taxes, except that the vol. 504.  
said treasurer shall advertise at least thirty days be-  
fore the day of sale.

SEC. 7. *And be it enacted,* That the treasurer for Treasurer to  
the time being, and every treasurer for the time be- give bond  
ing, shall, before he enters upon the duties of his with surety;  
office, give bond, with surety or sureties to be ap-  
proved by the managers or a majority of them, to  
and in the name of the company aforesaid, in the  
penalty of two thousand dollars, upon condition  
to be void if he shall pay all orders drawn on him by  
the managers for the time being or a majority of  
them, as far as he shall have funds for that purpose,  
and shall well and truly account for all monies that  
may come into his hands as such treasurer at every  
annual meeting of the company or otherwise as the  
company may direct; and shall pay any balance or  
sum that shall be due from him on such account to  
his successor in office or otherwise as the company  
shall direct; and shall perform all the duties of his  
office with fidelity: and every treasurer for the time treasurer may  
being shall have the same power to collect and levy collect taxes  
all taxes upon a list delivered to a former treasurer on a list deli-  
which have not been paid to such former treasurer, vered to his  
as the treasurer had to whom the said list was origi- predecessor;  
nally delivered. (Sec. 6.)

SEC. 8. *And be it enacted,* That the managers Managers  
chosen under the provisions of this act, or a majori- may draw on  
ty of them, shall have power and authority to draw treasurer for  
upon the treasurer for the time being for claims up- payment of  
on the said company for services already performed claims now  
~~existing~~

or expenses incurred in cutting opening or clearing out any of the said ditches or drains opened and cut by authority of the act to which this is an additional supplement or the supplement to said act; but no claims shall be allowed of longer standing than fifteen years; and all claims of longer standing than twelve years must be proved by the oath or affirmation of the claimant, or of some other person, that the same has never been paid by the treasurer of the said company out of the funds of said company.

of not longer  
standing than  
15 years;  
but claims of  
12 years stand-  
ing to be  
proved by  
oath etc.

Persons hold-  
ing land rate-  
able by this  
act may cut  
ditches into  
those of the  
company.

SEC. 9. *And be it enacted*, That every person holding any ground adjacent to the said ditches or drains rateable and liable to be assessed by this act shall have full power and liberty without any interruption or hindrance to cut other ditches or drains into the said ditches or drains already opened or which may be opened in pursuance of this act, in such place or places as the owner or owners of such adjacent ground shall think most convenient and proper; *Provided*, That if the said drains shall pass through the lands of any other person, the place for cutting the same shall be fixed by two disinterested freeholders to be chosen by any two of the managers aforesaid.

Penalty for  
obstructing  
the ditches  
etc.

SEC. 10. *And be it enacted*, That if any person shall wilfully fill up or in any manner obstruct the ditches aforesaid or any of them, or shall stop obstruct or impede the course of the water or waters from running down the said ditches or drains, every such obstructing or filling up the said ditches shall be an indictable offence, and every person so obstructing or filling up any such ditch or ditches shall be liable to be proceeded against in the court of quarter sessions of the peace and jail delivery in Kent county aforesaid, by indictment, and on conviction shall be fined in any sum not exceeding sixty dollars, at the discretion of the court, and shall be sentenced to pay the said fine with all costs of prosecution, and such proceedings shall be had as in all other cases of indictable offences, and one half of the said fine shall be paid to the treasurer of the said Cow

Marsh company for the time being, and the other CHAP.  
moiety thereof shall go to and be for the use of the CCCXXXIV  
State. 1826.

SEC. 11. *And be it enacted*, That suits may be The compa-  
brought and prosecuted in the name of the said Cow ny may bring  
Marsh company upon any bond given to the said suit in their  
company. name on any  
bond given to  
them.

SEC. 12. *And be it enacted*, That every commis- Compensa-  
misioner and manager shall for each and every day's tion to com-  
service in and about the business of the said compa missioners  
ny, under this act, be entitled to receive of the com- managers and  
pany the sum of one dollar; and every treasurer treasurer.  
shall be allowed a commission of eight per centum  
on all monies by him collected.

SEC. 13. *And be it enacted*, That so much of the Repeal of  
act to which this is an additional supplement, and so parts of—  
much of the supplement to said act, as is hereby in 34, c 2  
altered and supplied, be and the same hereby is re- vol 1132, ch.  
pealed. 87, c 2 vol.  
1219.

PASSED AT DOVER, }  
January 27, 1826. }

## CHAPTER CCCXXXIV.

A SUPPLEMENT to the act entitled "*An act*" vol. 338.  
to authorize the cutting of a canal from Back  
bay or Muddy creek, in the county of Sussex,  
to the Delaware bay at a place called the Mud  
banks."

SEC. 1. BE IT ENACTED, by the Senate and Commission-  
House of Representatives of the State of Dela- ers appointed  
ware in General Assembly met, That Samuel Payn to value  
ter, Robert West and Elijah Hudson be and they are marshes be-  
hereby appointed commissioners to go upon and view he canal—  
the marshes and low grounds on Prime Hook creek, their powers  
and after viewing the same, they, or a majority of and duties.

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1826.

them, shall ascertain and determine what owners of said marshes and low grounds will be benefitted; as well by improving the navigation of Prime Hook creek, as said marshes and low grounds, and the quantity thereof held by each owner; or by joint owners if any be held undivided, and shall appraise all the said marshes and low grounds which in their opinion, or the opinion of a majority of them, will be benefitted by the said canal, by fixing the value thereof per acre, according to the situation, and upon such principles as will do equal and exact justice to all parties; which said appraisement shall be the rate of assessment for all taxes to be laid under this act; and the said commissioners or a majority of them shall estimate the sum of money requisite to cut and make said canal, (as laid out already by the commissioners appointed under the act to which this is a supplement) and shall apportion lay and assess the same, upon the said value so fixed of said marshes and low grounds, according to a certain rate for every dollar of said value, and so *pro rata*, and shall apportion the same sum of money among the respective owners accordingly. And the said commissioners shall make two certificates, to be signed by them or a majority of them, describing the canal as laid out, and containing the names of the owners of the said marshes and low grounds, and the quantities thereof held by them respectively, the appraisement or valuation and the taxes laid: one of the said certificates shall be deposited in the office for recording of deeds in and for Sussex county, and shall be there recorded by the recorder of deeds for said county, and a copy of said record under the hand and seal of office of said recorder shall be competent evidence: and the other of said certificates shall be delivered to the treasurer for the time being; and the said certificates shall be final and conclusive upon all parties.

Prime Hook  
and Broad-  
kill Marsh  
Company in-  
corporated,—

SEC. 2. *And be it enacted*, That the owners of the aforesaid marshes and low grounds, which according to the determination of the aforesaid commissioners or a majority of them will be benefitted

by the said canal, shall compose a company to be called "The Prime Hook and Broadkilm Marsh Company," and shall hold a meeting on the first <sup>annual meet-</sup> Wednesday of April in the year eighteen hundred <sup>ings.</sup> and twenty seven, and on the first Wednesday of April yearly thereafter, at such place as the managers for the time being or the survivors of them, or if none, such as the treasurer for the time being, shall appoint, whereof ten days notice shall be given by at least four advertisements posted in the most public places in Prime Hook and Broadkilm necks, or at such places as the company may from time to time determine upon; at which annual meeting the said <sup>and appoint-</sup> owners of said marshes and low grounds shall choose <sup>ment of offi-</sup> by ballot and by majority of votes two managers and <sup>cers etc.;</sup> one treasurer for the year ensuing such meeting; and may do and determine upon all such matters and things as shall be deemed requisite for cutting the said canal and draining the marshes and low grounds; and that occasional meetings of said owners, to be held in Prime Hook or Broadkilm neck <sup>occasional</sup> aforesaid, may be called by the managers and treasurer for the time being, or a majority of them, at such time and place as the said managers and treasurer or a majority of them may appoint, by giving ten days public notice by advertisements posted in four, at least, of the most public places in said necks, and five days written notice to the persons in the possession of the said marshes and low grounds, or to the owners; at which occasional meetings like acts may be done as at the annual meetings; and at all meetings a guardian of a minor owner shall have <sup>occasional</sup> right to vote for his ward, and an absent owner to <sup>meetings;</sup> vote by proxy.

SEC. 3. *And be it enacted,* That David Wilson <sup>Managers</sup> and Peter Truitt be, and they are hereby appointed, <sup>and treasurer</sup> managers to continue in office for the term of one <sup>for the pre-</sup> year from the first Wednesday in April next, and until <sup>sent year.</sup> successors to them respectively shall be duly chosen; and that Isaac Lofland be and he is hereby appointed <sup>continuance</sup> treasurer, to continue in office one year from the <sup>in office of</sup> first Wednesday in April next, and until a succes- <sup>managers and</sup> <sup>treasurer,</sup>

CHAP. sor shall be duly chosen; and every manager and  
 CCCXXXIV treasurer to be chosen under this act shall continue  
 1826. in office until the first Wednesday in April next en-  
 suing the election of him, and till a successor shall  
 be chosen.

Vacancies  
 among com-  
 missioners  
 managers and  
 treasurer,  
 how filled.

SEC. 4. *And be it enacted*, That if either of the commissioners aforesaid, or either of the managers or the treasurer aforesaid, or any commissioner manager or treasurer hereafter to be chosen, shall die resign or refuse or neglect to act, the owners of the aforesaid marshes and low grounds may at any annual or occasional meeting to be held or called pursuant to this act, choose a commissioner, manager or treasurer to fill such vacancy or vacancies, and any vacancy either of a commissioner manager or treasurer, at any time so happening, may be so filled: at all meetings regularly held or called, those present may always act; and the acts of a person chosen to fill any vacancy shall be as valid and effectual to all intents and purposes as those of the commissioner or manager or treasurer in whose place he shall be so chosen.

Duties and  
 powers of the  
 managers.

SEC. 5. *And be it enacted*, That the managers aforesaid and their successors, managers for the time being, shall have full power to enter upon the marshes and low grounds aforesaid, and, at the common expense of the company, proceed to cut and make the canal aforesaid, and to cut and open such ditch or ditches as may be found necessary to drain the aforesaid marshes and low grounds, or as may be ordered and directed by the company, and the same to clean out and scour; and for this purpose they may employ workmen and labourers as they may deem expedient; and they shall pay all wages and hire of workmen and labourers, and all expenses by them incurred under this act, by orders drawn upon the treasurer, which shall specify the service or expense for which the same shall be drawn; they shall keep an exact account of all orders by them drawn, and of all wages hire and expenses, and shall lay the same before the company at the annual meeting; and

when the money, which shall be assessed by the commissioners or a majority of them, shall be expended; the managers aforesaid or their successors, managers for the time being, shall have full power and authority from time to time to determine upon such sum and sums of money as will be requisite to enable them to perform the work necessary to be done, and to defray the expenses necessary to be incurred in cutting and making the aforesaid canal, and in cutting opening and scouring such ditch or ditches as aforesaid, and from time to time to apportion lay and assess such sum and sums of money among the owners of the aforesaid marshes and low grounds, upon and according to the value of the respective quantities or parcels which such owners respectively shall hold of the said marshes and low grounds which shall be mentioned and contained in the aforesaid certificates so to be made as aforesaid by the commissioners aforesaid, or a majority of them, as such value shall be fixed and set down in said certificates, at and according to a certain rate upon and for every dollar of said value and so pro rata; and the said managers shall make a list of all assessments and taxes by them from time to time made and laid, and shall deliver the same to the treasurer for the time being, and the same shall be final and conclusive upon all parties.

CHAP.  
CCCCXXXIV  
1826.

SEC. 6. *And be it enacted.* That the treasurer aforesaid, and every treasurer to be chosen as aforesaid, for the time being, shall have power and authority to demand and receive levy and make all and every the taxes which shall be laid and assessed pursuant to this act, whether by the commissioners or a majority of them, or by the managers, according to the certificate or the list which shall be delivered to such treasurer; and in case any tax or taxes so laid and assessed or any part thereof shall remain unpaid for the space of ten days after the time appointed for the payment thereof, the treasurer aforesaid and every treasurer for the time being may and shall proceed to make and levy all such taxes so remaining unpaid or any part thereof remaining unpaid, in the same

Powers and  
duties of the  
treasurer.

CHAP. manner and by the same means and proceedings as  
 CCCCXXXIV are provided by the act of the General Assembly of  
 1826. this State entitled "An act for raising county rates  
 1 vol. 257. and levies" and by the twenty-fifth and twenty-sixth  
 sections of the act of the General Assembly of this  
 2 vol. 1247. state entitled "An act for the valuation of real and  
 personal property within this state" for levying and  
 recovering the rates and taxes in said acts mentioned.

Persons lay- SEC. 7. *And be it enacted*, That the commission-  
 ing the taxes ers or managers laying the taxes shall appoint the  
 to appoint the time for the payment thereof.  
 time of pay-  
 ment.

Treasurer to SEC. 8. *And be it enacted*, That the treasurer  
 give bond &c. aforesaid, and every treasurer for the time being,  
 shall before he enters on the duties of his office give  
 bond, with surety or sureties to be approved by the  
 managers, to and in the name of the company afore-  
 said in the penalty of three thousand dollars, upon  
 condition to be void if he shall pay all orders that  
 may be drawn upon him by the managers so far as  
 he shall have funds for that purpose, and shall well  
 and truly account for all monies that may come to his  
 hands as such treasurer at every annual meeting of  
 the company or otherwise as the company may di-  
 rect, and shall pay any balance or sum which shall  
 be due from him on such account to his successor in  
 office or otherwise as the company shall direct, and  
 shall perform all the duties of his office with fidelity;  
 treasurer may and every treasurer for the time being shall have the  
 collect taxes same power to collect and levy all taxes upon a list  
 on a list deli- delivered to a former treasurer remaining unpaid,  
 vered to his which the treasurer to whom the list was originally  
 predecessor. delivered had.

Oath of com- SEC. 9. *And be it enacted*, That every commis-  
 missioners sioner and manager, before acting under this act,  
 and mana- shall take an oath or affirmation before a justice of  
 gers. the peace in and for Sussex county to perform all the  
 duties required of him by this act, with impartiality  
 and fidelity.

Penalty for SEC. 10. *And be it enacted*, That if any person

shall wilfully fill up or obstruct the aforesaid canal <sup>obstructing</sup> when cut and made, or any ditch or ditches to be cut <sup>canal or</sup> and opened as aforesaid, every such person shall pay <sup>ditches.</sup> to the aforesaid company treble damages, to be recovered before any justice of the peace of Sussex county, if not exceeding in the whole fifty dollars, as debts above forty shillings and not exceeding fifty dollars are recoverable, and if above that sum, in the supreme court or court of common pleas.

SEC. 11. *And be it enacted,* That suits may be <sup>Suits may be</sup> instituted and prosecuted in the name of the com- <sup>prosecuted in</sup> pany aforesaid upon any bond given as aforesaid, or <sup>the name of</sup> for the recovery of damages as aforesaid. <sup>the company</sup> &c.

SEC. 12. *And be it enacted,* That the owners and <sup>Members of</sup> possessors of the aforesaid marshes and low-grounds <sup>the company</sup> shall respectively have right and privilege to discharge <sup>may dis-</sup> the waters from their respective marsh or ground, ei- <sup>charge the</sup> ther by the natural channels or by drains to be cut <sup>waters from</sup> through the marsh or grounds of other owners or <sup>their low</sup> possessors in such places and directions, and of <sup>grounds into</sup> such width depth and dimensions as the managers <sup>the canal or</sup> for the time being shall prescribe; if the cutting of <sup>ditches of the</sup> such drains will be advantageous to the marsh or <sup>company.</sup> grounds of other owners, such owners shall contribute such proportion of the expense as the managers shall direct; if the cutting of such drains will injure the marsh or grounds of other owners, the managers shall assess the damages, and the cutting shall not be commenced until the damages shall be paid or tendered; any owner shall have privilege to cut any drain or drains through his own marsh or ground emptying into the aforesaid canal, or into the ditch or ditches of the company.

SEC. 13. *And be it enacted,* That every commis- <sup>Compensa-</sup> sioner and manager shall, for every day's service <sup>tion to com-</sup> under this act, receive, the former one dollar, the <sup>missioners,</sup> latter seventy-five cents; and every treasurer shall <sup>managers and</sup> be allowed a commission of five per centum on all <sup>treasurer.</sup> monies by him collected.

CHAP. manner and by the same means and proceedings as  
 CCCCXXXIV are provided by the act of the General Assembly of  
 1826. this State entitled "An act for raising county rates  
 1 vol. 257. and levies" and by the twenty-fifth and twenty-sixth  
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 said in the penalty of three thousand dollars, upon  
 condition to be void if he shall pay all orders that  
 may be drawn upon him by the managers so far as  
 he shall have funds for that purpose, and shall well  
 and truly account for all monies that may come to his  
 hands as such treasurer at every annual meeting of  
 the company or otherwise as the company may di-  
 rect, and shall pay any balance or sum which shall  
 be due from him on such account to his successor in  
 office or otherwise as the company shall direct, and  
 shall perform all the duties of his office with fidelity ;  
 and every treasurer for the time being shall have the  
 same power to collect and levy all taxes upon a list  
 delivered to a former treasurer remaining unpaid,  
 which the treasurer to whom the list was, originally  
 delivered had.

treasurer may  
 collect taxes  
 on a list deli-  
 vered to his  
 predecessor.

Oath of com-  
 missioners  
 and mana-  
 gers.

SEC. 9. *And be it enacted*, That every commis-  
 sioner and manager, before acting under this act,  
 shall take an oath or affirmation before a justice of  
 the peace in and for Sussex county to perform all the  
 duties required of him by this act, with impartiality  
 and fidelity.

Penalty for

SEC. 10. *And be it enacted*, That if any person

shall wilfully fill up or obstruct the aforesaid canal<sup>obstructing</sup> when cut and made, or any ditch or ditches to be cut<sup>canal or</sup> and opened as aforesaid, every such person shall pay<sup>ditches.</sup> to the aforesaid company treble damages, to be recovered before any justice of the peace of Sussex county, if not exceeding in the whole fifty dollars, as debts above forty shillings and not exceeding fifty dollars are recoverable, and if above that sum, in the supreme court or court of common pleas.

SEC. 11. *And be it enacted,* That suits may be<sup>Suits may be</sup> instituted and prosecuted in the name of the com-<sup>prosecuted in</sup> pany aforesaid upon any bond given as aforesaid, or<sup>the name of</sup> for the recovery of damages as aforesaid.<sup>the company</sup>  
 &c.

SEC. 12. *And be it enacted,* That the owners and<sup>Members of</sup> possessors of the aforesaid marshes and low-grounds<sup>the company</sup> shall respectively have right and privilege to discharge<sup>may dis-</sup> the waters from their respective marsh or ground, ei-<sup>charge the</sup> ther by the natural channels or by drains to be cut<sup>waters from</sup> through the marsh or grounds of other owners or<sup>their low</sup> possessors in such places and directions, and of<sup>grounds into</sup> such width depth and dimensions as the managers<sup>the canal or</sup> for the time being shall prescribe; if the cutting of<sup>ditches of the</sup> such drains will be advantageous to the marsh or<sup>company.</sup> grounds of other owners, such owners shall contribute such proportion of the expense as the managers shall direct; if the cutting of such drains will injure the marsh or grounds of other owners, the managers shall assess the damages, and the cutting shall not be commenced until the damages shall be paid or tendered; any owner shall have privilege to cut any drain or drains through his own marsh or ground emptying into the aforesaid canal, or into the ditch or ditches of the company.

SEC. 13. *And be it enacted,* That every commis-<sup>Compensa-</sup> sioner and manager shall, for every day's service<sup>tion to com-</sup> under this act, receive, the former one dollar, the<sup>missioners,</sup> latter seventy-five cents; and every treasurer shall<sup>managers and</sup> be allowed a commission of five per centum on all<sup>treasurer.</sup> monies by him collected.

Repeal of  
parts of—  
ch 18, vol 3,  
p. 338.

SEC. 14. *And be it enacted*, That such parts of the act to which this is a supplement as are hereby altered or supplied be and the same are hereby repealed made null and void.

PASSED AT DOVER, }  
January 28, 1826. }

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### CHAPTER CCCXXXV.

AN ACT to authorize Isaac Giles, of Sussex county, in the State of Delaware, to remove a negro slave named Arthur from the State of Maryland into this State.

PASSED AT DOVER, }  
January 30, 1826. }

PRIVATE ACT.

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### CHAPTER CCCXXXVI.

AN ACT to authorize and empower Caleb H. Sipple, administrator with the will annexed of Joseph Barker (deceased) to sell and convey a certain lot of ground therein mentioned.

PASSED AT DOVER, }  
January 30, 1826. }

PRIVATE ACT.

## CHAPTER CCCXXXVII.

CHAP.  
CCCXXXVII  
1826.

AN ACT granting to Samuel Johnson all the right title and interest of the State of Delaware in the personal estate of Charles Johnson, late of Newcastle county deceased, the natural brother of Samuel Johnson.

PASSED AT DOVER, }  
January 31, 1826. }

PRIVATE ACT.

## CHAPTER CCCXXXVIII.

A SUPPLEMENT to the act entitled "*An act to* 6. vol. 542.  
*establish a company under the name of the Philadelphia, Dover and Norfolk Steam Boat and Transportation Company.*"

SECTION 1. BE IT ENACTED, *by the Senate* Stockholders *and House of Representatives of the State of Delaware,* authorized to *in General Assembly met,* extend the *That it shall and* amount of the *may be lawful for the stockholders of the Philadelphia, Dover and Norfolk Steam Boat and Transportation Company,* capital stock of the company, at any time, to extend the amount of the capital stock of the said company to any sum not exceeding one hundred and twenty-five thousand dollars; and whenever the stockholders shall extend the amount of the capital stock aforesaid, the directors or any two of them shall be and are hereby authorized and required to receive subscriptions in the same manner and subject to the same provisions, rules and ordinances which are prescribed for the original commissioners in the act to which this is a supplement; and the amount of all such subscriptions shall be payable at such times, and at such places, and under such regulations, as the directors shall limit and appoint: *Provided however,* that the said capital stock shall not be increased unless by the votes of stockholders holding more than one half

CHAP. the stock of said company at the time of voting ac-  
 CCCXXXVII tually paid in.

1826.

Inns for the benefit of the company to be licensed only on the recommendation of the directors;

SEC. 2. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the directors of said company or a majority of them, now and at all times hereafter when they may deem it necessary, by writing under the hand of the president and the seal of the corporation, to certify to the clerk of the peace of the county, wherein they may desire to establish or cause to be established any inn for the benefit of the said company on the route from Simon's creek to Seaford, the name of the person and the situation of the house by them desired to be licensed for the purposes of public entertainment: and upon the receipt of any such certificate (and the payment of the fee due to the state as in other cases) the clerk of the peace, to whom the same may be delivered, shall forthwith issue a license allowing the person therein named to keep a public house of entertainment at the place described in the certificate, for one year, unless sooner revoked as is herein after provided:

Not to exceed three in number;

license to become void on a certificate under the hand of the president and the seal of the corporation &c.

Provided that the taverns so licensed shall not at any one time exceed three in number:—And to the end that every inn, to be established or cause to be established by the said company, may be subject to the controul of the said company, so far as the accommodation of passengers may require it, any inn so licensed shall cease to be a public house of entertainment whenever a certificate, under the hand of the president and the seal of the corporation, shall be lodged in the office of the clerk of the peace of the county where such inn may be situated, stating that the keeper of such inn hath refused to accommodate the passengers of said company, or keeps a disorderly house: and the license of the keeper of any such inn shall be thereby revoked and become null and void. And no license shall at any time issue to any person to keep a public house of entertainment, in any house established or caused to be established as a tavern by the said company, except it be issued in pursuance of the provisions of this act.

SEC. 3. *And whereas* the directors of said company desire to extend the wharf now belonging to said company, at Seaford, in a westerly direction across the southern extremity of North-street, and thus to form a landing place for the steam boat intended to ply in the waters of the Nanticoke; *Be it further enacted by the authority aforesaid,* That the said company may at all times use, as their landing place, so much of the street called North-street in the village of Seaford as lies between Water-street and the Nanticoke river; and that if any person or persons shall obstruct the said landing place, or molest any servant of the company in using the same, or shall fasten and lay any vessel to the wharf now belonging to the company, or to the wharf on the southern extremity of North-street aforesaid, without leave of said company or their general agent at Seaford, he she or they so offending shall, for every such offence, forfeit and pay to the said company the sum of fifty dollars, to be recovered before any justice of the peace in and for the county of Sussex. *Provided however,* That nothing herein contained shall be so construed as to prevent the free use of the wharf or landing place at the southern extremity of North-street as aforesaid at all times during the absence of the steam boat.

SEC. 4. *And be it further enacted, by the authority aforesaid,* That John Robertson Caleb H. Siple and Joseph H. Raymond, or any two of them, shall have full power, and are hereby authorized, to view the road from the island, between Sand-channel and Simon's creek, belonging to said company, to any point on the fast land by them to be established, and so lay out and increase the width of said road as to them, or a majority of them, shall seem expedient, taking into consideration the quantity of marsh and fast land necessary to erect banks on the sides of the said road, and to cover the said road with gravel: and they or a majority of them shall assess the compensation of any person or persons who shall sustain damages from laying out and making such road or banks to protect the same, and shall cause a map of

to make a  
map of said  
road;—  
and certi-  
cate of their  
proceedings  
&c.;  
certificate  
and map to be  
recorded etc;  
and record or  
copy to be  
evidence;  
proceedings  
of commis-  
sioners to be  
conclusive  
etc  
expense of  
road to be  
paid by the  
company etc.

the said road to be made so that it shall be seen in what manner the present road has been increased in width; and they shall make a certificate of their proceedings and deliver the same, with the map aforesaid, to the recorder of deeds in and for Kent county, who shall record the same certificate and map in his office; and the said record or a certified copy thereof shall be competent evidence: and the proceedings of the said commissioners shall be conclusive, and the road so laid out shall be a public highway: *Provided however*, that the expense of laying such road, or of increasing the width of the road already laid out pursuant to the laws of this State, or of making and improving such road, and also the compensation or damages to be allowed by the said commissioners, shall be paid by the Philadelphia, Dover and Norfolk Steam boat and Transportation Company; and until such compensation or damages be paid or tendered as aforesaid, the said road shall not be widened and improved.

Stockholders  
at their meet-  
ing in June  
next may in-  
crease the  
number of  
directors etc.  
6. vol. ch. 297,  
§. 3, p. 544.

SEC. 5. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the stockholders of said company at their annual meeting in June next, if to them it shall seem expedient, to establish it as a fundamental article of the constitution of said incorporation, that there shall be seven directors of said company; and in case they should establish such an article, as a fundamental article of the constitution, the additional directors shall be by them appointed at the same time, and in the same manner, and shall have the same powers with the other directors of said company.

PASSED AT DOVER, }  
January 31 1826. }

## CHAPTER CCCXXXIX.

CHAP.  
CCCXXXIX  
1826.

AN ACT to authorize and empower Robert Ewing, of the City of Philadelphia, to bring into this State, from the State of Maryland, certain negro slaves therein named, and to hold them as slaves in this State.

PASSED AT DOVER, }  
31st January, 1826. }

PRIVATE ACT.

## CHAPTER CCCXL.

A SUPPLEMENT to the act entitled, "*An act*" vol. 81.  
directing the priority of payment of the debts  
of persons dying within this government."

BE IT ENACTED, by the Senate and House Repeal of—  
of Representatives of the State of Delaware, sec 1. ch 27,  
in General Assembly met, That the first section of vol. p.  
the act, to which this is a supplement, be and the  
same is hereby repealed made null and void; *Pro-*  
*vided nevertheless,* That this act shall not be con-  
strued to affect the settlement of the estates of per-  
sons heretofore deceased.

SEC. 2. *And be it enacted,* That the Secretary of This act to  
State cause a certified copy of this act to be publish- be published  
ed in the Delaware Gazette and the American in newspa-  
Watchman, two of the newspapers published in this pers, etc.  
state, for the space of one month.

PASSED AT DOVER, }  
January 31, 1826. }

CHAP.  
CCCXLI.

## CHAPTER CCCXLI.

1826.

AN ACT to enable Robert Rauleigh to remove certain servants and slaves therein named to and from this State, into and from the State of Maryland.

PASSED AT DOVER, }  
31st January, 1826. }

PRIVATE ACT.

## CHAPTER CCCXLII.

AN ACT authorizing Andrew Barnaby and Mary his wife, guardians of Eliza Ann Penton, a minor, to sell and convey a certain lot of land in the Town of Newcastle belonging to the said minor.

PASSED AT DOVER, }  
January 31, 1826. }

PRIVATE ACT.

## CHAPTER CCCXLIII.

AN ACT more effectually to secure the county of Newcastle, against any liability for the support and maintenance of non-resident paupers.

Contractors  
for the Ches-  
apeake and  
Delaware Can-  
nal,

SEC. 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That any and every person or persons, who now have or who may hereafter enter into any contract or contracts to do or perform any work or labour on the Chesapeake and Delaware canal, or to superintend or conduct any work or labour connected with the said canal, within the limits and jurisdiction of this state, and who in the execution or superintendence of such work or labour may bring into, or employ within the county of New-

castle, any person or persons not having a legal settlement within any of the counties of this state,— shall, upon ten days notice being given in writing by the board of trustees of the poor of said county, appearing in person before such trustees or any committee of the said board appointed for that purpose, and give bond in the name of the said trustees, with such surety or sureties as the trustees aforesaid, or such committee as they may appoint for that purpose, may approve, to be executed by such contractor or contractors, superintendent or person concerned in the direction of any work or labour as aforesaid, with such surety or sureties, to the said trustees, in such reasonable penalty as they may deem right and proper, with a condition annexed that such bond shall be void if the obligors therein named shall well and truly indemnify the county of Newcastle for all costs and charges that may arise from the support and maintenance of such person or persons employed or who may be employed as aforesaid, and shall pay and reimburse to the said trustees of the poor all expenses and charges sum and sums of money, which the said county may expend incur or be put to, in consequence of the sickness or death of such person or persons so employed, or his her or their inability to support and maintain him her or themselves.

on ten days notice in writing from the trustees of the poor, to give bond to indemnify the county of Newcastle, from the maintenance of persons employed by them etc. and who may not have a legal settlement in this State.

SEC. 2. *And be it enacted*, That the trustees of the poor of Newcastle county, upon receiving information or having knowledge, that any person or persons, being a contractor or contractors or in any way engaged in the superintendence or direction of any manner of work or labour connected with the canal aforesaid, and who in the execution of any such contract, superintendence or direction, may have employed any workmen or labourers, not having a legal settlement within any of the counties of this state, to do or perform any work or labour as aforesaid, it shall be the duty of such trustees, and they are hereby authorized and required, to cause such contractor or contractors superintendent or person, having the direction of any work as aforesaid, to be brought before them or any committee they may ap-

Trustees of the poor of Newcastle county required to cause the contractors for the Chesapeake and Delaware Canal to give bond as required by the first section of this act:—

unless the  
Chesapeake  
and Delaware  
Canal compa-  
ny shall give  
their bond to  
indemnify the  
county,—

point for that purpose, and to order such contractor or contractors superintendent or other person engaged in the direction of any work or labour as aforesaid to give bond and security as is by the first section of this act required; and in default of compliance with such order to commit such defaulter or defaulters to the common jail of the county, until such order shall be complied with, or until he or they shall have caused to be removed from this state the person or persons so employed as aforesaid: *Provided however*, That nothing in this act contained shall be deemed or taken to make it obligatory or imperative on the trustees of the poor of Newcastle county to exact bond and security from any contractor or contractors superintendent or other persons having the direction of any work or labour on the canal aforesaid.—if within thirty days after notice in writing shall be given by the trustees of the poor of Newcastle county, the president and directors of the Chesapeake and Delaware Canal Company shall duly execute and deliver to the said trustees a bond in the corporate name and under the common seal of the said president directors and company, to indemnify the county of Newcastle of and from all expenses charges and costs which hereafter may be incurred by the said county by reason of the maintenance support sickness or death of all and every person or persons who have not acquired a legal settlement in this state or in either of the counties thereof, and who now are or who hereafter may be employed under the authority of the said president directors and company, their contractors superintendents sub-contractors or agents, or in any other manner concerned in executing the work or labour of the aforesaid Chesapeake and Delaware Canal,—or if the said president directors and company or such contractor sub-contractor superintendent or agent, shall make such arrangements to indemnify the said county from all expense or charge that may be incurred by the said county by reason of the maintenance support sickness or death of all persons employed by them as aforesaid in or about the said canal, who have not gained a legal settlement in this state, or either of

or unless they  
or their con-  
tractors shall  
make other  
satisfactory  
arrangements  
for that pur-  
pose.

the counties thereof, as shall be satisfactory to and approved of by the trustees of the poor of Newcastle county. CHAP. CCCXLV.  
1826.

PASSED AT DOVER, }  
February 2, 1826. }

## CHAPTER CCCXLIV.

AN ACT to enable the executor of Shadrach Short deceased to make sale of a certain tract of land therein mentioned.

PASSED AT DOVER, }  
February 2, 1826. }

PRIVATE ACT.

## CHAPTER CCCXLV.

A SUPPLEMENT to the act entitled "*An act* vol. 366. securing payment, by the Banks of this State, of their notes in specie."

SEC. 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That the time, in which the respective banks in this state shall be permitted to accept of the act to which this act is a supplement, as a part of the charter of incorporation of such banks respectively, is hereby extended to the fifteenth day of January next ensuing; and if any bank in this state, which has not heretofore accepted of the said act, as a part of its charter, shall certify its acceptance thereof to the governor, so that he shall receive the said certificate, on or before the said fifteenth day of January, then and in such case, the said bank shall be entitled to all the benefits of the act to which this act is a supplement; and the governor shall communicate the tenor of such certificate to the General Assembly, by message, and

The time for the acceptance of the act to which is a supplement extended to the 15 Jan. 1827.

CHAP. the printed journal of the Senate or the House of  
 CCCXLVII. Representatives shall be conclusive evidence of such  
 1826. message, and of every part thereby communicated.

PASSED AT DOVER, }  
 2nd February, 1826. }

### CHAPTER CCCXLVI.

AN ACT authorizing and empowering Anna M'Callmont and Sarah M'Callmont, administratrixes of Doctor James M'Callmont deceased, to convey assure and lease to William T. Read and Sally his wife, late Sally L. Thomas, their executors administrators and assigns, a lot in the town of Newcastle.

PASSED AT DOVER, }  
 2nd February, 1826. }

PRIVATE ACT.

### CHAPTER CCCXLVII.

AN ACT for regulating fees.

Fees—

SECTION 1. BE IT ENACTED, by the Senate and House of Representatives of the State of Delaware, in General Assembly met, That the officers and persons, hereinafter mentioned, may demand and receive fees for services, as hereinafter prescribed; that is to say:—

of the Secretary of State;

*The Secretary of State,—*

For issuing a pardon reprieve or remission under the great seal, two dollars;

For every certificate in private cases, if under the great seal, one dollar, if under seal of office, fifty cents;

For copying, the rate one cent for every twelve words:

of the judges and chancellor;

*The Judges and Chancellor,—*

For taking and certifying the acknowledgment

(whether of one or more parties) of a release ac- CHAP.  
quittance or receipt of money due by will upon CCCXLVII.  
executor's administrator's or guardian's account, 1826.  
fifty cents ;

For taking and certifying the acknowledgment (whether of one or more parties) of a deed, other than described in the foregoing item, sixty cents :

*Justices of the Peace,—*

of justices of  
the peace:—

For taking and certifying acknowledgment (whether of one or more parties) of a release acquittance or receipt of money due by will or upon executor's administrator's or guardian's account, to each justice, thirty cents ;

For dispensing marriage license and taking and returning bond, to be paid by the party, in addition to the fee to the state, thirty three cents ;

For issuing warrant or mittimus on behalf of the state, twenty cents ;

For taking and certifying a recognizance of surety of the peace or good behaviour or in any case of a criminal nature, whether there be one or more recognizers therein, twenty cents ;

For issuing subpoenas for witness for the state or defendant in a case of a criminal nature, to wit, for the first subpoena, for either, ten cents, for subsequent do. do. five cents ; all the witnesses, named for the same party before issuing the subpoena, shall be included therein ;

For entering judgment of acquittal or conviction in a case of submission on complaint for assault or battery, ten cents ;

In a proceeding against a slave to trial and judgment (of acquittal or conviction) upon a charge of a criminal nature, for all services,—when before two justices, to each justice, one dollar,—when before one justice, fifty cents ;

For issuing mittimus for committing runaway servant or slave, fifty cents ;

In a case of landlord against tenant for holding over—fees as follows, viz.—for issuing warrant of summons, to each justice, twenty-five cents,—for do. subpoena for witnesses, including all named for the same party, ten cents, (such subpoena is—

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sued by one of the justices and under his hand and seal shall be good,)—for issuing attachment against a freeholder or a witness, to each justice, twenty-five cents, to be paid by the freeholder or the witness, unless excused for good cause,—for drawing record, to each justice, twenty-five cents, for attendance during the hearing and finding, to each justice, one dollar,—for issuing warrant for delivering possession and levying costs and damages, to each justice, twenty-five cents ;

In a proceeding for forcible entry and detainer, the same fees as in a case of landlord vs. tenant for like services ;

6. vol. 473. In a proceeding for a penalty, the same fees as under the act providing for the recovery of small debts, for like services, unless the law imposing the penalty provide otherwise.

of the Attor-  
ney Gene-  
ral:—

*The Attorney General,—*

For the whole prosecution in every capital case, ten dollars ;

For drawing an indictment for capital crime, not found, two dollars and forty cents ;

For every attachment issued upon his motion, in the court of oyer and terminer or court of quarter sessions, one dollar ;

For drawing every bill of indictment, in cases not capital, if found, two dollars and forty cents,—if not found, one dollar and twenty cents.

of the recor-  
der of  
deeds:—

*The Recorder of Deeds,—*

For recording every obligation given by an officer for performance of the duties of his office and examining and certifying, including all services, fifty cents ;

For recording and comparing deeds and writings, also for copying—the rate of one cent for every twelve words ;

For every certificate under his hand and seal of office, thirty cents ;

For entering satisfaction of mortgage, fifty cents ;

For each list mortgage furnished under his hand and seal to sheriff, to enable him to hold inquisition on lands taken in execution, or to apply proceeds of sale of lands sold by the sheriff, when such list is

actually furnished, thirty-seven and one-half cents;

*The Sheriff of each County,—*

of the Sheriff.—  
(See sec. 2.)

For serving writ of summons, scire facias, replevin, dower, petition, subpœna ad respondendum, injunction, estrepement, capias ad respondendum, attachment for attaching property, process of citation, declaration and notice in ejectment, attachment for contempt, capias on indictment or presentment, or any process of arrest in a civil or criminal case, and making due return, seventy-five cents; and if served on more than one, except the case of husband and wife, or if property of more than one be attached, an additional fee, for each after the first, of fifty cents;

For bail bond, bond from either party in replevin, or bond for securing rent, twenty-five cents;

For serving attachment upon garnishee and making return, to wit, for each garnishee summoned, thirteen cents;

For serving subpœna to give evidence or to bring papers and making return, to wit, for each person summoned, thirteen cents;

For serving writ of capias ad satisfaciendum and making return, to wit, for each person arrested, one dollar;—and on this writ the sheriff shall receive the sum thereupon due, with the costs, if offered; and he shall be allowed, for receiving and paying, fees at the rate of two cents per dollar in addition to the fee for serving the writ;

For serving and making return of writ of habere facias possessionem or writ in the nature thereof, one dollar; or if there be several parcels possessed, by different persons, one dollar for each parcel so possessed;

For mileage, on serving each writ or process before mentioned, the rate of three cents per mile, out and in, to be computed from the place of return to the place of service,—or if served on more than one, then the mileage to be computed for the distance necessary to be travelled in setting out from the place of return, and so proceeding as to pass by each place of service, and return to the place of return by the most direct route,—and if it

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Sheriff's fees  
continued—

becomes necessary to issue a second or more subpoenas for witnesses for a party in the same cause, the same compensation of mileage shall be made in relation to all such subsequent subpoenas.

No mileage shall be allowed for the services hereinafter mentioned ;

For serving and making return of writ of inquiry of damages, or other writ or commission of inquiry, three dollars ;

For serving and making return of writ of elegit, writ of liberari facias; writ de partitione facienda, or writ of habere facias seisinam in dower, four dollars ;

And for attendance on the premises on making partition or laying off dower, for each day, after the first, one dollar ;

For serving and making return of writ pro retorno habendo, two dollars ;

For serving and making return of writ of sequestration, two dollars ;

For levying an execution on goods and chattels, making inventory, causing appraisement, and making return,—if the sum due upon the execution, exclusive of costs, shall not exceed four hundred dollars, three dollars ; but if the sum so due shall exceed four hundred dollars, four dollars ;

For advertising goods and chattels for sale, for the first time, sixty cents ;—for a second time, and a third time, if necessary, for each time, thirty-seven and one half cents ; but no further fee for advertising shall be allowed, whether upon the same or upon successive writs in the same case ; and no fee for advertising shall be allowed, unless advertisements shall have been posted and delivered or left according to law ;

*How and for  
what length of  
time sheriff  
shall give notice  
of the sale  
of goods:*

Public notice of the sale of goods and chattels, and of the day, hour and place thereof, shall be given by advertisements posted, at least ten days before the day of sale, in five or more of the most public and suitable places, two of which, at least, shall be in the hundred in which is the defendant's place of abode, if he have a known place of abode in the county, and one such advertisement shall, ten

days at least before the day of sale, be delivered <sup>Sheriff's fees continued—</sup> to the defendant, or left at his usual place of abode, if he have a known place of abode within the county ;

Goods and chattels taken in execution shall not be <sup>within what</sup> sold, until the expiration of thirty days after the <sup>time, after le-</sup> levy thereon and notice thereof to the defendant or <sup>vy and notice</sup> defendants, to the end that any person concerned <sup>to defendant,</sup> may relieve the same by payment of the money <sup>goods taken in</sup> due upon the execution ; unless the court, out of <sup>execution shall</sup> which the execution shall have issued, shall in <sup>not be sold,—</sup> term time, or a judge thereof shall in vacation, upon application of the plaintiff, or of the officer holding the execution, and on its being made satisfactory to appear that any such goods or chattels are of a perishable nature or will create a charge by keeping, order such goods and chattels to be sold sooner, and such order shall direct such notice to be given of the sale as shall be deemed reasonable under the circumstances ;

The foregoing provisions shall extend to any execution issued by a justice or justices of the peace ; <sup>The above provisions to extend to executions from justices of the peace.</sup>

For selling goods and chattels on execution, the rate <sup>6 vol. 446. 447.</sup>

of three cents per dollar on the money made by the sale and legally applied to execution or to landlord's rent ; but the sheriff shall not have dollarage on money applied to an execution in the hands of another officer, or to rent distrained for by another officer ; if an execution be levied on goods or chattels and settled without a sale, after the expiration of thirty days from the levy and notice as aforesaid, the sheriff shall be entitled to dollarage,—but if settled before the expiration of said thirty, dollarage shall not be allowed ; the item of dollarage shall not accrue, and shall not be endorsed or returned, until sale or settlement after the expiration of thirty days as aforesaid ;

For levying execution upon lands and tenements, holding inquiry and making return, two dollars ;

For holding inquiry and returning inquisition, under rule of court, two dollars ; but this fee shall not be demanded or paid, if the debt interest and costs, due on such execution, be made out of the

Sheriff's fees  
continued.

goods and chattels taken in execution on such writ, or be paid by the defendant in the execution before the day fixed in such execution for the return thereof ;

For advertising sale of lands and tenements, for first time, one dollar,—for a second time, if necessary, fifty cents ; but no further fee for advertising shall be allowed, whether on the same or on successive writs in the same case ; and no fee for advertising shall be charged, unless advertisements shall have been set up according to law ;

For selling lands and tenements on execution, the rate of two cents per dollar on the money made by the sale and applied to an execution levied on the premises ; if part, or the whole, of the money made, be applied to a judgment or lien, whereon no execution shall have issued and been levied on the premises, the rate of one cent per dollar on the money so applied ; the item of dollarage shall not accrue nor be endorsed, (in case of levy on lands and tenements) until sale made ;

For advertising and for selling, under an order of court, goods, chattels, lands or tenements attached, the same fees as for like services on execution, and for selling lands or tenements, in execution of a decree of the chancellor, by order of the court of chancery, the same fees as for selling on execution ;

No dollarage shall be charged on any overplus of money to be refunded ;

For making return of sale on a writ of ven. ex. or of h. v. fac. one dollar and thirty-three cents ;

For acknowledging deed for lands and tenements, sold on execution or under order of court, one dollar ;

For return of writ of entry or writ of seisin in common recovery, each, thirty three cents ;

For delivering to surveyors, appointed to lay down pretensions in ejectment or other action, warrant, and giving notice to the parties or their attorneys of the time of executing the same, one dollar and fifty cents ;

For each day's attendance on the survey, made under such warrant, one dollar ; Sheriff's fees continued.

For each days attendance with the jurors, on view granted, one dollar ;

For every return of non est inventus, nulla bona, or nihil habet, twenty cents ;

For assigning bail bond, or bond in replevin, twenty five cents ;

For summoning a special jury and making return, two dollars ;

For serving and making return of warrant of summons, in case of landlord against tenant for holding over, two dollars ;

For each day's attendance during the hearing of such case, one dollar ;

For serving and making return of the warrant for delivering possession and levying costs and damages, in such case, one dollar,—and the rate of three cents per dollar on the damages and costs levied ;

And in forcible entry and detainer like fees for like services ;

For levying fines and forfeitures, the rate of two cents per dollar ;

For every commitment to prison, in a criminal case, or by order of court, fifty-three cents ; but no allowance shall be made on a prisoner's being carried into court, or before a judge or magistrate, and remanded ;

For executing every sentence inflicting corporal punishment, one dollar and fifty cents ;

For executing sentence of death, sixteen dollars :

The sheriff shall endorse and return, upon every writ, process, or copy of an order of court, directed to him, or executed by him, his fees for all services under the same, specifying particularly, if such fees consist of more than one item, every item thereof ; and he shall not charge, upon any such writ process or order, a fee for any service not herein expressly provided for, or a greater fee than is herein expressly allowed ; and he shall not endorse or return a fee for any service, not performed at the time of the return being in fact made ; and if a Sheriff to return his fees on the process, specifying every item. (Sec. 2.)

Sheriff's fees  
continued.

*receiving dollar-  
age, when  
process has  
been returned,  
to certify the  
same to the  
clerk;*

sheriff shall fail to endorse and return, upon any writ process or copy of an order, his fees, or to specify the items thereof according to the foregoing requirement,—or if he shall include, in such endorsement and return, any fee for any service not performed at the time of the return being made,—he shall forfeit all his fees upon such writ process or order, and the same shall be disallowed and stricken from the costs in the case: if money be applied to an execution, or if it be settled, after the return thereof, and when no writ thereupon is in the sheriff's hands, the sheriff, receiving dollarage, shall certify the same under his hand to the prothonotary or clerk having such execution in his office, who shall annex such certificate to the execution; and if a sheriff shall neglect to certify as afore required, for the space of thirty days after receiving the dollarage, his right thereto shall be forfeited, and the person or persons, from whom or out of whose money the same was received or retained, shall have right to demand and recover the same, as money had and received to his her or their use, before a justice of the peace if the sum do not exceed fifty dollars, or, if exceeding that sum, in the supreme court or court of common pleas, with costs of suit, like any debt of the same sum;

If the sheriff shall incur expense, in keeping goods or chattels taken upon execution or attachment, the court shall, upon application, consider the circumstances, and may make such allowance, as they shall deem just; also in case of service of a writ of sequestration, the chancellor may allow for extra services beyond the fee provided;

There shall be an additional fee or charge, for appraisers, in case of a levy on goods and chattels, or for freeholders making the inquisition in case of a levy on lands and tenements, of twenty-five cents, to be paid to each appraiser or freeholder, whenever such fee shall be paid by the sheriff:—

*Fees for certain public services to be paid by the* Sheriff's fees continued.  
*county,—to wit;—*

For proclamation of holding court of oyer and terminer, two dollars :

For summoning a grand jury, or a petit jury, and returning pannel, four dollars :

For serving writ for convening General Assembly, upon the members for his county, three dollars :

For all services in respect to a general or special election, a reasonable compensation, to be fixed by the levy court, not to exceed forty dollars :

For each day's attendance upon the court of chancery, one dollar and fifty cents;—and it shall be the duty of every sheriff to attend the court of chancery, during every term thereof in his county, and his refusal or neglect to do so shall be deemed a contempt of said court ;

The sheriff attending the high court of errors and appeals ;

For every day's attendance, one dollar and fifty cents, to be paid by the state.

*The Clerk of High Court of Errors and Ap-* Fees—  
of the clerk of  
the high court  
of errors and  
appeals:—  
*peals,—*

For issuing writ of error, citation, certiorari, attachment, procedendo, or any judicial writ, one dollar ;

For entering every appeal from chancery, and entering and endorsing the time of receiving record, one dollar ;

For entering every appeal from the common pleas in case of petition for freedom, fifty cents ;

For the filing and safe keeping of every record, twenty-five cents ;

For every continuance, fifty cents ;

For entering every decree, final or interlocutory, or judgment, one dollar ;

For certificate under hand and seal of office, fifty cents ;

For copying, the rate of one cent for every twelve words :

*The Clerk of the Supreme Court, or the Prothono-* of the clerk of  
the supreme  
court, and of  
the prothono-  
*tary of the Court of Common Pleas,—*

For issuing writ of summons, scire facias, replevin,

tary of the  
court of com-  
mon pleas:—  
(See sec. 2.)

partition, dower, attachment for attaching property, *capias ad respondendum*, citation, or other original or mesne process, one dollar;—but for issuing an alias, pluries, or subsequent writ or process, this fee shall not be charged, but for such alias, pluries, or subsequent writ, the fee shall be fifty cents;

For filing narr. in ejectment, fifty cents;

For all the entries in any action (except an amicable action, an action of debt without writ, and a suit on petition for freedom)—at the first term, fifty cents, at the second term, twenty-five cents, at the third term, fifty cents, and at every subsequent term, while a cause shall continue in court, twenty-five cents;

All entries made in vacation shall be deemed as made at a preceding term and within the provision respecting the fee at such term; but the following items are excepted from the foregoing general provisions, and fees may be charged on the performance of the specified services, but not till such performance, as follows, viz:—

For filing narr. twelve and one half cents,—and for entering all the subsequent pleadings to issue, twelve and one half cents;

For filing interrogatories, giving written notice of such filing, and making entry of such filing and notice, twenty-five cents;

For issuing commission to take depositions, fifty cents,—and for copy of interrogatories annexed, the rate of one cent for every twelve words;

For receiving and filing commission returned with depositions and making entry thereof, twelve and one half cents;

For issuing warrant to lay down pretensions, fifty cents;

For issuing subpoena to give evidence, all the witnesses named at or before the issuing of a subpoena to be included therein, twenty-five cents;

For issuing subpoena to give evidence and bring papers, thirty-seven and one half cents;

For drawing a list of freeholders in order to the striking of a special jury, fifty cents;

- For issuing venire facias for such jury, fifty cents; Fees of the clerk of supreme court and prothonotary of common pleas—continued—
- For advertising a cause for trial or argument, ten cents;
- For drawing jury and all services in respect to a trial, fifty cents;
- For issuing writ of inquiry of damages, fifty cents,—and the rate of one cent for every twelve words;
- For making, and certifying in due form, a copy of a rule of reference, fifty cents;
- For filing report of referees, reading the same, and entering judgment thereon, twenty-five cents;
- For entering rule, on application to set aside such report, twenty five cents;
- For entering adjudication of court on such rule, twelve and one half cents;
- For entering an amicable action, including the making of all entries and filing of all papers to the time of entering the same, fifty cents;
- For entering a judgment, confessed by virtue of a warrant of attorney or otherwise in an action of debt without writ, filing the narr. and plea or any other writing or paper, and every service whatever of the clerk or prothonotary touching the entering of such action and judgment, one dollar;
- For issuing writ of elegit, writ de partitione facienda, writ of habere facias seisinam in dower, writ of liberari facias, levari facias, and habere facias possessionem, one dollar and twenty-five cents;
- For issuing attachment for contempt, one dollar;
- For ascertaining the amount of a judgment, when, according to the terms of the entry or by a rule of court, the amount is to be ascertained by the clerk or prothonotary, one dollar;
- For issuing writ of fieri facias, venditioni exponas, or other judicial writ not before mentioned, seventy five cents;
- For filing every judicial writ returned, and entering the return, six cents; and in case of partition made, or dower laid off, the return of all the proceedings shall be recorded at large in a book or books kept for that purpose exclusively, and there shall be allowed therefor the rate of one cent for every twelve words,—and for a draught, a sum to

Fees of the  
clerk of su-  
preme court  
and prothono-  
tary of com-  
mon pleas.—  
continued—

be settled by the court, but not exceeding two dollars per draught in any case, unless there be more than two several tracts of land whereon partition shall be made or dower assigned; and in no case shall the allowance of the court exceed ten dollars;

For recording a writ of testatum fieri facias, fifty cents;

For entering a rule, granted upon an application to set aside the inquisition or the sale, in case of lands taken in execution, fifty cents;

For entering the adjudication of the court on such rule, twenty-five cents;

For writing and exhibiting the petition of a person imprisoned,—to be discharged or adjudged—under insolvent laws, one dollar;

For issuing summons on such petition, fifty cents;—

For entering all proceedings thereon, including order of court, and assignment, twenty-five cents;

For recording all the proceedings in the case of a discharge or adjudication according to such petition, the rate of one cent for every twelve words;

For writing and exhibiting petition, of a person imprisoned, for an order for indemnity to the county, fifty cents;

For issuing summons, if ordered, twenty-five cents;

For entering order thereon, twelve and one half cents;

For taking and certifying recognizance pursuant to such order, whether of one or more recognizers, fifty cents;

For taking and certifying, in due form under hand and seal of office, the acknowledgment or proof of a deed or bond, fifty cents;

For entering and certifying, in due form under hand and seal of office, an order for a sheriff, an executor, or an administrator, to execute a deed for conveying lands and tenements (and no fee for copy or exemplification to be added), one dollar;

For entering satisfaction of a judgment, twelve and one half cents;

For entering filing and recording all proceedings in common recovery, one dollar and fifty cents;

For a search upon application of a person, not an attorney of the court, when no other service, to which a fee is attached, is rendered, seven cents; but a fee for a search shall not be charged among the costs in any action or proceeding, nor be added to any other fee; Fees of the clerk of supreme court and prothonotary of common pleas continued.

For issuing writ of habeas corpus, fifty cents;

For entering all the proceedings thereupon had in court, twenty-five cents;

For a minute of a judgment, containing the names of the parties, the real debt or damages, the costs, the time when interest commences, the term and the date of entry, under hand, twelve and one half cents; but if a minute of more than one judgment be required, for each, ten cents;

For affixing seal of office to any writing not before mentioned, and touching which no fee shall be by law provided, twenty-five cents;

For list of judgments furnished sheriff, to enable him to hold inquisition on lands taken in execution, or to apply proceeds of sale of lands sold by the sheriff, when such list is actually furnished, seventy-five cents;

For taking and filing every affidavit, made to obtain a writ of attachment, twenty-five cents;

For making out, at each term, a panel containing the names of the jurors and their daily attendance, calculating their allowances, and issuing certificates or drawing orders for the sum due each juror,—for the whole service, three dollars;

For filing every report of a foreigner of himself and family and declaration of his intention to become a citizen, making record thereof, and issuing copy under seal, for the whole service, one dollar and fifty cents;

For filing petition for naturalization, and all other services rendered thereon, recording the same, and making out copy under seal of office, one dollar and fifty cents:

*(The following fees appertaining to the Clerk of the Supreme Court only.)* Fees of the clerk of supreme court

For entering an appeal from the register, or from

Fees of the  
clerk of su-  
preme court  
continued.

orphans' court, and filing the record and papers,  
fifty cents;

Filing causes of appeal, twelve and one half cents;

For an interlocutory order on such appeal, twenty-  
five cents;

For entering final sentence or decree on such appeal,  
fifty cents,—with addition of the rate of one cent  
for every twelve words;

For issuing a precept for holding court of oyer and  
terminer, one dollar;

For issuing certiorari to remove indictment from  
quarter sessions, one dollar;

For issuing habeas corpus for removal of a prisoner,  
seventy-five cents;

For entering and filing every indictment or present-  
ment, fifty cents;

For issuing capias on indictment, or presentment, or  
whenever legally required in a criminal case, one  
dollar;

For taking and certifying recognizance, whether of  
one or more recognizers, fifty cents;

For arraigning defendant, and making all the entries  
thereupon, fifty cents;

For entering nolle prosequi, fifty cents;

For all services in respect to a trial and entering ver-  
dict and judgment, one dollar;

For entering an order that a person be disposed of as  
servant, twenty-five cents;

For making and issuing, in due form, an exemplifi-  
cation of such order, twenty-five cents;

For entering the return on such order, ten cents;

For making and issuing, in due form, an exemplifi-  
cation of a judgment of death, fifty cents;

For making out, at each term of the court of oyer  
and terminer, panels containing the names of the  
grand and petit jurors and their daily allowance,  
calculating their allowances, and issuing orders  
and certificates for the sums due each juror, for  
each panel, three dollars;

Fees of the  
prothonary  
of the com-  
mon pleas:—

*(The following fees appertaining to the Prothono-  
tary of Com. Pleas only.)*

For filing petition for commission to mark bound  
and establish lands, filing papers, entering proofs,

and order, one dollar;—this fee shall be allowed although the petition be rejected: Fees of the prothonotary of common pleas continued.

For issuing such commission, one dollar:

For receiving such commission with the return, and entering order or proceeding thereupon, fifty cents:

For filing petition for freedom, fifty cents:

For taking and certifying a recognisance, in a case of such petition, whether of one or more recognisors, twenty-five cents:

For taking depositions in the case of such petition, the rate of two cents for every twelve words, and an additional fee of twelve and one half cents for each deposition:

For entering a decree on such petition, twenty-five cents:

For receiving return of sale of lands for taxes and filing the same, twenty-five cents:

For entering all proceedings, and order, on such return, fifty cents:

*The Register of the Court of Chancery,—*

For filing bill or answer, fifty cents:

For filing affidavit for injunction, and the order thereon, twenty-five cents:

For filing any other affidavit, or plea, or a demurrer, (but the oath or affirmation to a bill answer or plea shall not be within this item) twelve and one half cents:

For drawing injunction-bond and taking and filing the same, one dollar;

For issuing writ of subpœna ad respondendum, injunction, or ne exeat, (each such writ to include all the defendants) one dollar:—but if, in order for service on defendants in different counties, more than one such writ be required, then for each subpœna, injunction, or ne exeat, after the first, twenty-five cents:

For issuing attachment or sequestration, one dollar:

For issuing an alias, pluries, or subsequent subpœna ad respondendum or attachment, twenty-five cents:

For filing interrogatories, giving written notice thereof, and making entry of such filing and notice, twenty-five cents:

For issuing commission to take depositions, fifty

Fees of the register in chancery.

Fees of the  
register in  
chancery,  
continued.

- cents: and the rate of one cent for every twelve words of copy of interrogations annexed:
- For receiving and filing commission returned with depositions, and publishing the same, and making entry of such publication, fifty cents: but if there be more than one commission on a side, then for each after the first, twenty five cents:
- For issuing commission to take an answer, fifty cents:
- For every continuance, twenty-five cents:
- For taking depositions under rule of the court, the rate of two cents for every ten words, and the additional fee of twelve and one half cents for each deposition:
- For filing lists of exhibits, and making entry of such filing, twelve and one half cents;
- For filing an account and entering the allowance, or other adjudication thereupon,—if rendered pursuant to an order or decree, twelve and one half cents —if rendered by a trustee of idiot or lunatic, one dollar;
- For filing and making entry of exceptions to an account, or to an answer, and of adjudication thereon, twenty-five cents;
- For filing articles to impeach witnesses, twenty-five cents;
- For issuing commission of inquiry ordered by the chancellor, one dollar;
- For entering and certifying every recognisance, whether of one or more recognisors, fifty cents;
- For issuing subpoena to give evidence, including all the witnesses named, twenty-five cents;
- For filing petition for partition, fifty cents;
- For issuing summons upon such petition, fifty cents;
- For entering plea or answer to such petition, twenty-five cents;
- For issuing commission pursuant to decree for partition, one dollar;
- For entering every final or interlocutory order or decree, twenty-five cents,—and also the rate of one cent for every ten words;
- For filing every writ or commission returned, and entering the return, (except a subpoena to give

evidence) if the return shall not exceed twenty words, ten cents ;

Fees of the  
register in  
chancery,  
continued.

For recording every return or certificate of proceedings, or other matters, according to the direction of the chancellor expressly given in that behalf, and not herein otherwise provided for, if such return, certificate or matter shall exceed twenty words, ten cents ;—and also the rate of one cent for every ten words ;

For recording a draught, a sum to be settled by the chancellor, but not exceeding two dollars for draught in any case, unless there be more than two several tracts of land comprehended in the proceedings ;

For affixing his seal of office to any writing not hereinbefore mentioned, and touching which no other fee shall be provided by law, twenty-five cents ;

*The Clerk of the Peace,—*

Fees of the  
clerk of the  
peace.

For filing every indictment or presentment and entering the same, twenty five cents ;

For issuing capias, upon indictment or presentment, or when legally required, one dollar :

For issuing subpœna to give evidence, including all the witnesses named for a party before issuing the subpœna, twenty-five cents ;

For issuing attachment, one dollar ;

For taking and certifying a recognisance, whether of one or more recognisors, fifty cents :

For respiting a recognisance, whether there be one or more recognisors therein, ten cents :

For arraigning defendant and making the proper entries thereupon, twenty-five cents :

For entering a submission and judgment thereon, (but in this case the item last stated shall not be charged) fifty cents :

For drawing jury and all services in entering verdict and judgment, fifty cents :

For entering a commitment or surrender by bail, ten cents ;

For issuing a judicial writ, seventy-five cents ;

For entering an order to dispose of a person as a servant, twenty-five cents ;

Fees of the  
clerk of the  
peace contin-  
ued.

- For issuing an exemplification of such order, twenty-five cents;
- For entering the return on such order twelve and one-half cents;
- For issuing exemplification of judgment of death, fifty cents;
- For exhibiting petition for laying out road, and entering appointment or order thereon, fifty cents;
- For issuing such order, fifty cents;
- For receiving return, and entering order of review, in case of laying out road, and issuing such order, one dollar;—and if any subsequent order in the nature of an order of review be granted, the same fee of one dollar for receiving return, entering order, and issuing the same;
- For entering final order of approval of return laying out road, twenty-five cents; and the rate of one cent for every twelve words for recording such return;
- For filing petition, issuing summons, and all entries in case apprentice vs master, fifty cents;
- For writing and exhibiting petition for recommendation for license to keep tavern or other public house of entertainment, one dollar;
- For dispensing such license, to be paid by the party in addition to the fee to the state, fifty cents;
- For dispensing marriage license and taking bond, to be paid by the party in addition to the fee to the state, thirty-three cents;—but the clerk shall have no fee on licenses dispensed by justices of the peace;
- For dispensing licenses to retailers, the rate of two per cent to be retained out of the amount received for duties;
- For affixing his seal of office to any writing not herein before mentioned and in respect to which no other fee shall be provided by law, twenty-five cents;
- For making out panels of grand and petit jurors at each term, calculating their allowances, and issuing certificates or orders therefor, for each panel, three dollars;

For services as clerk of the levy court and court of appeal, a just and reasonable compensation to be allowed by said court;

*The Register,—*

For granting letters of administration in due form under seal, and drawing and taking bond, and making registry thereof, and appointing appraisers, two dollars and twenty-five cents;—except the estate be under one hundred dollars, in which case one half said sum and no more shall be demanded;

For taking and registering the probate of a will, two dollars and twenty-seven cents;

For granting letters testamentary thereupon in due form under seal, and drawing and taking bond, and making registry thereof, and appointing appraisers, one dollar and seventy-five cents; and for the copy of the will annexed to such letters, the rate of one cent for every twelve words;

For entering renunciation, twelve and one half cents;

For filing inventory and making registry of the filing and of the amount of the appraised value of the goods and chattels therein, (and it shall be the duty of the register to make such registry,) twelve and one half cents;

For filing lists of debts, twelve and one half cents;

For filing account of executor, administrator, or guardian, twelve and one half cents;

For adjusting and settling account, certifying such settlement, and making registry thereof, with the sum or balance of the account,—if the sum of the debits or credits, inclusive of the interest calculated, shall not be above one hundred dollars, then one dollar;—if above one hundred dollars, but not above eight hundred dollars, then two dollars;—if above eight hundred dollars, then three dollars;

For entering a caveat, twenty-five cents;

For issuing a citation, fifty cents;

For issuing a subpoena to give evidence, including all the witnesses named for a party before issuing the subpoena, thirty-seven and one half cents;

For issuing an attachment, one dollar;

Fees of the clerk of the peace continued. 6, vol. 496. Fees of the register of wills.

Fees of the  
register of  
wills continu-  
ed.

- For taking depositions at large, upon the litigation of a cause, the rate of two cents for every ten words,—and the additional fee of twelve and one half cents for each deposition ;
- For entering interlocutory order upon the litigation of a cause, fifty cents ;
- For entering final sentence or decree upon the litigation of a cause, one dollar ;
- The three items last stated shall never be demanded nor charged upon proving a will in common form, nor upon the common passing of an account ; and the same shall be demanded only, in cases of actual litigation, upon the services specified being in fact performed ;
- For filing petition or application for revocation of letters of administration or testamentary, fifty cents ;
6. vol. 540-1. For recording a release acquittance or receipt, the rate of two cents for every twelve words, and the additional fee of twenty-five cents ;
- For recording a will and probate, or any other writing or matter which it may be his duty to record, the rate of one cent for every twelve words ;
- For an extract, certified under hand, upon the application of a person therefor, twelve and a half cents ; and, if exceeding sixty words, the rate of one cent for every twelve words additionally ;
- For affixing his seal of office to any writing, not herein before mentioned and in respect to which no other fee shall be by law provided, twenty-five cents ;
- For every search, when no other service, to which a fee by law is attached, is performed, seven cents ;
- The Clerk of the Orphans' Court,—*
- For writing petition for sale or division of lands, or assignment of dower, one dollar ;
- For exhibiting and filing petition for the division, or for the assignment of dower, or for the sale of lands and tenements, twenty-five cents ;
- For entering order pursuant to such petition, twenty-five cents ;
- For issuing such order in due form, under hand and seal of office, fifty cents ; and the rate of one cent for every twelve words ;

Fees of the  
clerk of the  
orphans'  
court.

- For receiving and filing return upon such order, and entering order of confirmation or other order thereupon, twenty-five cents;
- For writing, exhibiting and filing petition of acceptance of lands and tenements at appraised value, twenty-five cents;
- For entering order pursuant to such petition, twenty-five cents;
- For drawing and certifying recognisance, whether of one or more recognisors, for payment of shares of appraised value of lands and tenements, twenty-five cents;
- For every writing made, according to order, of notice of sale, seven cents;
- For exhibiting and filing petition for appointment of guardian, twenty-five cents;
- For entering appointment of guardian, and drawing and taking bond, twenty-five cents;
- For entering order for estimating annual value of ward's lands, &c. twenty-five cents;
- For issuing such order in due form under hand and seal of office, fifty cents;
- For filing certificates made on such order, and entering approval thereof, twelve and one half cents;
- For issuing subpoena to give evidence, including all the witnesses named for a party before issuing the subpoena, twenty-five cents;
- For filing interrogatories and giving written notice thereof, and making entry of such filing and notice, issuing commission to take depositions, receiving and filing and publishing depositions returned, the same fees as the register of the court of chancery for like services;
- For issuing citation or other process requiring a party to appear, fifty cents;
- For issuing attachment or sequestration, one dollar;
- For filing exceptions to executors', administrators' or guardian's accounts, twenty-five cents;
- For entering interlocutory order in case of such exceptions, twenty-five cents;
- For entering dismissal of exceptions, twenty-five cents;

Fees of the clerk of the orphans' court continued.

Fees of the  
clerk of the  
orphans'  
court contin-  
ued.

For entering final decree upon exceptions in case of allowance of any exception or of any corrections of account excepted to, fifty cents;—and the rate of one cent for every twelve words;

But one list of exceptions, although several accounts shall be excepted to therein, shall be deemed to be one case, and process shall be issued and fee shall be demanded and allowed in and touching the same; as one case, and not as if each account excepted to form a separate case;

For filing and safe keeping each account excepted to, seven cents:

For correcting each account according to decree, and returning the same to the register, corrected and with certificate in due form, twenty-five cents:

For returning to register account, wherein no correction shall be made, two cents:

For entering an order for counter security, fifty cents:

For entering an order for binding an apprentice, fifty cents:

For entering election of widow of dower or devise, fifty cents:

For taking and filing refunding or other bond, twenty-five cents:

For filing and exhibiting any petition, other than before mentioned, twenty-five cents:

For entering leave and direction to put out minor's money to interest, fifty cents;

For entering any order, other than hereinbefore mentioned, twenty-five cents;

For entering satisfaction, twelve and one half cents;

For extract certified under hand, twelve and one half cents;—and, if the same shall exceed more than sixty words, the rate of one cent for every twelve words additionally;

For recording all such petitions, orders, returns, recognisances and other matters, as it shall be his duty to record, the rate of one cent for every twelve words,—but this allowance shall not extend to give additional fee for entering any order or final decree, or any common docket entries in case of exceptions;

For recording a draught, a sum to be settled by the court, but not to exceed two dollars for draught in any case, unless there be more than two several tracts of land whereof division shall be made or dower assigned ; Fees of the clerk of the orphans' court continued.

For search, where no other service to which a fee is attached by law is performed, seven cents ;

For affixing his seal of office to any writing, not hereinbefore mentioned and in respect to which no other fee shall be provided by law, twenty-five cents ;

For lists of liens or incumbrances furnished sheriff to enable him to hold inquisition on lands taken in execution or to apply proceeds of sales of lands sold by the sheriff, when such list is actually furnished, twenty-five cents :

*Also, the Clerk of the Supreme Court, the Prothonotary of the Common Pleas, the Clerk of the Peace, the Register of the Court of Chancery, the Register and the Clerk of the Orphans' Court, respectively.* Fees for copies to the clerk of the supreme court, common pleas, the peace, court of chancery, orphans' court and register of wills.

For every copy or exemplification, the rate of one cent for every twelve words,—and an additional fee of thirty cents for certificate under hand and seal office, of attestation ;—but a fee for a copy or exemplification shall not be demanded nor charged, unless a copy or exemplification shall be in fact required and made ; the certificate shall be omitted if so directed :—this paragraph shall not be construed to authorise any additional charge in any case, in which a fee for a copy or exemplification is herein before provided, nor upon issuing an order or exemplification, if a fee be provided for issuing such order or exemplification ;

For a copy of a draught, unless the parties can agree, a sum to be taxed by the chancellor or either of the judges :

*Attorney at Law,—*

For every writ if drawn by the attorney forty cents, Fees of attorney at law.

For appearance for either plaintiff or defendant in a suit, two dollars and sixty-seven cents ;

For every appeal bond for prosecuting an appeal in

Fees of attorney at law continued.

the court of appeals or an appeal from the orphans' court, one dollar;

For drawing a warrant of attorney, thirteen cents;

For declaration plea &c. by warrant of attorney, two dollars and sixty-seven cents;

For giving oyer of a bond, or other oyer, the rate of one cent for every twelve words, to be paid by the party craving oyer;

For drawing out the general issue, ten cents;

For all pleadings in a cause subsequent to the declaration, to be paid by the party pleading, and for injunction prohibition &c., the rate of one cent for every twelve words:

Fees of notary public.

*Notary Public,—*

For protest in due form of a promissory note, bill of exchange, draft or check, and duly registering the same, eighty cents;

For giving notice of such protest, either personal or otherwise, in proper manner, and registering the notice and manner thereof, for each notice, twenty cents;

For exemplification, under hand and notarial seal in due form, of such protest, twenty-five cents; (but this fee shall not be charged unless such exemplification be in fact required and made;)

For protest, in due form, of a foreign bill of exchange (to wit, a bill of exchange drawn beyond sea) and registering the same in due form, one dollar;

For exemplification, in due form, under hand and notarial seal, of such process, seventy-five cents;

For giving notice of such protest, personal or otherwise, in proper manner, and registering the notice and manner thereof, for each notice, thirty-seven and one half cents;

For registering a bill of exchange, promissory note, bank note or check, (but this item shall not be charged if a fee for protest be charged) twenty cents;

For duly registering a common sea protest, seventy-five cents;

For duly registering a foreign sea protest one dollar;

For duly registering a protest against merchant or other person for detaining vessel beyond proper

time, with answer and persistence to the protest, four dollars; Fees of notary public continued.

For exemplification, under hand and notarial seal in due form, of either of said three last mentioned protests, one dollar; and the rate of two cents for every twelve words;

For registering an obligation, letter of attorney, bill of sale, or other writing of similar length, one dollar;

For taking and certifying, under hand and notarial seal, the acknowledgment of a letter of attorney or other instrument, sixty cents;

For administering oath or affirmation, drawing affidavit or deposition and duly certifying the same under hand and notarial seal, fifty cents;—and the rate of two cents for every ten words;

For certificate under hand and notarial seal; when no other service, to which a fee is attached by law, is performed, thirty-seven and one half cents;

For administering an oath or affirmation and duly certifying the same under hand and notarial seal, in case of a deposition or affidavit drawn by another, fifty cents:

*Coroner,—*

For viewing the body in case of inquisition of death, two dollars; Fees of coroner.  
(Sec. 2.)

For summoning each witness, fifty cents;

For each deposition duly taken and returned, fifty cents;

For taking and certifying a recognisance, whether of one or more recognisors, twenty cents;

For summoning and qualifying inquest, and drawing and returning inquisition, four dollars;

For mileage from the place of abode of the coroner to the place where the body is found, the rate of two cents per mile out and in;

For arresting any person, whom, according to the inquisition found or otherwise, it may be his duty to arrest, one dollar,—and mileage, at the rate of two cents per mile out and in, from the court house to the place of arrest,—with addition of any extra distance which it may be necessary to travel, if it shall be his duty to make more than one arrest;

Coroner's fees  
continued.

— the said fees shall be paid by the county; but in case of murder and manslaughter, the said fees shall, on conviction of the offender, be part of the costs and therewith levied;

For serving writ or process, or other service in the place of the sheriff, the same fees as allowed to the sheriff for like services:

Fees of the  
cryer.

*The Cryer.*—

For each day's attendance on the high court of errors and appeals, to be paid by the State, one dollar;

For opening and adjourning any other court, to be paid by the county, ten cents;

For every judgment confessed by virtue of warrant of attorney or otherwise in an action of debt without writ, ten cents;

For every action commenced by writ, and every amicable action entered, thirteen cents;

For every indictment found, thirteen cents;

For every trial, twenty cents;

For every injunction issued from chancery, twenty-five cents;

For every bill, and also for every answer in chancery filed, twenty cents;

For every interlocutory or final decree, twenty cents;

*(In the Orphans' Court.)*

Upon every order for division, sale, or assigning dower, of lands and tenements, also upon confirmation of return upon every such order, also upon every acceptance at the valuation, and upon every order to value ward's rents, ten cents;

Upon filing exceptions to accounts, twenty cents,—but no other fee in case of exceptions;

Clerks to receive cryer's fees and pay them over deducting a commission etc.—

It shall be the duty of the clerk of the supreme court, the prothonotary of the court of common pleas, the clerk of the peace, the register of the court of chancery and the clerk of the orphans' court, respectively, to receive all the fees of the cryer hereafter to accrue in their respective courts, and, deducting two and one half per cent, to pay him the balance within the times following, that is to say,—in case of fees accruing for judgments confessed, within one year next after the first day of the term, of which such judgments shall be; in case

within what  
time to pay  
them over;—

of fees accruing in any action by writ or amicable <sup>Cryer's fees,</sup> action, or in suit in chancery, in criminal prose- <sup>continued.</sup> cution, or in case of exceptions, within six months next after the determination or end of such action, suit, prosecution or exceptions;—and in all other cases within six months next after the end of the term, wherein the order is made or the business is done upon which the fees arise; and it shall be the further duty of the said clerks, prothonotary and register respectively, on the first day of each term <sup>clerks to deliver to cryer on the first day of each term a true account of all his fees</sup> of their respective courts, to deliver to the cryer a just and true account of all his fees in such court, payable to him according to the true intent of the foregoing provision; and if any fee shall be omitted in such account, the double thereof shall be <sup>penalty for omitting a fee in such account—</sup> charged therein, and the same shall be paid by the person so omitting, who shall also forfeit all allowance upon such account; and if any clerk, prothonotary, or register shall refuse to comply <sup>or refusing to comply with the above provisions.</sup> with the foregoing provision or any part thereof, such refusal shall be deemed to be a contempt of the court of which he is an officer, and he shall be proceeded against by attachment for contempt;

The cryer shall also receive,

For every attorney admitted on record, one dollar;  
From the clerk of the supreme court, prothonotary, clerk of the peace, clerk of the orphans' court and sheriff upon entering on their respective offices, one dollar:

#### Constable,—

For every day's attendance, pursuant to appointment, in the supreme court, court of common pleas, court of oyer and terminer and general gaol delivery, and court of general quarter sessions of the peace and gaol delivery, (each of which courts may require the attendance of two constables during every term,—the grand jury having privilege, in the two last mentioned courts, of nominating one of said constables, who shall be their bailiff) to be paid by the county, one dollar;

But a constable shall not be allowed for attending two courts setting at the same time;

For each day's attendance, pursuant to appointment,

Fees of constable.  
(See sec. 2.)

Constable's  
fees contin-  
ued.

in the levy court and court of appeal, to be paid by county, one dollar;

For attending as bailiff on petit or special jury during trial till verdict, fifty cents;

For serving warrant in a case of a criminal nature, fifty cents;

(6. vol. 474.) For summoning witnesses, or conveying person to gaol on commitment, in a case of criminal nature, the same fees as for like services under the "act providing for the recovery of small debts;"

For levying money, adjudged by two justices for satisfaction and costs, in case of larceny by a slave, fifty cents;

of bailiff. To each bailiff, not a constable, appointed by the court to attend thereon, for each day's attendance, one dollar;

Fees of wit-  
nesses.  
(Sec. 2.)

*Witness,—*

For each day's attendance in any court, or before referees named in a rule of reference entered in court,—or before levy court and court of appeal,—or before a commissioner, register of the court of chancery, or prothonotary, acting under commission or rule for taking depositions,—if living out of the county, eighty cents,—otherwise fifty three cents,—with addition, to every day's attendance, of mileage at the rate of three cents per mile going and returning;

Fees of ju-  
rors.

*Jurors—Grand, Petit and Special, summoned and duly attending court,—*

Each of such jurors—for every day's attendance (if he, being a grand juror, shall be sworn or affirmed before the charge given,—or being a petit or special juror, shall appear at every calling of his name ordered by the court,) one dollar; with the addition, to every day's attendance, of mileage at the rate of three cents per mile going and returning;

Each petit or special juror, duly attending on a view granted, for each day, one dollar; provided that no person shall be summoned as a juror to attend court at any term, if he have any matter of fact at issue depending for trial in said court at said term; and this shall be a sufficient cause of challenge to him, and under such circumstance he

*No person to be summoned as a juror if he have a cause for trial at same term etc.*

shall not be compellable to attend, nor receive any fee for attendance; Jurors' fees continued.

Jurors, sworn or affirmed in a cause, upon giving verdict, each, twelve and one half cents;

Jurors of inquest—joining in an inquisition on writ of inquiry of damages, or habere facias seisinam in dower, or de partitione facienda, or elegit, or other writ or commission of inquiry, each, thirty-three cents;

Every juror, joining in an inquisition of death taken by coroner or other officer on view of the body, thirty-three cents;

Every freeholder (or juror) attending upon summons and joining in inquisition duly taken in a case of a landlord vs. tenant or forcible entry and detainer, one dollar; Fees of freeholders — in case of landlord and tenant and forcible entry;

Every freeholder or commissioner appointed by the chancellor or orphans' court to make partition, assign dower, or estimate annual value of ward's lands, for each day's attendance, (if regular return be made,) one dollar; in partition, dower and ward's land, before chancellor.—

Every referee named in a rule of reference entered in court, if duly sworn or affirmed, and report be duly made,—for each day's attendance, one dollar,—with mileage at the rate of three cents per mile going and returning; but mileage shall not be allowed for more than two days' attendance; of referees:—

Every referee named in a rule of reference shall, before signing a report, be sworn or affirmed to determine the matters in controversy faithfully and impartially, according to the best of his skill and judgment; which oath or affirmation may be taken before the chancellor, or any judge of this state, or any justice of the peace in and for either of the counties of this state, or before any Burgess of the borough of Wilmington, and each of the said officers severally is hereby authorised, and upon application to him for that purpose it shall be his duty, to administer and duly certify under his hand the said oath or affirmation; also any referee named in a rule of reference shall have full authority to administer said oath or affirmation to any oath of referee, — and when, — and before whom to be taken:

5. vol. 239.

other referee named in the same rule, and may certify the same ;

*All persons, not exempt as jurors, liable as referees,—penalty for neglects*

Every person, not exempt from serving as a juror, may be named as a referee in a rule of reference entered in court, and required to serve as such; and if any referee so named shall, upon being duly notified, neglect or refuse to attend and take upon himself and perform his duty as such referee, every such referee, unless he shall, upon notice, shew a sufficient excuse to the court, in which the rule of reference shall be entered, shall for such default forfeit and pay a sum not exceeding ten dollars, to be levied by order of said court, in the same manner and by the same proceeding, and applied for the same use, as the fine of a juror for making default :

(4. vol. 451.)

Fees of surveyors:—

*Each Surveyor,—*

For service of surveyor, pursuant to order or process of court, or otherwise as required according to law, for each day, two dollars ;

For draught with proper notes, just compensation to be settled by the court :

of chain carriers.—

*Each Chain-carrier,—*

For every day's service, with accommodation, fifty cents ;

of appraisers appointed by registers:—

*Each Appraiser appointed by the Register,—*

For every day's attendance appraising the estate of deceased, one dollar ; except the estate shall not exceed one hundred dollars, then fifty cents :

of commissioners of levy courts:—

*Each Commissioner of the Levy Court and Court of Appeal,—*

For every day's attendance, one dollar and eighty cents, with mileage at the rate of three cents per mile going and returning :

of assessors.—

*Each Assessor,—*

For every day's attendance in the levy court and court of appeal, according to appointment of said court, or requirement of law, the same fees as the members of the court ;

For other services, just compensation to be allowed by said court ;

*Each Freeholder appointed to lay out or review* of freeholders  
to lay out  
road:—  
road —

For every day's attendance (if return be duly made,) one dollar;

*Each Collector,—*

Fees of collectors.

For collecting and paying over state, county, road or poor taxes, a commission to be stipulated between the state treasurer, or levy court and court of appeal, or other authority making the appointment and the person appointed collector, not exceeding in Newcastle and Christiana hundreds, six per centum,—or in the other hundreds of the State, eight per centum,—of the sum which the collector shall collect and account for;

For services in respect to that part of the road tax in Sussex county upon his duplicate paid by labour or materials, five per centum of the amount so paid:

For levying taxes by distress and sale of goods and chattels or timber or grass,—for all the taxes of any person so levied, fifty cents, to be levied with the taxes:

For taking and conveying to gaol a person to enforce payment of taxes, fifty cents to be paid before discharge:

For advertising and selling lands and tenements, returning sale, and all services in respect to such sale, for levying and making taxes, one dollar,—to be levied with the taxes:

In case of levying taxes by distress and sale of goods (6. vol. 504.) and chattels,—or by sale of timber or grass, lands or tenements,—or of proceeding by imprisonment of the person,—it shall not be lawful to demand several fees, for the several taxes in the hands of the same collector, against the same person (or persons jointly) for the same year: (as for example, for the county tax, for the road tax, for the poor tax and for the State tax, or such of them as shall be committed to one collector:) but all these taxes against the same person, (or persons jointly), for the same year, in the hands of the same collector, shall be deemed one entire demand and one fee only shall be chargeable in respect thereto; and at any time before the day of sale of any goods

*Fees of collectors, continued.*

and chattels, timber or grass, lands or tenements, for taxes, the owner or owners, or any person for him, her or them, may pay the taxes with the costs accrued: and in that case the fee to the collector for advertising the sale of goods and chattels or timber or grass, (if advertisements shall have been posted according to law) shall be twenty-five cents: and for advertising the sale of lands and tenements, (if advertisements shall have been posted according to law) shall be fifty cents, and no more;

(6. vol. 609.) For all services in respect to holding the election for choosing inspector and assessor, or other officers chosen at the same time and place, and making certificate or return, as required by law, one dollar and fifty cents;

*Levy courts to allow for delinquents to collectors of State taxes, and when;*

A collector appointed by the State Treasurer may, in his settlements, deduct sixteen per centum of the amount of taxes committed by the State Treasurer to him for collection, to cover allowances for delinquents and commissions, until the time appointed by law for the levy court and court of appeal to allow delinquencies to the collectors by them appointed for the same year; and the said court at the said time shall make just allowances to collectors respectively in their county appointed by the State Treasurer, for delinquents; and such allowances shall not be made at any other time; and every collector appointed by the State Treasurer shall, immediately after the expiration of such time, render a full and final account of the whole amount of the taxes, committed to him by the State Treasurer for collection, and, after deducting payments, allowances made as aforesaid for delinquents, if any, and commissions, shall pay the balance to the State Treasurer without delay; and every collector appointed by the State Treasurer, for every payment to such Treasurer for taxes, shall take duplicate receipts, and transmit one of said receipts to the auditor of accounts, within five days after the date thereof, upon pain of forfeiting and paying to the State, for every refusal or neglect so to do, a fine of ten dollars, to

(6 vol. 507. 511.)

*Collectors of State taxes, when to make a final settlement with State Treasurer,—*

*to take duplicate receipts for every payment etc. and transmit one to auditor within five days etc. penalty for neglect.*

be recovered with costs of prosecution by indictment :

*The County Treasurer,—*

For receiving and paying all such monies, as he shall as such Treasurer duly account for, a commission of four per centum upon the amount accounted for :

Fees of county treasurer.

*The State Treasurer,—*

Upon all monies by him duly accounted for, received for taxes from collectors whom he shall appoint and according to law be responsible for, a commission of three per centum upon the amount,—upon all other monies, which shall come to his hands as state treasurer, or as “the trustee of the fund for establishing schools in the State of Delaware,” and be duly accounted for, a commission of one and one half per centum—except that a State-treasurer shall not be allowed any commission upon the money in the treasury at the time of his entering upon the office ; and if it shall ever happen, upon the determination of the office of State Treasurer, that the full amount of the money, which ought to be in the treasury, shall not be there, all commission upon the deficiency shall be forfeited and shall on no account be allowed :

of State-treasurer.

(2. vol. 1186.)  
(4. vol. 329.)

And if a State-Treasurer, having duly appointed collectors and being according to law responsible for them, shall die, or be removed from office, in consequence of inability to perform the duties, or of the expiration of the office, before the taxes, for the collection of which such collector shall have been appointed, shall be paid over to him, the succeeding treasurer, to whom such taxes or any part thereof shall be paid, shall deduct a commission of three per centum upon the amount so paid to him, and shall pay one half of the said commission to the treasurer appointing said collectors or his executors or administrators :

Fees between preceding and succeeding treasurer.

*Trustees of the Poor,—*

For every day's attendance at the poor house, in performance of the duties of their office, to each of them, one dollar,—and mileage, at the rate of three cents per mile in going and returning : but

Fees of trustees of the poor.

the entire allowance, made to all the trustees of the poor, of either county, for one year, shall in no case exceed two hundred dollars :

of the treasurer of the poor,

*The Treasurer of the Trustees of the Poor,—*  
For receiving and paying all monies, a commission of two per cent upon the amount received and paid :

of judges of the election or inspector and assessor,

*Each Freeholder selected as a Judge of Election for choosing Inspector and Assessor,—*  
For all services, one dollar :

and of the clerk at such election.

*Each Clerk appointed at such Election,—*  
For all services, one dollar ;—which fees shall be immediately paid by the collector and the receipts of the freeholders and clerks shall be good vouchers :

Fees of inspectors, judges and clerks of general and special elections, viz : of the inspectors,

*Each Inspector for the General Election or a Special Election,—*  
For all services in respect to such election, either preceding the same or on the day thereof, or in tallying the votes and making out the returns as required by law, two dollars :

For attending the meeting of inspectors at the court house of his county as required by law, one dollar,—and mileage at the rate of three cents per mile going and returning :—but no allowance shall be made to an inspector, if it shall appear that he has not regularly made all the returns required by law :

of the judges, *Each Freeholder taken as a Judge of a General or Special Election,—*

For all services, one dollar and fifty cents :

of the clerks, *Each Clerk employed by Inspector at General or Special Election,—*

For each day, one dollar and fifty cents :

and of the clerks of board of canvass of election.

*Each Clerk appointed by the Board of Canvass of General or Special Election,—*

For all services, fifty cents :

Fees of fence viewers.

*Each Fence Viewer,—*

For every day's attendance, when duly required, one dollar,—and mileage at the rate of three cents per mile going and returning, to be paid by the party requiring the attendance : but the fence viewers, if they shall consider that their attendance was properly required, may award the costs or any

part thereof to be paid by such person or persons concerned as they may deem equitable and just:

*The Clerk of the Senate, also the Clerk of the House of Representatives, besides daily allowance,—* Fees of the clerks of the Senate and House of Representatives.

For engrossing, the rate of two cents for every twelve words;

For copy made upon request, the rate of one cent for every twelve words,—and twelve and one half cent for certificate of attestation;

For reading and filing every petition of a private nature, fifty cents;

For drawing any process of arrest or summons, one dollar:

*The Sergeant-at-Arms,—*

For serving process of arrest, or other process or order, (subpoena excepted) one dollar; of the sergeant at arms.

For serving subpoena to give evidence or produce papers, whether issued by speaker or chairman of committee, for each person served, twenty-five cents;—mileage, upon doing either of such services, at the rate of six cents per mile going and returning; calculating mileage, in case of service upon several persons, for the distance to the place of abode of one of said persons and adding such extra distance as shall be necessary to be travelled to complete the service and return;

For each day's attendance upon person committed, twenty-six cents:

*The Bell-Ringer to the General Assembly,—*

For each day, thirty-three cents:

Fees of the bell ringer to the General Assembly.

SEC. 2. *And be it further enacted,* That any clause or provision, prescribing a fee or fees, contained in the foregoing section, shall not extend to an action or proceeding before a justice of the peace under the "act providing for the recovery of small debts,"—nor to an appeal from, or certiorari upon, a judgment in such action or proceeding, nor to any proceeding on such appeal or certiorari.—nor to process upon a judgment given upon such appeal or certiorari—nor to the service of such process,—nor to any proceeding in the court of common pleas up- The provisions of the first section of this act, prescribing fees, not to extend to proceedings under the "Act providing for the recovery of small debts" &c.—(o. vol. 433.)

(6. vol. 451.) on a judgment of a justice of the peace pursuant to the twenty-first section of the said act,—nor to the service of process of said court on such judgment ;

excepting only &c.

4th section of the "Act for the recovery of small debts" declared in full force, subject to the above exception, and to an addition to and alteration of some of the fees therein contained, viz : of the prothonotary or clerk.

excepting only, the provisions for the fees of constable attending jury on trial,—of jurors sworn or affirmed in a cause on giving verdict,—of referee named in rule of reference entered in court,—and of the officers for striking and summoning special jurors,—and of such jurors for attendance ;—but the forty-fifth section of the said act shall continue in full force subject to said exception, and also subject to the following addition to the fees therein contained and alteration of some of them, to wit :—

*The Prothonotary or Clerk —*

For filing and entering, pursuant to the twenty-first section of the act aforesaid, transcript of the docket entries of a justice of judgment and execution, sixty-seven cents ;

For issuing process upon such judgment or judgments in case of appeal from a justice, to wit, for elegit, seventy-five cents ;

For any other execution, thirty-seven and one half cents ;

For scire facias, fifty cents ;—and for all entries, in case of such scire facias, to a judgment thereon inclusive, unless there shall be trial, fifty cents ;—and in case of trial, the same fees to witnesses and to all officers, for their respective services, as allowed for like services in case of appeal from the judgment of a justice of the peace ;

(6 vol. 476.)

Execution upon a judgment on a transcript or on appeal may issue at any time within five years &c. (6 vol 451. 454) making party plaintiff.

An execution may be issued upon a judgment, a transcript whereof shall be filed and entered in the common pleas as aforesaid, or on a judgment in case of appeal, at any time within five years, from entering the transcript or giving the judgment on appeal, without scire facias,—except it shall be necessary to make a party defendant ;—if it shall be necessary to make a party plaintiff, this may be done by suggesting the facts and stating the proper party on the record, without scire facias, and the proceeding shall be in the name of the proper party so stated :

*The Sheriff,—*

Of the sheriff.

For serving and returning process of an execution upon judgments,—the transcript whereof shall be entered in the common pleas as aforesaid,—and also upon judgments in cases of appeal, as follows, to wit,—

For levy on goods and making and returning inventory and appraisement, fifty cents ;

For levying and holding inquiry on lands and tenements and returning inquisition, one dollar ;

For executing and returning writ of elegit, two dollars ;—and each juror, joining in an inquisition taken on a writ of elegit, shall be allowed twenty-five cents ;

For advertising sale of goods, thirty-seven and one half cents ;—sale of lands and tenements, seventy-five cents ;

For any other services, in consequence of which money shall be applied to such judgment as above mentioned or to execution thereon,—dollarage, according to the provisions concerning dollarage in the first section of this act ;—the fee to prothonotary or clerk for writ of execution, and to sheriff or coroner for serving execution, of judgment given by the court on an appeal, shall be expunged from the bill of fees provided by said forty-fifth section ;

There shall be no additional fee for appraisers of goods and chattels levied on, nor for freeholders making inquisition in case of lands and tenements levied on ; the provision in the first section, requiring the sheriff to return his fees, shall apply in all its parts to the cases above mentioned ; also the provisions in said first section, concerning notice of sale of goods and respecting the time of selling, shall be in force in relation to levies on goods in execution of judgments on appeal and judgments whereof transcripts shall be entered as aforesaid.

SEC. 3. *And be it further enacted,* That in case of conviction upon indictment, whether of a capital or other crime or offence, all the costs shall be paid

Costs in case of conviction of a criminal nature, or in

dietment, to be paid by party convicted:

mode of proceeding for their payment and recovery; and also for the recovery of restitution money fine or penalty:—

by the party convicted; and the court, in which the judgment upon any such conviction shall be, in every capital case shall, and in every other case may, make a special order that all the costs in the case;—(and also in cases in which judgment shall be for the payment of restitution money, fine or penalty, —that such restitution money fine or penalty, —) shall be levied and made of the goods and chattels, rights and credits, lands and tenements of the party convicted, and award a writ of fieri facias, with clause for summoning garnishees, (called a fieri facias attachment,) and if necessary a writ of venditioni exponas.—for executing such order; and the same proceedings shall be had upon the said writs, as upon like writs issued upon judgments for debt or damages;—excepting that the lands and tenements of the party convicted shall, for want of goods and chattels, be sold without any inquiry of the rents and profits of such lands and tenements, and without respect to the value of such rents and profits; and upon a return, on a writ of fieri facias attachment, of the taking, for the want of goods and chattels, of lands and tenements of the party convicted, in execution, duly describing such lands and tenements, a writ of venditioni exponas shall be awarded; and all acts done, for the due execution of such writs, and pursuant thereto, shall be valid and effectual to all intents and purposes;

the above provisions to be cumulative.

The foregoing provisions shall not take away any part of the judgment heretofore given upon a conviction, but shall be entirely accumulative, and judgment shall be rendered in the same form as if this section had not been passed; and such order as aforesaid may be made, and execution may be awarded and executed as aforesaid, although the party convicted may be at the same time in custody, under commitment for non-payment of the costs, restitution money, fine, or penalty, or otherwise, in execution of the judgment; and such order shall, from its date, be a lien upon all the lands and tenements of the party convicted, in the county.

order of court for the levying of costs etc. to be a lien on lands etc

Costs to be paid by county if defen-

If upon indictment the defendant shall be acquitted, or if he, being convicted, shall not be able to

pay the costs,—the costs shall be paid by the county; dant be acquitted, or unable to pay;  
 in cases of surety the peace, (which are herein in case of surety of the peace, court  
 deemed to be cases of a criminal nature) the court may order the costs to be paid by  
 may order that the costs shall be paid by the defend- defendant, by prosecutor or by the county.  
 ant, or by the prosecutor, or by the county, as they A bill of costs specifying every item to be entered on the docket of every cause, etc.,—  
 shall deem just.

SEC. 4. *And be it further enacted,* That upon the entering or giving of judgment in, or other termination whatever, or the staying of, any cause or action in the high court of errors and appeals, the supreme court, court of common pleas, or court of chancery, or criminal prosecution in the court of oyer and terminer and general gaol delivery, or in the court of general quarter sessions of the peace and gaol delivery, the clerk prothonotary or register of such court shall enter upon the public docket of such court of such cause action or prosecution, within twenty days and when;— next after such judgment termination or stay shall be entered, a full bill of all the costs in said cause action or prosecution, therein setting down plainly and distinctly every item of his own fees and also every item of the fees of the sheriff and every other officer and person, so far as the same shall be known to him, or he shall have in his office means of ascertaining the same; also, upon issuing any execution or order or process in nature of an execution, whereby any costs are to be demanded or levied and made, the clerk prothonotary or register, issuing the same, shall endorse thereon all the costs up to the time of the issue, and shall set down in such endorsement every and how;— item of any sheriff's fees, and the amount of the fees of every other officer and person, and the names of the officers and persons respectively for whose services such fees shall have accrued—except that fees of jury and bailiff and of referees may be set down generally under those heads; and in the orphans' court, clerk of the orphans' court to enter on the docket thereof full bills of costs specifying every item etc.,— the clerk thereof shall, within twenty days after entry of a final decree or other termination in a case of exceptions to accounts, enter, on the docket of said court, a full bill of the costs in such case, and shall also, when recording an order return or other matter, enter in the margin of such record a full bill of costs

and upon is. on such order return or other matter, and shall set  
suing an or- down in such bills respectively every item of his  
der to en- own fees, and every item of the fees of every other  
dorse thereon officer or person so far as he shall know or have in  
every item of his office means of ascertaining the same,—and upon  
his own fees issue ;  
etc. issuing an order, he shall endorse thereon every item  
of his own fees in the case up to the time of such

Penalty on And if any clerk prothonotary or register shall re-  
clerks neg- fuse or neglect to perform fully and faithfully any  
lecting the duty by this section enjoined upon him, he shall, for  
above duties. every such refusal or neglect, forfeit all his fees that  
should have been set down in the bill or endorse-  
ment, which, in performance of such duty, he ought  
to have entered or made,—and furthermore he shall  
be liable to be indicted for every such neglect or re-  
fusal, and on conviction thereof shall pay to the State  
a fine of thirty dollars, with the costs of prosecution;

Courts, on ap- It shall be the duty of each of the courts aforemen-  
plication, to tioned, upon application by or on behalf of a party  
revise and concerned, to revise any bill of costs entered upon  
correct bills the docket or records of such court, and also any re-  
of costs, etc. turn or endorsement of fees upon any writ order or  
process of such court, and also any bill of fees de-  
manded for services in such court, or for the execu-  
tion of the order or process thereof, and to correct  
any errors appearing on such revision, without re-  
quiring any specification of errors :

No fee to be No fee shall be allowed for any service until it  
allowed till shall be performed ; every provision allowing a fee  
service per- shall be construed strictly, and the fee under it shall  
formed; not be allowed for any service which shall not come  
and every within the explicit meaning of the terms.  
provision  
allowing  
a fee to be  
construed  
strictly, etc.

Every person SEC. 5. *And be it further enacted,* That every  
demanding officer or other person or his executors or adminis-  
fees if reques- trators, upon demanding any fees, shall, if it be re-  
ted, to sub- quested, subscribe and deliver, to the person or per-  
scribe and de- sons upon whom such demand shall be made, a bill  
liver a bill of the fees demanded containing every item plainly  
thereof speci- and distinctly set down, and shall, upon payment,  
fying every subjoin or annex to such bill a receipt under hand,  
item ; and on if requested ; and every sheriff, upon payment to or  
payment  
annex a re-  
ceipt:—

settlement with him of an execution by a defendant and every sheriff, on or defendants, shall, if requested, subscribe and deliver to him or each of them,—a bill of the particulars demanded upon such execution, to wit, the debt or damages, the interest, every item of the costs endorsed thereon, and every item of his own fees on the same,—and also a receipt, or, if there be more than one defendant joining in making the payment or settlement, duplicate receipts or acknowledgments of such payment or settlement; and if any officer or other person shall receive any fee or fees, and shall refuse or neglect, upon request, to subscribe and deliver a bill or a receipt according to the form and effect of the foregoing provisions in those particulars, or if any sheriff, upon payment to or settlement with him of an execution by a defendant or defendants, shall, if requested, refuse or neglect to subscribe and deliver to him or to each of them a bill of particulars, or a receipt or duplicate receipts or acknowledgments, according to the form and effect of the foregoing provisions in those particulars, every such sheriff officer or other person shall be liable to indictment for every such refusal or neglect, and, on conviction thereof, shall pay to the State a fine of fifty dollars, with costs of prosecution.

SEC. 6. *And be it further enacted,* That if any An officer or other person, hereinbefore mentioned,—shall take more or greater fees, for doing any the services hereinbefore mentioned, than hereinbefore prescribed,—or shall for any service, in execution of or pertaining to his office, take any fee not provided by law,—or shall charge or take any fee hereinbefore prescribed, before the service for which it is prescribed shall have been in fact performed, unless the fee or fees so prescribed for such service shall be voluntarily tendered or paid,—every such officer or person shall be liable to be indicted for every such offence, and shall, upon conviction thereof, pay to the State a fine of sixty dollars and the costs of prosecution; and a copy of the record of every such indictment and conviction shall be made and duly certified, and transmitted to the governor, under the

be transmitted to the Governor, and be by him laid before the house of representatives; and the costs of such copy to be taxed as part of the costs of prosecution. This act not to interfere with the practice of the courts in making allowances for certain services, etc.

p. 671;

p. 666.

p. 667.

Repeal of—

c. 27, c. 2 v. 1100;

c. 58, c. 2 v. 1181;

a. 1, 2, c. 79, v. 3, p. 189;

part of s. 13, c. 131, a. 1 v. 521;

part of s. 3, c. 70, a. 1 v. 182;

a. 3, c. 154, 3 v. 343;

a. 26, c. 182, 2 v. 298;

direction of the court, in which such record shall be; and the Governor shall lay the same before the House of Representatives, at the session of the General Assembly next succeeding, and the costs of making and certifying such copy shall be allowed by the court, and taxed as a part of the costs of prosecution.

SEC. 7. Provided that this act shall not be construed to annul or interfere with the practice of the court of chancery of making allowances for services, except as to such services as are herein before expressly specified and provided for,—or with the practice of any court in making a reasonable allowance for taking depositions by virtue of a commission issued out of such court;—but compensation for taking depositions in the office of the register, or by the prothonotary of the court of common pleas in case of petition for freedom whether in term or in vacation, or by the register of the court of chancery, shall in every case be allowed according to the provisions hereinbefore in those particulars contained.

SEC. 8. *And be it further enacted*, That the act of the general assembly of this state entitled “An act for regulating and establishing fees,” passed June 15, 1793,—and the “Act to amend the said act,” passed February 7, 1794,—and the first and second sections of the act entitled “A supplement to an act entitled An act for regulating and establishing fees and for other purposes,” passed at Dover January 29, 1801,—and the clause of the thirteenth section, of the act entitled “An act for erecting public bridges, causeways, and laying out and maintaining highways,” beginning with the words “*and the said freeholders*” and ending with the words “*laying out the same*,”—and the last clause of the third section, of the “Act for regulating fences within this government,” beginning with the words “*and the said viewers to be allowed*,”—and the third section of the additional supplement to the said act, passed at Dover, Jan. 24, 1804,—and the twenty-sixth section of the “Act for the better relief of the poor,” passed

January 29, 1791.—and the last clause, beginning with the words "*and each treasurer*," of the seventh <sup>part of s. 7, c. 49, b, 2 v.</sup> section of the supplementary act to the said act, <sup>1036;</sup> passed February 4, 1792,—and the twenty-third section of the "Act for the valuation of real and personal property within this state," passed February 9, 1796,—and the "Act to increase the daily allowance of grand and petit jurors and for other purposes," <sup>s. 23, c. 98, c. 2 v. 1238;</sup> passed February 9, 1796,—and the supplement to <sup>c. 104, c. 2 v. 1293;</sup> the said act, passed January 20, 1810,—and the third <sup>c. 219, 4 v. 392;</sup> section of the "Act to provide for the payment of the surplus of taxes granted for the support of government to the respective counties and for other purposes," passed at Dover, January 24, 1800,—and the fourth section of the "Act respecting the funds of this State," passed at Dover, January 25, 1800,—and the second section of the "Act for <sup>s. 2, c. 89, v. 3, p. 213;</sup> altering the times for holding the court of chancery in this state," passed at Dover, 21st January, 1802,—and the nineteenth section of the "Act to regulate <sup>s. 19, c. 21, v. 4, p. 43;</sup> certain proceedings in the court of chancery, in the orphans' court and in the register's court, &c," passed at Dover, February 1, 1806,—and the third and fifth sections of the "Act to increase the salary <sup>s. 3, 5, c. 25, v. 4, p. 51;</sup> of the chancellor and the daily allowance of grand and petit jurors and for other purposes," passed at Dover, February 1, 1806,—and the "Act regulating <sup>c. 115, v. 4, p. 316;</sup> and establishing the fees of collectors of taxes," passed at Dover, January 27, 1810,—and the sixth and twelfth sections, and the last clause, beginning <sup>parts of chap. cxxii. v. 4, p. 328;</sup> with the words "*and shall be allowed*," of the seventh section, of the "Act making provisions 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," passed at Dover, January 30, 1810,—and the seventeenth section of the "Act concerning <sup>s. 17, c. 158, v. 4, p. 455;</sup> awards, to regulate the summoning and returning of juries and for lessening the expense thereof", &c. passed at Dover, February 2, 1811,—and the "Act <sup>c. 24, v. 5, p. 42;</sup> to increase the fees of the coroners," passed at Dover, February 15, 1814,—and the first section of the

s. I, c. 58, v. 5, p. 104; "Act to increase the daily allowance of commissioners of the levy court and court of appeals, to abolish the office of tax commissioner, and for other purposes," passed at Dover, 9 February, 1815;—and

s. iii, c. lxxxii, vol. v, p. 148; the third section of the "Act to amend the intestate laws of this state," passed at Dover, 9 Feb. 1816,—

c. lxxx, vol. 6, p. 117; and the act entitled "An additional supplement to an act entitled an act for regulating the fees of sheriffs, and for other purposes," passed at Dover, February 5, 1821,—and the additional supplement to an act

c. lxxxi, vol. vi, p. 118; entitled "An act for the better regulation of roads in the county of Sussex," passed at Dover, 5 February 1821,—and the second section of the "Act

s. ii, c. cxxii, vol. vi, p. 195; to repeal the act entitled "An act enjoining certain duties on collectors and varying their compensation,"

part of s. vi, c. cxxxii, v. vi, p. 224; passed at Dover, February 5, 1822,—and the last clause, beginning with the words "*and the said clerk of the peace*," of the sixth section of the

parts of c. cxcvi, vol. vi, p. 241; "Supplement to the act laying duties on licenses to retailers of foreign goods, wares and merchandize," passed at Dover, February 7, 1822,—and the last clause, beginning with the words "*and the justices*," of the second section, and the last clause, beginning with the words "*and the fees of the*," of the fourth

c. cciv, 2, vol. I, p. 471; section of the "Act concerning the acknowledgment and recording of acquittances to executors, administrators and guardians, and for limiting the time of excepting to their accounts," passed at Dover, February 9, 1825,—and the act entitled "An act for regulating and establishing fees," passed March 24, 1770,—shall be and the same hereby are repealed and annulled from and after the first day of

This repeal not to operate as a revival of other repealed acts; May next:—Provided that no act, nor part of an act, repealed by the aforesaid acts or sections hereby repealed or by either of them, shall be revived by this repeal; but that every act, and part of an act, repealed by any act section or clause hereinbefore mentioned and hereby repealed, shall continue repealed in the same way and as effectually as if this

nor to extend to any matter or offence that has been or shall be done or committed before the first day of May next; but that every the afore-

mentioned acts, sections and clauses, that are now in force, shall continue in force and unrepealed in respect to every offence or matter, that has been or shall be done or committed before the first day of May next, in the same manner as if this act had not been passed.

SEC. 9. *And be it further enacted,* This act shall commence in operation on the first day of May next.

Operation of  
this act to  
commence  
1st May 1826.

SEC. 10. *And be it further enacted,* That the clause in these words, to wit, "upon payment or tender of the charges of bringing the said prisoner, to be ascertained by the chancellor or judge who awarded the writ, and thereon indorsed, not exceeding twelve cents per mile, and upon security given by his own bond to pay the charges of carrying him back if he shall be remanded, and not to escape by the way," of the first section of the Act for better securing personal liberty, and easily and speedily redressing all wrongful restraints thereof," passed February 2, 1793, be and the same is hereby repealed and annulled from and after the passing of this act.

Repeal of—  
part of sec. 1,  
ch. 4, c. 2 vol.  
1057.

PASSED AT DOVER, }  
February 2, 1826. }

## CHAPTER CCCXLVIII.

AN ACT dissolving the marriage between William Currans and Nancy his wife, late Nancy Ross.

PASSED AT DOVER, }  
February 3, 1826. }

PRIVATE ACT

CHAP.  
CCCXLIX.  
1826.

## CHAPTER CCCXLIX.

AN ACT *to enable Outerbridge Horsey to remove certain servants and slaves into and from this State.*

PASSED AT DOVER, }  
February 3, 1826. }

PRIVATE ACT.

## CHAPTER CCCL.

AN ACT *for the relief of Rebecca Scott.*

PASSED AT DOVER, }  
February 3, 1826. }

PRIVATE ACT.

## CHAPTER CCCLI.

AN ACT *for the relief of Levin Callaway, William Callaway, and John Booth.*

PASSED AT DOVER, }  
February, 3, 1826. }

PRIVATE ACT.

## CHAPTER CCCLII.

2 vol. 1085. A SUPPLEMENT *to an act entitled, "An act for the better improvement of a tract or parcel of meadow, marsh and cripple commonly called the Mill-creek marshes, situate on St. Jones's River, in Kent county."*

PASSED AT DOVER }  
February 3, 1826. }

PRIVATE ACT.

## CHAPTER CCCLIII.

CHAP.  
CCCLIII.  
1826.

## AN ACT to incorporate the Delaware Silk Company.

SEC. 1. BE IT ENACTED, *by the Senate and Company authorized,*  
*House of Representatives of the State of Delaware*  
*ware in General Assembly met,* That a company shall be established in this State for the purpose of producing and manufacturing silk. The capital stock <sup>capital</sup> of said company shall not exceed twenty thousand dollars, to be divided into one thousand shares of twenty dollars each.

SEC. 2. *And be it enacted,* That Edward Tatnal, <sup>Commissioners to receive subscriptions,</sup> Samuel Thomas and Joseph G. Rowland, of Newcastle county,—Jacob Stout, Samuel Warren, sen'r, and John Bell, of Kent county,—William W. Waples, Miles Tindal and Jehu Stockley, of Sussex county,—shall be commissioners and they, or any two of them, are authorized to receive subscriptions to the said capital stock; and for that purpose to <sup>subscription</sup> open books, at such time and place, in Wilmington <sup>books</sup> when and in Newcastle county, in Dover in Kent County, <sup>where to be opened,—</sup> and in Georgtown in Sussex county, as the said commissioners, or any two of them, may appoint; and such books shall continue open there, at least <sup>how long to continue open—</sup> two days, and as long afterwards as the said commissioners or a majority of them, so opening them shall deem proper: at least ten days notice, of the <sup>notice of opening them:</sup> time and place of opening such books, shall be given, by publication in two newspapers published in this State: if more than twenty thousand dollars shall be <sup>excess of capital subscribed &c.</sup> subscribed, on the two first days which the books shall be open, the commissioners aforesaid shall apportion the same among the subscribers, always deducting the excess from the largest subscription, so that no subscription shall be reduced while a larger one remains.

SEC. 3. *And be it enacted,* That the subscribers <sup>Subscribers incorporated:</sup> to the capital stock aforesaid their successors and as.

name of company; continuance;	signs, shall be and they are hereby created a corporation, by the name and title of " <i>The Delaware Silk Company</i> ;" and shall continue, until the first day of January in the year of our Lord one thousand eight hundred and fifty; and by that name, shall have power and capacity,—to sue and be sued, defend and be defended, in all courts of law and equity,—to purchase, take, enjoy, sell and alien lands, tenements and hereditaments, goods, chattels, rights, credits and effects, which may be connected with, or in any wise conducive to, the purpose for which said company is established,—to have a common seal, to use, alter and break the same,—to ordain by-laws, for their own government, not repugnant to the constitution and laws of the United States or this State,—and to enjoy the franchises incident to a corporation;
powers;	but not to discount notes or bills, or loan money on interest, or to exercise any banking powers whatever:—and the following shall be the fundamental articles of the constitution of said corporation;
by-laws;— ( <i>sec art. 2;</i> )	<i>First.</i> The business and concerns of said corporation shall be managed by five directors, who shall be elected by the stockholders; the first election shall be held as hereafter is provided for,—all the subsequent elections shall be held at the annual meetings of the stockholders; the directors shall continue in office, until the annual meeting next succeeding their election, and until successors shall be chosen; but a vacancy, occasioned by death resignation or otherwise in the office of director, may be filled by appointment made by a majority of a board of directors; the directors must be stockholders, and the office of director shall be vacated by his ceasing to be a stockholder: the directors shall choose one of their number to be president: they shall meet according to the by-laws of the corporation, and three of them shall form a board to do business, and if the president should be absent, a president may be appointed <i>pro tem</i> :
restrictions:	<i>Second.</i> The directors shall have power to purchase such lands,—erect or purchase such buildings,—employ such servants,—appoint such officers and agents,—procure such materials and ingredients,—
fundamental articles;— <i>viz.</i>	
1st; Directors,— their numbers,— appointment,—	
continuance,—	
qualification,—	
president,—	
quorum:	
the powers of directors,—	

and generally to do all such matters and things (not inconsistent with or repugnant to the by-laws of said corporation).—as are necessary for the production and manufacture of silk to the best advantage, from the first step toward the production of the raw silk, to the completion of its construction into cloths or other manufactures, if the said company choose so far to prosecute their said business,—and to take bond from any officer or agent, as the by-laws shall require, or as may be deemed expedient, either with or without surety ;—and to this end, to use and employ the capital stock and funds of the said company, under such regulations as the by-laws may prescribe,—and to bind, by their contracts deeds or writings, under seal of the corporation and the hand of the president, all the property and estate, common stock and joint funds of the corporation aforesaid, but not the persons or separate property of themselves ;—and further, the directors shall have power to make by-laws for the government of the said corporation and regulating the management of the business and concerns thereof, and to revise repeal and amend the same, subject always to the controul of the stockholders in regular meeting : The by-laws, among other things, shall prescribe the offices of the corporation, other than those of president and directors,—the bonds to be taken from the officers,—the place or places of holding the meetings of the stockholders,—the manner of calling occasional meetings,—and the mode and regulations of assigning the capital stock :

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CCCLIII.  
1826.

*Third.* There shall be an annual meeting of the stockholders, on the first day of June in every year, during the continuation of the corporation ; if any election shall not be held at the annual meeting, or if such meeting shall not take place on the day appointed in any year, the corporation shall not, for that cause, be dissolved ; but in such case directors may be chosen at an occasional meeting regularly held : The first annual meeting shall be held on the first day of June next :

3d; annual  
meetings of  
the stockhol-  
ders;

*Fourth.* In all meetings of the stockholders, regularly held, those assembled may proceed to business : all elections for directors shall be by ballot,

4th; quorum  
of stockhol-  
ders;

oting.

and shall be decided by plurality of votes; and on all other questions a majority of votes shall be necessary to a determination: In all elections, and upon every other subject and question, every stockholder shall be entitled to vote; and stockholders, holding five or more shares, shall be respectively entitled to two votes for five shares, and to one additional vote for every five additional shares; and stockholders, absent from any meeting, may vote by proxy constituted by a note in writing.

6th; compensation to directors:

*Fifth.* Each director shall be entitled to such emolument, as shall be allowed him, by the stockholders, at a regular meeting

6th; shares of stock to be personal property;—dividends of profits;—

*Sixth.* The shares of the capital stock shall be personal property, and shall be assignable subject to the regulation of the by-laws: the directors shall make dividends of the clear profits of the business of the corporation, or of such part of said clear profits as may be deemed advisable, as often as the by-laws shall prescribe; and shall lay before the stockholders, every year, at their annual meetings, a general account of the stock, funds, debts and credits of the corporation; and any by-laws, by them made, shall be open to the inspection of every stockholder.

accounts to be laid before stockholders,—

and by laws open to their inspection: (art. 2. 7.)

7th; stockholders may make by-laws (see art. 2.)

*Seventh.* The stockholders shall have power, at any annual or other regular meeting, to make and ordain by-laws for the government of the corporation and regulation of the concerns thereof; which by-laws shall not be repealed or altered by the directors; and the directors shall not have power to make any by-laws repugnant to, or inconsistent with, a by-law made by the stockholders.

Payment of the subscription money.

*SEC. 4. And be it enacted,* That the subscribers shall, respectively, pay three dollars upon each share, which they shall respectively subscribe to the capital stock aforesaid, on the day of the first annual meeting to be held as aforesaid, to the directors, who shall be then chosen, and the residue of said amount, in such manner and in such instalments, at such times, as the president and directors shall appoint; and the president and directors shall give public notice of the

manner and time, which they shall appoint for paying said residue of said capital stock, by advertisements to be inserted in at least two newspapers published in this state, for three successive weeks, and shall further cause circular letters, giving the same notice, to be signed by the president and addressed to the subscribers respectively and directed to their places of abode if known, to be put into the post office at least thirty days before the days of payment; and if any subscriber or subscribers shall refuse or neglect to pay the sum of money, which he she or they ought to pay according to the foregoing provisions, at the time when the same shall according to such provisions, be payable, he she or they shall forfeit the rate of ten per centum on the same, which he she or they ought to have paid, to be added to and paid with such sum, when it shall be paid, whereof notice shall be given by circular letters addressed to the delinquent subscribers as aforesaid; and if such subscribers or any of them shall neglect to make payment of the sum payable by him her or them, with the forfeiture, for the space of sixty days after putting such circulars in the post office, the president and directors may either declare the share or shares of such delinquent subscriber or subscribers forfeited, or may proceed to sue for and recover the sums subscribed and remaining unpaid, with the forfeiture, according to the terms of the subscription.

CHAP.  
CCCLIII.  
1826.

SEC. 5. *And be it enacted,* That as soon as the capital stock aforesaid, or five thousand dollars thereof, shall be subscribed, the commissioners aforesaid or a majority of them shall call a general meeting, to be held on such day, and at such place in Dover aforesaid, as said commissioners shall name; and shall give notice of such meeting, by advertisements, to be inserted in at least two newspapers published in this state, at least twenty days before the day of meeting, and by circular letters addressed and directed to the subscribers as aforesaid; and the subscribers, who shall assemble at such meeting, shall have power to proceed to business, to elect directors, to make

First meet-  
ing of the  
stockholders.

CHAP. by-laws, and to do all acts, which the stockholders  
CCCLIII. can do according to this charter.  
1826.

Disposition  
of shares for-  
feited or not  
subscribed.

SEC. 6. *And be it enacted*, That the directors may dispose of any shares, that shall not be subscribed, or that shall be forfeited, in such manner as they may deem meet for the good of the corporation.

PASSED AT DOVER, }  
February 4, 1826. }

### CHAPTER CCCLIV.

AN ACT *for the relief of Isaac Carpenter, Sen.*

PASSED AT DOVER, }  
6th February, 1826. }

PRIVATE ACT.

### CHAPTER CCCLV.

3 vol. ch. 138, A SUPPLEMENT to the act entitled "*An act*  
p. 301. *altering the mode of repairing and supporting the*  
*roads and bridges in the several hundreds of the*  
*county of Newcastle.*"

STATEMENTS of the accounts of the road commissioners in Newcastle county to be made out,—  
when,—  
how many,—  
what they shall exhibit,—  
SECTION 1. 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 supplement, it shall be the duty of the commissioners of the roads of the several hundreds in and for the county of Newcastle, in the first week of the month of May in every year, to make out four accurate copies or statements of their accounts during the preceding year; which statements shall exhibit,—the amount of the road tax levied in the said year in the hundred,—the nett proceeds of said tax,—a list of the orders drawn by the said commissioners,—the names of the persons in whose favour they were drawn,—on what account they were

drawn,—and for what amount;—two of which state-ments shall be hung up in the most public places in the hundred, one shall be transmitted to the auditor of accounts, and the fourth shall be transmitted to the clerk of the peace of Newcastle county to be by him filed in his office; and the said statement shall be printed in two newspapers of the said county for the space of four weeks; and it shall be the duty of the attorney general, upon the neglect or refusal of the said commissioners respectively to comply with the provisions of this section, on or before the tenth day of May in the year in which the said statement is made out, to proceed against the commissioners so neglecting or refusing, at any subsequent term of the court of general quarter sessions of the peace in and for Newcastle county, by indictment; and the commissioners, so neglecting or refusing, shall, upon conviction thereof, pay a fine of not less than fifty dollars, nor more than two hundred dollars, for each and every such neglect or refusal, to be applied to the repair of roads and bridges in the hundred where such forfeiture may happen.

SEC. 2. *And be it enacted*, That the overseers, appointed in the several hundreds by the said commissioners, shall, once in every six months, render an account to, and settle with, the said commissioners or any two of them, in the manner directed by the seventh section of the act to which this is a supplement; and upon the neglect or refusal of any overseer to render such account, it shall be the duty of the attorney general to proceed against him by indictment, and upon the conviction of the said overseer of such neglect or refusal, he shall pay a fine of not less than fifty dollars nor more than one hundred dollars, to be applied to the repair of roads and bridges in the hundred where such forfeiture may happen.

SEC. 3. *And be it enacted*, That no person, being an overseer of roads in the said county, shall be allowed or paid, for work or labour done, upon the public roads or bridges of the hundred in which he shall act as overseer, by his own servants labourers

own servants or teams, in any one year, more than ten dollars, &c. in any one exclusive of his allowance as overseer aforesaid, year, more than ten dollars, except as hereinafter excepted; nor shall any other person be employed to do any work or labour on the roads or bridges aforesaid, the allowance for which shall exceed ten dollars in any one year in any one hundred, unless the overseer of roads for such hundred shall make it appear to the satisfaction of the road commissioners of such hundred, that he could not procure other workmen labourers or teams, under a penalty of twenty dollars, to be recovered by indictment from the commissioners of roads consenting to and allowing such excess, to be applied to and for the use of the public roads and bridges in the hundred where such forfeiture may occur.

unless other workmen etc cannot be procured; penalty on commissioners for allowing more than above prescribed, and appropriation of penalty.

Repeal of— part of s. 8, c. 138, v. 3, p. 305;

parts of c. 155, v. 3, p. 345.

SEC. 4. *And be it further enacted*, That so much of the eighth section of the act, to which this is a supplement, as limits the annual compensation of each commissioner to ten dollars,—and that the fourth section of the act supplementary thereto, passed on the 24th day of January 1804,—and so much of the 5th section as requires the commissioners of roads to make return to the auditor of accounts,—and the whole of the 6th section of the said supplementary act,—be and the same is hereby repealed made null and void.

PASSED AT DOVER, }  
February 6, 1826. }

## CHAPTER CCCLVI.

AN ACT for the division of the real estate of Levin Rickards. late of Kent county, deceased.

PASSED AT DOVER, }  
February 6, 1826. }

PRIVATE ACT.

## CHAPTER CCCLVII.

CHAP.  
CCCLVII.AN ACT *for the appointment of an auditor of accounts.* 1826.

SEC. 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That Spencer Williams be and he is hereby appointed auditor of accounts, for the term of two years from the passing of this act, and from thence until a successor in the said office shall be duly appointed by law. Spencer Williams appointed auditor for two years.

SEC. 2. *And be it enacted,* That in case the said auditor shall die, remove from the State, resign, or otherwise cease to act, before the expiration of his time of office, the vacancy thereby caused may be supplied by the governor of the State for the time being. Vacancy how supplied.

SEC. 3. *And be it enacted,* That the auditor, appointed by and in pursuance of this act, shall perform the same duties, and receive the same compensation, and in the same manner, as is now directed and required by the laws of this State. Duties and compensation of auditor—5 vol. p. 156; 6 vol. p. 12.

PASSED AT DOVER, }  
6 February, 1826. }

## CHAPTER CCCLVIII.

AN ACT *to enable Peregrine Hendrickson to remove from the State of Maryland into the State of Delaware certain negroes therein mentioned.*

PASSED AT DOVER, }  
February 6, 1826. }

PRIVATE ACT,

CHAP.  
CCCLIX.

## CHAPTER CCCLIX.

1826. AN ACT to enable Richard Lockwood to remove  
from the State of Delaware into the State of  
Maryland two certain negro slaves.

PASSED AT DOVER, }  
February 6, 1826. }

PRIVATE ACT.

## CHAPTER CCCLX.

2 vol. 703;  
4 vol. 82.

AN ADDITIONAL SUPPLEMENT to the act  
entitled, "An act for the effectual draining and  
improving the marsh cripple and low land on  
Moris's branch in Appoquinimink hundred and  
county of Newcastle and for other purposes  
therein mentioned.

PASSED AT DOVER, }  
February 7th, 1826. }

PRIVATE ACT.

## CHAPTER CCCLXI.

AN ACT to authorize Jane P. Taylor to remove  
certain negro slaves therein mentioned from this  
State into the State of Maryland.

PASSED AT DOVER, }  
February 7, 1826. }

PRIVATE ACT.

## CHAPTER CCCLXII.

CHAP.  
CCCLXII.AN ACT *providing for the punishment of certain crimes and misdemeanours.*

1826.

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That the crimes and misdemeanours, hereinafter mentioned, shall be punished as hereinafter prescribed, that is to say,—

If any person or persons shall commit treason a. <sup>1. Treason.</sup> against this State; every person so offending, upon conviction thereof, shall suffer death.

If any person or persons shall commit the crime <sup>2. Murder.</sup> of murder, every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall suffer death:—And also if any person or persons, at any place within this State, shall, wilfully <sup>Sec. 10, b.</sup> and maliciously, shoot, strike, stab, wound or poison any person, who shall, within one year afterward, die of such shooting, striking, stabbing, wounding or poisoning at any place without this State,—every person so offending, (notwithstanding the death shall happen without the State,) shall be deemed guilty of murder and felony, and, upon conviction thereof, shall suffer death.

If the killing of a person shall be attended by circumstances of alleviation, so that it shall not amount <sup>3. Man-</sup> to murder, but shall be the crime by law denominated manslaughter, there shall be two degrees of the crime, to wit, manslaughter of the first degree, and manslaughter of the second degree:—

Voluntary manslaughter, excepting manslaughter voluntarily committed by a husband on a person <sup>of the first</sup> found in the act of adultery with his wife,—manslaughter involuntarily committed, in the prosecution of an unlawful act or purpose, but not of such a character as to constitute the offence murder,—and manslaughter involuntarily committed in the performance of a lawful act, but under circumstances, or in a manner, or by means, which cause an apparent danger of inflicting death, without using due precau-

tion to avoid such danger,—shall be manslaughter of the first degree;—and manslaughter of every other description shall be manslaughter of the second degree:—

Punish-  
ment,—  
for man-  
slaughter, of  
the first de-  
gree,—

If any person or persons shall commit the crime of manslaughter of the first degree, every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall suffer death: Provided however, that if such person or persons, so convicted, shall pray of the justices in open court, forthwith after such conviction, the benefit of this act, then and in that case the court shall order and adjudge, that the person, so convicted as aforesaid, shall forfeit and pay to the State a fine not less than two hundred dollars nor more than three thousand dollars, shall suffer imprisonment for a term not exceeding two years;—and every person, so offending a second or subsequent time, upon conviction thereof such second or other subsequent offence, shall forfeit and pay to the State a fine not less than four hundred dollars nor more than six thousand dollars, shall suffer imprisonment for a term not exceeding four years: Provided however, that if the benefit of this act shall be so claimed, it shall not operate as a statute pardon of the felony:

for man-  
slaughter, of  
the second  
degree:—

If any person or persons shall commit the crime of manslaughter of the second degree, every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall suffer death: Provided however, that if such person or persons, so convicted, shall pray of the justices in open court, forthwith after such conviction, the benefit of this act, then and in that case the court shall order and adjudge, that the person, so convicted as aforesaid, shall forfeit and pay to the State a fine not less than one hundred dollars nor more than one thousand dollars, and shall suffer imprisonment for a term not exceeding one year: Provided however, that if the benefit of this act shall be so claimed, it shall not operate as a statute pardon of the felony:

Stroke in this  
State and  
death in  
another.

If any person be stricken or wounded in this State, and die of the said stroke or wounding in another State, and the circumstances be such as to consti-

tute the crime manslaughter of the first or second degree, the offender or offenders shall be liable to be indicted, prosecuted and punished, in the same manner and as effectually, as if such death had happened in the county, in which the mortal stroke or wound was given.

CHAP.

CCCLXII.

1826.

If any person or persons shall, with violence, make an assault upon another, with intent to commit murder,—every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine, not less than five hundred dollars, nor more than six thousand dollars, —shall be set on the pillory for the space of one hour, —shall suffer imprisonment for a term not exceeding two years,—and shall, at the expiration of such term of imprisonment, be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than one year, nor exceeding seven years.

4. Assault with intent to murder.

If any person or persons shall wilfully and maliciously administer to any person or persons, or wilfully and maliciously cause or occasion any person or persons to take, any deadly poison or noxious and destructive substance,—every person so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine not less than five hundred dollars nor more than ten thousand dollars,—shall be set on the pillory for the space of one hour,—shall be publickly whipped with sixty lashes on the bare back well laid on,—shall suffer imprisonment for a term, not exceeding four years,—and upon the expiration of such term of imprisonment, shall be disposed of as a servant for the period of fourteen years.

5. Poisoning.

If any person or persons shall, maliciously, and by lying in wait, cut out or disable the tongue,—or put out an eye,—or slit, or cut, or bue off, the nose, lip or ear of any person,—or maim any person,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine, not less than four hundred, nor more than two thousand dollars,—shall be whipped with sixty lashes on the bare back well laid on,—shall suffer imprisonment for a term not exceeding two years,

6. Mayhem; by lying in wait,—

tion to avoid such danger,—shall be manslaughter of the second of the first degree;—and manslaughter of every other description shall be manslaughter of the second degree :

Punish-  
me t,—  
for man-  
slaughter, or  
the first de-  
gree,—

If any person or persons shall commit the crime of manslaughter of the first degree, every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall suffer death: Provided however, that if such person or persons, so convicted, shall pray of the justices in open court, forthwith after such conviction, the benefit of this act, then and in that case the court shall order and adjudge, that the person, so convicted as aforesaid, shall forfeit and pay to the State a fine not less than two hundred dollars nor more than three thousand dollars, shall suffer imprisonment for a term not exceeding two years;—and every person, so offending a second or subsequent time, upon conviction thereof such second or other subsequent offence, shall forfeit and pay to the State a fine not less than four hundred dollars nor more than six thousand dollars, shall suffer imprisonment for a term not exceeding four years: Provided however, that if the benefit of this act shall be so claimed, it shall not operate as a statute pardon of the felony :

for man-  
slaughter of  
the second  
degree:—

If any person or persons shall commit the crime of manslaughter of the second degree, every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall suffer death: Provided however, that if such person or persons, so convicted, shall pray of the justices in open court, forthwith after such conviction, the benefit of this act, then and in that case the court shall order and adjudge, that the person, so convicted as aforesaid, shall forfeit and pay to the State a fine not less than one hundred dollars nor more than one thousand dollars, and shall suffer imprisonment for a term not exceeding one year: Provided however, that if the benefit of this act shall be so claimed, it shall not operate as a statute pardon of the felony :

Stroke in this  
State and  
death in  
another.

If any person be stricken or wounded in this State, and die of the said stroke or wounding in another State, and the circumstances be such as to consti-

tute the crime manslaughter of the first or second degree, the offender or offenders shall be liable to be indicted, prosecuted and punished, in the same manner and as effectually, as if such death had happened in the county, in which the mortal stroke or wound was given.

CHAP.

CCCLXII.

1826.

If any person or persons shall, with violence, make an assault upon another, with intent to commit murder,—every person so offending shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine, not less than five hundred dollars, nor more than six thousand dollars, —shall be set on the pillory for the space of one hour, —shall suffer imprisonment for a term not exceeding two years,—and shall, at the expiration of such term of imprisonment, be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than one year, nor exceeding seven years.

4. Assault with intent to murder.

If any person or persons shall wilfully and maliciously administer to any person or persons, or wilfully and maliciously cause or occasion any person or persons to take, any deadly poison or noxious and destructive substance,—every person so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine not less than five hundred dollars nor more than ten thousand dollars,—shall be set on the pillory for the space of one hour,—shall be publicly whipped with sixty lashes on the bare back well laid on,—shall suffer imprisonment for a term, not exceeding four years,—and upon the expiration of such term of imprisonment, shall be disposed of as a servant for the period of fourteen years.

5. Poisoning.

If any person or persons shall, maliciously, and by lying in wait, cut out or disable the tongue,—or put out an eye,—or slit, or cut, or bite off, the nose, lip or ear of any person,—or maim any person,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine, not less than four hundred, nor more than two thousand dollars,—shall be whipped with sixty lashes on the bare back well laid on,—shall suffer imprisonment for a term not exceeding two years,

6. Mayhem, by lying in wait.

(sec. 4, c.) —and, upon the expiration of such term of imprisonment, shall be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than four years nor exceeding seven years :—  
(sec. 5.)

without lying in wait.

If any person or persons shall, maliciously, without lying in wait, maim another person,—every person, so offending, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall forfeit and pay to the State a fine not less than two hundred dollars, nor more than two thousand dollars,—and shall suffer imprisonment for a term not less than three months nor more than one year.

(sec. 4, c.)

7. Rape.

If any person or persons shall commit the crime of rape,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall suffer death.

8. Assault with intent to ravish; carnally knowing a female under ten years of age.

If any person or persons shall, with violence, make an assault upon any female, with intent to commit a rape,—or if any person or persons shall carnally know and abuse a female child, under the age of ten years,—every person, so offending, shall be deemed guilty of felony, and upon conviction thereof, shall forfeit and pay to the State a fine not less than four hundred nor more than five thousand dollars,—shall be set on the pillory for the space of one hour,—shall be publickly whipped with sixty lashes on the bare back well laid on,—shall suffer imprisonment for a term not exceeding two years,—and, upon the expiration of such term of imprisonment, shall be disposed of as a servant, to the highest bidder or bidders, for the period of fourteen years.

(Sec. 4, c.)

(Sec. 5.)

9—a. Burglary.

If any person or persons shall, in the night time, break and enter into the dwelling house of another person, with intent to commit murder rape robbery larceny or any other felony, whether such intent be executed or not;—every person, so offending, shall be deemed guilty of burglary and felony, and upon conviction thereof, shall suffer death.

9—b. Breaking into an office in the night time, with intent to purloin, alter etc. public

If any person or persons shall, in the night time, break and enter into any house or office, wherein public records are kept, with intent to purloin alter obliterate deface destroy or injure any such record, whether such intent be executed or not;—every per-

son, so offending, shall be deemed guilty of felony, <sup>records there-</sup> and upon conviction thereof, shall forfeit and pay to <sup>in.</sup> the State a fine, not less than five hundred dollars, nor more than five thousand dollars,—shall be whipped publickly with thirty-nine lashes on the bare back well laid on,—shall be set on the pillory for the space of one hour,—shall suffer imprisonment for a term <sup>Sec. 4, c;</sup> not exceeding one year,—and, upon the expiration of <sup>Sec. 5.</sup> such term of imprisonment, shall be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than four years nor exceeding seven years.

If any person or persons shall, in the day time, <sup>9—c. Brea-</sup> break and enter into the dwelling-house of another, <sup>king and en-</sup> with intent to commit murder rape larceny or any <sup>tering, in the</sup> other felony;—or if any person or persons shall enter <sup>day time,—</sup> into the dwelling-house of another, by day or by <sup>or entering by</sup> night, without breaking the same, with an intent to <sup>day or night,</sup> commit murder rape larceny or any other felony;— <sup>without brea-</sup> or if any person or persons, being in the dwelling- <sup>king,—</sup> house of another shall commit any felony, and shall, <sup>the dwelling-</sup> in the night time, break the said house to get out of <sup>house of ano-</sup> committing a <sup>ther, with in-</sup> felony in the <sup>tent to com-</sup> the same;—or if any person or persons shall, in the <sup>mit felony.—</sup> night time, break and enter into any warehouse store <sup>house of ano-</sup> shop or out house of another, wherein any goods <sup>ther, and</sup> wares or merchandise money or other thing in pos- <sup>breaking said</sup> session or action, being the subject of larceny, are <sup>house in the</sup> kept or deposited, with intent to commit larceny;— <sup>night time, to</sup> whether in either case the intent be executed or not,— <sup>get out:—</sup> every person, so offending, shall be deemed guilty <sup>breaking and</sup> of felony, and, upon conviction thereof, shall be set <sup>entering in</sup> on the pillory for the space of one hour,—shall be <sup>the night</sup> whipped publickly with thirty-nine lashes on the <sup>time, a ware-</sup> bare back well laid on,—shall suffer imprisonment <sup>house out</sup> for a term not exceeding one year,—and, upon the <sup>house &c.</sup> expiration of such term of imprisonment, shall be <sup>wherein</sup> disposed of as a servant, to the highest and best bid- <sup>goods &c. are,</sup> der or bidders, for a period not less than two years <sup>with intent to</sup> nor exceeding seven years,—and moreover, if any <sup>commit larc-</sup> goods chattels wares or merchandise money or other <sup>ny.</sup> thing, being the subject of larceny, shall have been <sup>Sec. 4, c;</sup> taken,—shall forfeit and pay, as restitution money, <sup>Sec. 5.</sup> to the owner or owners thereof, fourfold the value

CHAP. thereof, unless such goods chattels wares or mer-  
 CCCI.XII. chandise money or other thing, or any part thereof,  
 1826. shall have been returned, and in that case twofold  
 the value of the goods chattels wares or merchandise  
 money or thing returned.

10—a. Arson; If any person or persons shall, wilfully and mali-  
 or burning ciously, burn, or set on fire, any dwelling house of  
 dwelling another,—or any store barn stable or other building  
 house &c. adjoining to or parcel of a dwelling house of ano-  
 court house ther,—or the court house in either of the counties of  
 or public of this State,—or any house or office, wherein public  
 fice. records are kept,—every person, so offending, shall  
 be deemed guilty of arson and felony, and, upon con-  
 viction thereof, shall suffer death.

10—b. Burn- If any person or persons shall wilfully and mali-  
 in.— ciously, burn, or set on fire, any magazine,—any  
 a magazine, church; chapel or meeting house,—any academy or  
 chure or school house,—any ship or other vessel of another,—  
 school house; or a vessel, or any building hereinafter described being the pro-  
 or a vessel, perty of another, to wit, any mill, any building part  
 mill, or build- of a manufacturing establishment or used in carrying  
 ing used in on any manufacture or trade, any granary, warehouse,  
 manuf. cures or trade,— store, shop, barn, stable or outhouse,—other than,  
 or a granary, and excluding from the foregoing description, the  
 warehouse subjects of the preceding provision against arson,  
 store, shop, that is to say, “any dwelling-house of another,” and  
 barn, stable, “any store barn stable” and “other building adjoin-  
 out house &c. ing to or parcel of a dwelling-house of another,”  
 and “the court house in either of the counties of this  
 State,” and “any house,” and “office wherein pub-  
 lic records are kept;”—every person, so offending,  
 shall be deemed guilty of felony, and, upon convic-  
 tion thereof, shall forfeit and pay to the State a fine,  
 not less than five hundred dollars, nor more than six  
 thousand dollars,—or, in case of the destruction of  
 private property, shall restore and pay, to the owner  
 or owners thereof, fourfold the value thereof,—shall  
 be set on the pillory for the space of one hour,—  
 shall be publickly whipped, with any number of  
 lashes not exceeding sixty, on the bare back well  
 laid on,—shall suffer imprisonment for a term not ex-  
 ceeding two years,—and, upon the expiration of such  
 term of imprisonment, shall be disposed of as a ser-

vant, to the highest and best bidder or bidders, for a period not less than four years, nor exceeding four. CHAP. CCCLXII. 1826.

If any person or persons, being owner or owners, tenant or tenants of any dwelling-house warehouse store shop mill or other building, shall wilfully burn the same, with intent thereby to defraud or prejudice any person persons or corporation, that shall have underwritten any policy or policies of insurance thereon, or on any goods wares or merchandize therein,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the state a fine of fourfold the sum insured upon such dwelling-house warehouse store shop mill or other building and upon such goods wares and merchandise,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than three nor exceeding seven years. 10—c. Burning, by the owner or tenant, any building, with intent to defraud or prejudice underwriters. Sec. 4, c. sec. 5.

If any person or persons shall, wilfully and maliciously, burn, or set on fire, any wheat or other grain, hay or straw, any boards, shingles or other lumber, or any coals, of another;—every person, so offending, shall be deemed guilty of a misdemeanour, and, upon conviction thereof, shall forfeit and pay to the state a fine, not exceeding three thousand dollars,—shall be whipped publicly with any number of lashes not exceeding thirty-nine,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for a period not exceeding four years. 10—d. Burning grain hay straw boards shingles lumber or coals of another. Sec. 4, c. sec. 5.

If any person or persons shall, wilfully and maliciously, burn, or set on fire, any wheat, grain, hay, straw, boards, shingles, lumber, coals, building, ship or vessel, and if the said fire so set shall extend or spread, the person or persons setting such fire shall be deemed and held to be guilty of burning or setting on fire every the dwelling house, ship, vessel or building or matter to which such fire shall extend and communicate. 10—e. Burning a dwelling-house vessel building &c by the spreading of fire unlawfully set to other things.

If any person or persons shall, wilfully and maliciously, attempt to set on fire any dwelling-house or other building, any ship or other vessel, any wheat, grain, hay, straw, boards, shingles, lumber or coals, of another,—every person, so offending, shall be 10—f. Attempting to set on fire any dwelling-house, building, vessel grain, hay

- lumber coals &c. deemed guilty of a misdemeanour, and, upon conviction thereof, shall forfeit and pay to the state a fine, not exceeding five thousand dollars,—and shall be publickly whipped with any number of lashes not exceeding thirty-nine;—and shall be sold as a servant, to the highest and best bidder or bidders, for a period not exceeding four years.
- Sec. 4, c;  
sec. 5.
11. Kidnap-  
ping,— If any person or persons shall kidnap, and carry away, any free negro or free mulatto, from this state into any other state or country,—or shall aid or assist any person or persons in kidnapping, and carrying away, any free negro or free mulatto, from this state into any other state or country,—*or shall aid or assist any person or persons in kidnapping, and carrying away, any free negro or free mulatto, from this state into any other state or country*—or if any person or persons shall take and imprison any free negro or free mulatto, with intent to kidnap, and carry away, such free negro or free mulatto from this state into any other state or country,—or shall aid or assist any person or persons in taking and imprisoning any free negro or free mulatto, with intent to kidnap and carry away such free negro or free mulatto, from this state into any other state or country,—or if any person or persons shall fraudulently seduce, and decoy any free negro or free mulatto, from this state, into any other state or country, with intent that such free negro or free mulatto shall be sold or disposed of or held as a slave or servant,—or shall aid or assist any person or persons in fraudulently seducing and decoying any free negro or free mulatto, from this state, into any other state or country, with intent that such free negro or free mulatto shall be sold or disposed of or held as a slave or servant,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the state a fine, not less than one thousand dollars, nor more than two thousand dollars,—shall be set on the pillory for the space of one hour,—shall be publickly whipped with sixty lashes on the bare back well laid on,—and shall be imprisoned, in solitary confinement, for a term of not less than three, nor more than seven years,—and, at the expiration of said imprisonment,
- assisting to  
kidnap,—
- taking with  
intent to kid-  
nap,—
- assisting to  
take with in-  
tent to kid-  
nap,—
- seducing  
from the  
State with in-  
tent to dis-  
pose of as a  
slave &c.,—  
assisting to  
seduce from  
the State with  
intent to dis-  
pose of as a  
slave etc.—

shall be disposed of as a servant, to the highest and best bidder or bidders, for the period of seven years; and every person or persons, so offending a second time, upon conviction of such second offence, shall suffer death.

If any person or persons shall feloniously take from the person of another, by violence or by putting him or her in fear, any money, goods, chattels or effects, of any value,—or any bank note, promissory note, bill of exchange, check, order or obligation for the payment of money or delivery of goods,—or any warrant of attorney, deed, release, receipt, acquittance, or written instrument, giving, granting, transferring, securing, conferring, releasing, discharging, or acquitting any estate, right, interest, power, authority, debt, claim or demand of any value,—every person, so offending, shall be deemed guilty of robbery and felony;—and if the offence shall be committed, on or near to the highway, or in a dwelling house, the offender or offenders, upon conviction thereof, shall forfeit and pay to the state a fine, not less than one thousand dollars, nor more than five thousand dollars,—shall be set on the pillory for the space of one hour,—shall be publicly whipped with sixty lashes upon the bare back well laid on,—shall suffer imprisonment for a term not exceeding four years,—and, upon the expiration of such term of imprisonment, shall be disposed of as a servant, to the highest and best bidder or bidders, for the period of fifteen years;—and if such offence shall be committed in any other place, than on or near the highway or in a dwelling-house, the offender or offenders, on conviction thereof, shall forfeit and pay to the state a fine, not less than five hundred dollars, nor more than two thousand dollars,—shall be set on the pillory for the space of one hour,—shall be publicly whipped with thirty-nine lashes on the bare back well laid on,—shall suffer imprisonment for a term not exceeding two years,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for the period of ten years.

If any person or persons shall, with violence, make an assault on another, with intent to commit robbery,—with intent to

commit robbery.

Sec. 4, c.  
sec. 5.

12 c. Larceny.—  
slave stealing,—  
horse stealing,—  
picking lock  
etc. and stealing  
property secured  
thereby etc.

every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine, not less than two hundred dollars, nor more than one thousand dollars,—shall be publickly whipped with thirty-nine lashes on the bare back well laid on,—shall suffer imprisonment for a term not exceeding two years,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for the period of four years,

If any person or persons shall feloniously steal take and carry away any negro or mulatto slave,—or if any person or persons shall feloniously steal take and carry away any horse, mare, gelding, colt, ass or mule,—or if any person or persons shall pick or break any lock, and feloniously steal take and carry away any goods, chattels or effects, bank note or bill, promissory note, bill of exchange, check order or bond for the payment of money, or any obligation or written security for the payment of money or the delivery of goods or merchandize, or any deed, warrant of attorney, certificate of stock, release, receipt or other writing giving, granting, transferring, securing, conferring, releasing or discharging any estate, right, interest, power, authority, debt, claim or demand, of any value, which were under or secured by said lock,—every person, so offending, shall be deemed guilty of larceny and felony, and, upon conviction thereof, shall forfeit and pay, as restitution money, to the owner or owners of such slave, horse, mare, gelding, colt, ass or mule, or of such goods, writing or chose in action, fourfold the value thereof, unless the same shall have been restored, and in that case, twofold the value thereof,—shall be set on the pillory for the space of one hour,—shall be publickly whipped with thirty-nine lashes upon the bare back well laid on,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for the period of seven years.

Sec. 4, c.  
sec. 5.

12. d. Disposing or offering to dispose in this State, of a horse etc. stolen in another State.

If any person or persons, having stolen, in any other state, any horse, gelding, mare, colt, ass or mule, shall bring the same into this state, and sell exchange or dispose of, or offer to sell exchange or dispose of, the same,—every person, so offending,

upon conviction thereof, shall forfeit and pay, in case of a sale exchange or disposal effected, as restitution money, fourfold the sum of money or other value received upon such sale exchange or disposal, to the person or persons from whom the same shall have been received,—shall be publickly whipped with thirty-nine lashes upon the bare back well laid on,—and shall suffer imprisonment for a term not exceeding two years;—but the foregoing provision, or any proceeding under it, shall not prevent nor delay the Governour from causing any person, offending against said provision, to be delivered up, upon the demand of the executive authority of any state or territory, according to the constitution and laws of the United States; and in case of a conviction of an offence against said provision, the court shall transmit information of the circumstances to the Governour, that the same may be communicated to the executive authority of the state in which the theft shall have been committed.

If any person or persons shall buy receive or conceal any slave, horse, gelding, mare, colt, ass or mule, which shall have been stolen, knowing the same to have been stolen,—every person, so offending, shall be deemed guilty of felony, and upon conviction thereof, shall forfeit and pay, as restitution money, to the owner or owners of such slave, horse, gelding, mare, colt, ass, or mule, so bought, received or concealed, fourfold the value thereof, unless the same shall have been restored, and in that case, twofold the value thereof,—shall be publickly whipped with thirty-nine lashes on the bare back well laid on,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for the period of seven years.

If any person or persons, other than a free-negro or free mulatto, shall feloniously steal take and carry away any goods chattels or effects, bank note or bill, promissory note, bill of exchange, check order or bond for the payment of money, or any obligation or written security for the payment of money or delivery of goods or merchandize, or any warrant of attorney or other instrument authorizing the receiving of any money, or any certificate of bank stock or

CHAP.  
CCCLXII.  
1826.

(sec. 4, c.)  
this provision  
not to delay  
the giving up  
the offender  
on demand of  
the State  
where the  
horse etc was  
stolen  
in case of  
conviction under  
the above  
provision, information  
thereof to be  
transmitted  
to governour  
etc.

12. e. Buying  
receiving or  
concealing a  
stolen slave  
horse etc.,  
knowing the  
same to have  
been stolen.  
see c. sec. 3.

sec. 4, c.  
sec. 5.

12. f. Larceny,  
by a person  
not a free negro or mulatto  
—in stealing  
goods,  
bank bill,  
check, promissory note,  
bond etc.,  
(sec. 10, c.)  
sec. 12, h.

CHAP. funded debt of the United States, or any release or receipt discharging or acquitting any debt or demand,—every person, other than a free negro or free mulatto, so offending, shall be deemed guilty of larceny and felony, and, upon conviction thereof, shall forfeit and pay, as restitution money, to the owner or owners of such goods chattels or effects, bank note or bill, promissory note, bill of exchange, check, order, bond, obligation, written security, warrant of attorney, certificate, release, receipt or other instrument, fourfold the value thereof, unless the same shall have been restored, and in that case, twofold the value thereof,—shall be publicly whipped with twenty-one lashes upon the bare back well laid on,—and, for the space of six months after discharge from

1826.

see g. sec. 3.)

so offending a second or other subsequent time. sec. 10. f.

sec. 4; c. sec. 5.

12. g. Buying receiving or concealing, by a person not a free negro or mulatto, any goods, bank bill, check, promissory note etc. stolen or or taking by robbery knowing the same

prison; shall wear a Roman 'T', not less than four inches long and one inch wide, of a scarlet colour, on the outside of the outermost garment, upon the back, between the shoulders, so as at all times to be fully exposed to view, for a badge of his or her crime; and every person, other than a free negro or free mulatto, so offending a second or other subsequent time, upon conviction of such second or subsequent offence, shall forfeit and pay, as restitution money, to the owner or owners, fourfold the value as aforesaid, unless the property thing or chose in action stolen shall have been restored, and in that case, twofold the value thereof,—shall be publicly whipped with thirty nine lashes on the bare back well laid on,—shall be set in the pillory for the space of one hour,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than one year, nor exceeding seven years.

If any person or persons, other than a free negro or free mulatto, shall buy receive or conceal any goods chattels or effects, bank note or bill, promissory note, bill of exchange, check or order for the payment of money, or other matter or writing being the subject of larceny, which shall have been stolen, or taken by robbery, knowing the same to have been stolen, or taken by robbery, every person, other than a free negro or free mulatto, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall

forfeit and pay to the owner or owners of any such goods, chattels, effects, bank note or bill, promissory note, bill of exchange, check or order or other matter or chose in action, so bought received or concealed, fourfold the value thereof, unless the same shall have been restored, and in that case, twofold the value thereof,—shall be publickly whipped with twenty-one lashes on the bare back well laid on,—and, for the space of six months after discharge from prison, shall wear a Roman R, not less than four inches long and one inch wide, of a scarlet colour, on the outside of the outermost garment, upon the back, between the shoulders, so as at all times to be fully exposed to view, for a badge of his or her crime ;—and every person, other than a free negro or free mulatto, so offending a second or other subsequent time, upon conviction of such second or other subsequent offence, shall forfeit and pay to the owner or owners like restitution money as aforesaid,—shall be publickly whipped with thirty-nine lashes upon the bare back well laid on,—shall stand in the pillory for the space of one hour,—and shall be disposed of as a servant, to the highest and best bidder or bidders, for a period not less than one year, nor more than seven years.

If any free negro or negroes, free mulatto or mulattoes, shall feloniously steal and carry away any goods chattels or effects, any bank note or bill, promissory note, bill of exchange, check or order or bond for the payment of money, or any order obligation or writing for the delivery of goods or merchandize, any warrant of attorney authorizing the receiving of money, or any release acquittance or receipt discharging a debt or demand ;—or if any free negro or negroes, free mulatto or mulattoes, shall buy or receive or conceal any goods chattels or effects, bank note or bill, promissory note, bill of exchange, check or order or bond for the payment of money, or any order obligation or writing for the delivery of goods or merchandize, any warrant of attorney authorizing the receiving of money, or any release acquittance or receipt discharging a debt or demand, which shall have been stolen, or taken by robbery, knowing the same to have been stolen, or taken by robbery,—

See 12. g;  
sec. c. sec. 3.

sec. 4. c.  
sec. 5.

so offending  
a second or  
other subse-  
quent time.  
sec. 10, f.  
sec. 4, c.  
sec. 5.

13. a. Affir-  
mation may be  
administered  
to a person  
conscientiously  
refusing to  
take an oath

and the vio-  
lation of such  
affirmation  
shall be the  
same crime  
as the viola-  
tion of an  
oath.

every free negro or free mulatto, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay, as restitution money, to the owner or owners of such goods, chattels, effects, bank note or bill, promissory note or other matters or writings so stolen, bought, received or concealed, four fold the value thereof, unless the same shall have been restored, and in that case, twofold the value thereof,—shall be publicly whipped with twenty-one lashes upon the bare back well laid on,—and shall be disposed of as a servant, to any person or persons residing within this state, for the highest sum that can be obtained, for such term, as shall be necessary in order to raise the restitution money and all costs, or any balance thereof that may remain after such payment as the offender may be able to make, provided that such term shall not exceed seven years;—and every free negro or free mulatto, so offending a second or other subsequent time, upon conviction of such second or other subsequent offence, shall forfeit and pay to the owner or owners like restitution money as aforesaid,—and shall be disposed of, as a servant, to the highest and best bidder or bidders, for the period of seven years. And for the first offence, the court may, in their discretion, and if they shall consider that the circumstances render it proper, adjudge and direct that the offender shall be disposed of, as a servant, to the highest and best bidder or bidders, instead of “to any person or persons residing within this state.”

If any person shall conscientiously refuse to take an oath in any case or on any occasion, in or upon which it would otherwise be necessary or proper that an oath should be administered to such person, an affirmation shall be substituted for an oath and administered to such person, and shall be as sufficient, and shall have the same effect to all intents and purposes, as an oath;

The taking of a false affirmation shall be perjury in every case and on every occasion, in or upon which the taking of a false oath would be perjury, and the violation or breach of an affirmation shall be the same crime as the violation or breach of an oath.

If any person shall commit the crime of perjury,<sup>13. b. Perjury—</sup> or shall suborn or procure any other person to commit the crime of perjury, every person, so offending,<sup>and subornation of perjury. sec. 10. d.</sup> shall be deemed guilty of felony, and upon conviction thereof, shall forfeit and pay to the state a fine, not less than five hundred dollars, nor more than two thousand dollars,—shall be set on the pillory for the space of one hour,—and shall be disposed of as a servant,<sup>sec. 4. c; sec. 5.</sup> to the highest and best bidder or bidders, for a period not less than four years, nor exceeding seven years.

If any person or persons, with intent to defraud,<sup>14. a. Forge.</sup> shall falsely alter a bill or note of any incorporated bank, whether such bank be in or out of this State,<sup>or bank notes or other instruments affecting banks,—</sup>—or shall falsely make forge or counterfeit, any bill or note, in imitation of, or purporting to be, a bill or note of any incorporated bank, whether such bank be in or out of this State,<sup>sec. 10. c.</sup> or any instrument purporting to be a certificate of deposit in any such bank,—or shall forge or counterfeit the hand of the president or of the cashier of any such bank to any instrument purporting to contain or express a contract of or for such bank for the payment of money or an acknowledgment of any deposit in such bank,—or shall publish or utter as true, pass or attempt to pass, any such altered forged or counterfeited bill or note or instrument, knowing the same to be altered forged or counterfeited,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the State a fine, not less than five hundred dollars nor more than two thousand dollars,—shall be set on the pillory for the space of one hour,—shall suffer imprisonment, in solitary confinement, for the term of three months,—and shall wear the letter F, at least six inches long and two inches wide, of a scarlet colour, upon the outside of the outermost garment, on the back between the shoulders, so as at all times to be fully exposed to view, as a badge of his or her crime, for a period not less than two years, nor exceeding five years, after his or her discharge from prison.<sup>uttering as true, passing or attempting to pass any such forged note or instrument. sec. g. sec. 3.</sup>

If any person or persons shall make or engrave any plate implements or materials, for the purpose of<sup>14. b. Making any plate implements</sup>

or materials  
for forging  
any bank  
bill.—

or having in  
possession  
any such  
plate imple-  
ments or ma-  
terials &c,—  
or having in  
possession  
any blank or  
unfinished  
forged bank  
note with in-  
tent to com-  
plete or per-  
mit the same  
to be comple-  
ted &c.

cc g. sec. 3

To what the  
description of  
a bank bill or  
note used in  
the two pre-  
ceding para-  
graphs shall  
extend.

14. c. Forg-  
ing—  
sec. 10. a.

a promissory  
note, order,  
obligation &c;  
or an accep-  
tance of an  
order &c,—  
or an assign-  
ment of an or-

falsely altering forging or counterfeiting any note or bill, in imitation of or purporting to be a bill or note of any incorporated bank, whether such bank be in or out of this State, or any part of such bill or note, —or shall have in possession any such plate imple-  
ments or materials, knowing the same, and with in-  
tent that they shall be used for the purpose aforesaid,  
—or shall have in possession any blank or unfinished  
note or bill made in the form or similitude of a bill or  
note of any such incorporated bank, with intention  
fraudently to fill up and complete the same, or to per-  
mit or to cause the same to be fraudulently filled up  
and completed,—every person so offending, shall be  
deemed guilty of felony, and, upon conviction there-  
of, shall forfeit and pay to the State a fine, not less  
than five hundred dollars nor more than four thousand  
dollars,—shall be set on the pillory for the space of  
one hour,—shall be publicly whipped with thirty-  
nine lashes on the bare back well laid on,—shall  
suffer imprisonment for a term not exceeding two  
years,—and shall wear the letter F, of the size co-  
lour and in the manner prescribed in the last pre-  
ceding paragraph, for a period not less than five years  
after his or her discharge from prison, for a badge of  
his or her crime.

The description of a bill or note of any incorpora-  
ted bank, used in the two preceding paragraphs, shall  
extend to and comprehend any bill or note, of the  
president directors and company, or the president  
and directors of such bank,—or any bill or note is-  
sued by order or on behalf of, the president directors  
and company, or the president and directors, of such  
bank,—or any bill or note containing or expressing  
a promise or contract of the corporation, or on their  
behalf, for the payment of money.

If any person or persons, with intent to defraud,  
shall falsely make forge or counterfeit any instrument  
or writing, purporting to be,—a promissory note, bill  
of exchange, check, order, obligation or single bill,  
for the payment of money, or delivery of goods or  
merchandise,—or an acceptance of a bill of exchange  
or order,—or an indorsement or assignment of a  
promissory note, bill of exchange, check, order, o-

obligation or single bill or other chose in action,—der obligation etc.  
 or a deed for conveying giving transferring releasing or a deed  
 or acquitting any property real personal or mixed, or transferring or  
 any estate interest right or title in, to or concerning releasing pro-  
 the same,—a last will and testament, a will or codicil, erty etc.,—  
 a warrant of attorney, a release, acquittance, or re- or a last will,  
 ceipt,—an endorsement of credit upon a promissory warrant of at-  
 note, bill of exchange, order, obligation or single bill, torney, re-  
 —or an instrument creating or discharging a con- ceipt etc.,—  
 tract for the payment of money or delivery of goods or an en-  
 or merchandize, or for the sale, conveyance, assign- dorsement  
 ment or release of any property real personal or of credit etc.  
 mixed, or chose in action, or any interest in or con- or an instru-  
 cerning the same, or creating or discharging any co- ment creating  
 venant or stipulation,—or shall forge or counterfeit ing a contract  
 the hand and seal, or the hand or seal, of any person etc.,—  
 or persons,—or shall forge or counterfeit the seal of or the hand  
 any corporation, or the hand of any officer of a cor- and seal of a  
 poration to any instrument or writing purporting to person or cor-  
 be an instrument of or for such corporation,—or shall poration etc;  
 falsely alter any promissory note, bill of exchange, falsely alter-  
 check, order or other instrument or writing herein ing any of  
 before specified or mentioned,—or shall publish or said instru-  
 utter as true, or pass or attempt to pass, any such ments:—  
 forged or counterfeited instrument or writing as afore- uttering as  
 said, or any such falsely altered promissory note, bill true, passing  
 of exchange, check, order or other instrument or or attempting  
 writing hereinbefore specified or mentioned, knowing to pass any  
 the same to be forged, counterfeited or altered,— such forged  
 every person, so offending, shall be deemed guilty instrument  
 of felony, and, upon conviction thereof, shall forfeit etc.  
 and pay to the state a fine not less than five hundred  
 dollars, nor more than two thousand dollars,—shall  
 be set on the pillory for the space of one hour,—shall  
 suffer imprisonment, in solitary confinement, for the  
 term of three months,—and shall wear the letter F, See g. sec. 3.  
 at least six inches long and two inches wide, of a  
 scarlet colour, upon the outside of the outermost  
 garment, on the back between the shoulders, so as at  
 all times to be fully exposed to view, for a badge of  
 his or her crime, for a period not less than two years,  
 nor exceeding five years from his or her discharge  
 from prison.

14. d. Counterfeiting public seals,—having in possession and concealing such counterfeited seals,—corruptly affixing true seals to any instrument

If any person or persons shall counterfeit the great seal of this State,—or the seal of the Secretary's office,—or the seal of any court or public officer, by law authorized to have and use a seal,—or shall have in possession any such counterfeited seal, knowing the same to be counterfeited, and shall wilfully conceal it,—or shall, unlawfully and corruptly, or with evil intent, affix any of the said true seals to any writing or instrument ;—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the state a fine of one thousand dollars,—and shall suffer imprisonment, not less than six months, nor more than two years.

14. e. Forging altering embossing or destroying public records.

If any person or persons shall forge or counterfeit, falsely alter or deface, embezzle or destroy, any record of any court of this state, or paper in the nature of a record in any such court, or any record in the office for recording of deeds, or in the register's office, in either of the counties of this state, or any bond, account or other paper filed in either of said offices, with intent to defraud any person or persons or corporation, or to embarrass delay or obstruct the administration of justice,—every person, so offending, shall be deemed guilty of felony, and, upon conviction thereof, shall forfeit and pay to the state a fine not less than five hundred dollars, nor more than four thousand dollars,—shall suffer imprisonment, in solitary confinement, for the term of three months,—and shall wear the letter F, of the same dimensions and colour and in the place and manner prescribed in those particulars in the last preceding paragraph, as a badge of his or her crime, for a period not less than five years from the time of his or her discharge from prison.

See g. sec. 3.

15. Dueling,—or being in any way concerned in a duel.

If any person shall, by letter, note, or verbal message, challenge call upon or invite any other person to fight a duel.—or shall accept any such challenge, call or invitation,—or shall knowingly and wittingly bear or deliver such challenge, call or invitation,—or if any person, shall be engaged in or shall fight a duel,—or shall be the aid or second to either party in a duel, whether the same be fought or not,—or shall

encourage or abet the fighting of a duel,—every person, so offending, upon conviction thereof, shall forfeit and pay to the state a fine of one thousand dollars,—shall suffer imprisonment for the term of three months,—and shall be forever disqualified and incapable of holding a seat in the General Assembly or any office of honour trust or profit in this state. CHAP. CCCLXII. 1826.

If any three or more persons shall meet together, with clubs, staves or other hurtful weapons, to the terror of any of the people of this state, and shall commit or attempt to commit violence or injury to any person, or to the property of any person,—or if three or more persons shall commit a riot,—every person, so offending, upon conviction thereof, shall forfeit and pay to the state a fine not less than twenty dollars nor more than two hundred dollars,—and may be also sentenced to suffer imprisonment for a term not exceeding six months, if the court shall deem the circumstances to require such additional punishment. 16. Rout—and riot.

If any person or persons, without special liberty from the General Assembly of this state, shall set up and draw any lottery, to raise and collect money, or for the sale of any property,—every person so offending, for every such offence, upon conviction thereof, shall forfeit and pay to the state a fine not less than five hundred dollars, and not exceeding ten thousand dollars,—and shall suffer imprisonment for a term not exceeding three years: provided however, that nothing, in the foregoing provision contained, shall extend to the setting up or drawing of any lottery, in the scheme of which, lotteries, in other states, may be consolidated with a lottery or lotteries authorized by the General Assembly of this state. 17 Setting up and drawing lottery.

If any person or persons shall be guilty of common barretty, maintenance, or champerty,—every such person, upon conviction of such offence, shall forfeit and pay to the state a fine, not less than fifty dollars, nor more than four hundred dollars. 18. Barretty, maintenance and champerty.

If any person, having contracted marriage, shall in the life time of his or her husband or wife, marry with another person,—or if any unmarried person shall marry with a person, having, at the time, a 19. Bigamy—

CHAP. husband or wife living, and such circumstance be  
 CCCLXII. known to such unmarried person,—every person, so  
 1826. offending, shall be deemed guilty of bigamy, and,  
 upon conviction thereof, shall forfeit and pay to the  
 state a fine, not less than four hundred dollars, nor  
 more than two thousand dollars,—and shall suffer im-  
 prisonment for a term, not less than three months,  
 nor exceeding one year ;—and if an inhabitant of this  
 state shall go out of the state and contract a marriage  
 against the form and effect of the foregoing provision,  
 with intention to return and reside in this state, and  
 shall return accordingly,—such person, notwithstand-  
 ing such marriage shall be solemnized or contracted  
 without this state, shall be liable to be indicted, tried,  
 convicted and punished in the same manner, as if the  
 said marriage had been solemnized or contracted  
 within this state :—If any persons, after a conviction  
 of either of them of bigamy, on the ground of a  
 marriage with the other, shall cohabit or continue to  
 live together,—each of them, so offending, upon con-  
 viction thereof, shall forfeit and pay to the state a fine  
 of four hundred dollars,—shall suffer imprisonment  
 for a term not less than six months nor exceeding one  
 year,—and shall be disposed of as a servant, to the  
 highest and best bidder or bidders, for a period not  
 less than two years nor exceeding seven years :—but  
 no person shall be convicted of bigamy, if the hus-  
 band or wife, at the time of the second marriage,  
 shall have been absent for five years, and during that  
 time the accused shall have received no intelligence  
 of his or her being alive, or if there shall have been  
 other good ground to believe the former husband or  
 wife dead, or if the former marriage have been le-  
 gally dissolved.

cohabiting af-  
 ter conviction  
 of bigamy.

Sec. 4, c.  
 sec. 5.

in what case  
 a person shall  
 not be con-  
 victed of  
 bigamy.

20. Sodomy. If any person shall commit the crime against na-  
 ture,—every person, so offending, shall be deemed  
 guilty of felony, and, upon conviction thereof, shall  
 forfeit and pay to the state a fine of one thousand  
 dollars,—shall suffer imprisonment, in solitary con-  
 finement, for any term not exceeding three years,—  
 and shall be whipped publicly with sixty lashes on  
 the bare back well laid on.

31. Witch. If any person or persons shall pretend to exercise

the art of witchcraft, conjuration, fortune telling, or craft,—conjuration,—  
 dealing with spirits,—every person or persons, so of fortune-tel-  
 fending, upon conviction thereof, shall be publickly ling,—and  
 whipped with twenty-one lashes on the bare back dealing with  
 well laid on, and shall forfeit and pay to the state a spirits.  
 fine not exceeding one hundred dollars.

If any person or persons—(who shall, either vo-22. Fraud  
 luntarily, or on taking the benefit of any law of this against credi-  
 state for the relief of insolvent debtors, make an as-tors,—  
 signment of his her or their estate or effects for the commuted ei-  
 benefit of his her or their creditors,)—either upon ther at time  
 making such assignment, or previously, and with the of assignment  
 intention, or in contemplation of taking the benefit of estate or  
 of such law, or of making such assignment,—shall previously  
 fraudulently conceal, secrete, keep back or remove, and in con-  
 alien, assign or transfer, cancel, destroy or discharge, templation  
 any of his, her or their goods, money, rights, debts, the roof, or of  
 credits, effects or property real or personal, or any taking the be-  
 bond, obligation, bill of exchange, promissory note, nest of insol-  
 draft, check, order, contract, evidence of deposite, vent laws,—  
 book of accounts, certificate of stock, bill of sale, in concealing  
 conveyance or title paper, belonging to or in posses- keeping back  
 sion of him, her or them,—or shall fraudulently or transferring  
 collusively confess, or authorize the confession, or money not  
 suffer the recovery of, any judgment against him, justly due or  
 her or them, for any money or value not justly due for more than  
 or recoverable, or for a greater sum or value than due,—  
 justly due or recoverable,—or shall, fraudulently, or in giving  
 without a real true and adequate consideration, exe-bond, note,  
 cute or make to any person or persons any bond, ob-draft &c.  
 ligation, bill of exchange, promissory note, draft, without a real  
 check, order, acknowledgment or any instrument, considera-  
 for the payment of money, delivery of goods or mer-tion :—  
 chandize, or for transferring value ;—or,—after the or committed  
 making of such assignment,—shall fraudulently con-after making  
 ceal, secrete, keep back or remove, alien, assign, or assign-  
 transfer, cancel, destroy or discharge, any goods, ment,—  
 money, rights, debts, credits, effects or property real in concealing,  
 or personal, or any bond, obligation, bill of exchange, keeping back,  
 promissory note, draft, check, order, contract, evi-transferring,  
 dence of deposite, book of accounts, certificate of discharging  
 stock, bill of sale, conveyance or title paper, which, &c. any mo-  
 at the time of making such assignment, belonged to nities, goods  
 property,  
 bonds &c,—

or in giving judgment making and antedating any bond note or order etc.

Fraud against creditors, in procuring some to obtain by assignment for the benefit of creditors,—

or was in possession of him her or them,—or shall, fraudulently, or collusively, confess, or authorize the confession, or suffer the recovery of, any judgment, or make and antedate any bond, obligation, promissory note, bill of exchange, check, order, draft, acknowledgment of debt or contract, with the intent that such judgment, bond, obligation, promissory note, bill of exchange, check, order, draft acknowledgment or contract shall be paid or satisfied in the whole or in any part by means of, or brought forward or set up as a demand against, the property, effects, rights or credits assigned by means of such assignment, or the money therefrom arising;—every person, so offending, upon conviction thereof, shall forfeit and pay to the state a fine, not less than five hundred dollars nor more than two thousand dollars, —and shall suffer imprisonment for a term, not less than three months, nor exceeding one year;—and moreover the discharge from imprisonment, which shall be granted to such offender upon such assignment, shall be of no avail to such offender, and shall not be pleaded nor in any manner set up or insisted upon by him or her in bar of any imprisonment action or proceeding,—and any release receipt or acquittance, given to any such offender or offenders before his her or their conviction, in pursuance or consideration of such assignment or of money raised through or by means of the same, shall avail no further than to prove the sum paid, and to discharge so much of the demand to which it shall be applied, and the balance of such demand, after deducting the sum so applied, shall be in force and recoverable, notwithstanding any such release receipt or acquittance, —and every such offender shall forfeit the privilege of being relieved under any law of this state for the relief of insolvent debtors, and shall never have the benefit of any such law:— And if any person or persons, in contemplation of insolvency, or in contemplation of taking the benefit of any of the insolvent laws of this state, shall make an assignment of his her or their estate or effects, for the benefit of his her or their creditors, and in or by such assignment, either under the provisions thereof or otherwise, shall

prefer any one or more creditor or creditors to another or others,—or shall, in or by such assignment, secure or pay to any one or more creditor or creditors, a greater proportion of his her or their debt or demand, than shall be secured or paid to each and every the creditor and creditors of the person or persons making such assignment,—every such assignment, so preferring one or more creditor or creditors to another creditor or other creditors, shall be deemed fraudulent and absolutely void,—and the estate, goods, chattels or effects, contained in such assignment or assignments, shall be liable to be taken in execution or attached, for the payment of the debts of such assignor or assignors, in the same manner, and to as full an effect, as if no such assignment had been made,—and the person or persons, making such fraudulent assignment or assignments, shall forever be excluded from the benefit of all the laws of this state for the relief of insolvent debtors.

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and such assignment to be void.

If any person or persons shall wilfully interrupt, disturb or molest any church, meeting, congregation or society, assembled for the purpose of religious worship,—every person, so offending, upon conviction thereof, shall forfeit and pay to the State a fine of not less than eight dollars nor more than sixty dollars.

23 Disturbing religious meetings.

If any person or persons shall institute, or be concerned in, or shall bet upon, any horse race, cock fight or shooting match, or shall knowingly sell or dispose of any rum, brandy, whiskey, wine, beer, cider or other spirituous or fermented liquor to any person or persons met or being at any place on occasion of such horse race, cock fight or shooting match, except a regularly licensed tavern keeper,—every person, so offending, upon conviction thereof, shall forfeit and pay to the State a fine of thirty dollars; no indictment shall be preferred for an offence against the foregoing provision, after the expiration of six months from the day of committing the offence.

24. Horse racing, cock fighting, and shooting matches, or selling liquor thereat.

SEC. 2. *And be it further enacted,* That cheats and conspiracies shall be deemed misdemeanours and shall be punished by fine, imprisonment and pillory,

Cheats and conspiracies.

or by any two or either of those punishments, according to the discretion of the court:—and that assaults, batteries, nuisances, and all other offences indictable at common law and not provided for by this or some other act of the General Assembly, shall be deemed misdemeanours, and shall be punishable by fine and imprisonment or either, according to the discretion of the court.

(a.) Accomplices;—

generally,—

of a principal under the age of fourteen years,—

may be tried without indictment of principal.

(b.) Accessories after the fact;—

in capital cases,—

in other cases: may be tried before trial of a principal, who has been

**SEC. 3.** *And be it further enacted,* That if any person or persons shall abet, procure, command, or counsel any other person or persons to commit any crime or misdemeanour, every such person shall be deemed an accomplice and equally criminal as the principal offender, and, upon conviction, shall be punished in the same manner, and with the same punishment prescribed for every person convicted of such crime or misdemeanour; but if the principal offender be under the age of fourteen years and the crime committed not capital, the accomplice, if of a full age, shall suffer the highest degree of punishment prescribed for the offence. An accomplice may be prosecuted tried and convicted, without the conviction trial or indictment of the principal,—and an acquittal of the principal shall not be a bar to the trial and conviction of the accomplice.

If any person or persons, knowing that a crime or misdemeanour has been committed, shall give any aid to the offender or offenders or either of them, with the intent and for the purpose, that he she or they may avoid arrest, or may effect his her or their escape from arrest, or from prison, from trial or from execution,—every person, so offending, shall be deemed an accessory, and, upon conviction of such offence,—if the principal crime committed be punishable with death,—shall forfeit and pay to the State a fine not less than one thousand dollars nor more than four thousand dollars,—and shall suffer imprisonment for a term not less than six months nor exceeding one year;—and,—in case of any other crime or misdemeanour committed,—shall forfeit and pay to the owner or owners the same restitution money, and to the state the lowest fine, and shall suffer imprison-

ment for the shortest term, which the principal offender or offenders on conviction would be liable to pay or suffer. If the principal offender or offenders shall be indicted,—and if he she or they cannot be taken, or cannot be brought to trial on such indictment, by reason of avoiding arrest, or of escape as aforesaid, or by reason of the death of the principal offender or offenders,—the accessory may be tried and convicted without the conviction or trial of the principal. But a husband or wife, for any aid afforded by either to the other,—a parent or child, for any aid afforded by either to the other,—or a servant or slave, for any aid afforded to a master or mistress,—shall never be punished nor prosecuted as an accessory, pursuant to the foregoing provision. (c.) Receivers etc of stolen property may be tried without indictment of principal. See 12, c.—12, g.—12, h, in sec. 1.

If any person or persons shall buy, receive, or conceal any slave, horse, property, or thing in possession or action being the subject of larceny, which shall have been stolen or taken by robbery, knowing the same to be stolen or taken by robbery,—every such person shall be deemed a principal offender, and may be prosecuted as such, without the conviction trial or indictment of the principal thief or robber. (c.) Receivers etc of stolen property may be tried without indictment of principal. See 12, c.—12, g.—12, h, in sec. 1.

If any person or persons shall take a reward to abstain from or stifle a prosecution for any crime hereinbefore declared to be felony, or shall compound any felony,—every person so offending, upon conviction thereof, shall forfeit and pay to the State a fine, not less than one hundred dollars, nor more than two thousand dollars,—and may be imprisoned for a term not exceeding three months. (d.) Compounding a felony.

If any person shall be guilty of the crime of blasphemy,—every person, so offending, upon conviction thereof, shall forfeit and pay to the State a fine, not exceeding fifty dollars,—and shall suffer imprisonment, in solitary confinement, for any term not exceeding two months,—and may, in the discretion of the court, be required to find sureties for good behaviour for one year after discharge from prison. (e.) Blasphemy.

If any sheriff, gaoler, or other person or persons, shall provide or supply—to or for any convict suffering imprisonment, in the gaol in either of the counties of this state, as a part of his or her punishment— (f.) Providing etc., or assisting to procure etc. liquor for a

convict im-  
prisoned etc.

gaoler so of-  
fending—  
sheriff so of  
fending a se-  
cond,

or subsequent  
time.  
Sec. 10. f.

(g.) Convict  
not wearing  
the letter pre-  
scribed as a  
badge of his  
crime etc.:—  
see 12, f.,—12,  
g.,—14, a.,—  
14 b.,—14, c.,  
—14, c.,—in  
sec. 1.

duty of grand  
jurors, justi-  
ces of the  
peace and  
constables in  
relation  
thereto;  
this clause to  
be read to e-  
very convict  
etc.

or shall aid or assist such convict to procure or obtain—any wine, cider, perry, rum, brandy, whiskey, porter, ale, beer or other spirituous expressed or fermented liquor,—or if any sheriff or gaoler shall, knowingly, permit or suffer any such convict to procure, obtain, or have any such liquor as before described or mentioned,—or if any sheriff or gaoler shall not use all due diligence and care to prevent any such convict from procuring obtaining or having any such liquor,—every sheriff, gaoler, or other person, so offending, for every such offence, on conviction thereof shall forfeit and pay to the state a fine not less than fifty dollars nor more than one hundred dollars;—and every gaoler, so offending, upon conviction, shall be displaced;—and every sheriff, so offending a second time, shall, for such second offence, forfeit and pay to the state a fine of one hundred dollars,—and for a third or subsequent offence, a fine of two hundred dollars:—provided that any liquor, prescribed, by the physician attending at the gaol, as medicine, may be supplied, but every such prescription shall be in writing.

If any person,—who shall be convicted of any offence against any clause or provision of this act, a part of whose sentence shall be to wear any letter of any dimensions or colour and in any manner for a badge of his or her crime,—shall neglect or refuse fully to comply with such part of said sentence,—or shall be seen at any time, in the period during which he or she shall be sentenced to wear such letter, without the same worn as by such sentence directed,—every person, so offending, upon conviction of such offence, shall forfeit and pay to the state a fine of twenty dollars,—and shall be publicly whipped with ten lashes upon the bare back well laid on:—and it shall be the duty of every justice of the peace, grand juror, or constable, knowing, or hearing of any offence against the foregoing provision, to give information thereof, so that the offender may be prosecuted: the foregoing clause shall be read to every convict, whose sentence it may concern, upon such sentence being pronounced, and the import thereof plainly declared to him.

SEC. 4. *And be it further enacted,* That the punishment of death shall, in all cases, be inflicted by hanging by the neck, at such time as the court shall appoint, not less than ten days after pronouncing the sentence; but the Governour may suspend the execution, until a more distant day by him to be appointed, and from day to day, as he shall deem his duty, under the circumstances, to require;—but the Governour, in every act suspending execution of a sentence of death, shall appoint a day for doing such execution, and specify two hours between which it shall be done: it shall be the duty of the sheriff or his deputy, or in case the office of sheriff be vacant, of the coroner or his deputy, to observe and execute sentence of death, at the time appointed by the court, and a certified copy of such sentence shall be his sufficient warrant, unless the execution shall be suspended by the Governour, and in that case the act or warrant of the Governour shall be observed and obeyed.

The clerk shall deliver to the sheriff, or in case of a vacancy in the office of sheriff, then to the coroner, a duly certified copy of every sentence of death or other sentence in a criminal case.

In every case, in which corporal punishment is to be inflicted, the court, in the sentence, shall assign the day thereof;—and whenever imprisonment shall be a part of the punishment, the court, in the sentence, shall specify the day on which the term shall commence and also the day on which it shall expire:—In reckoning months, every month shall be a calendar month, and a term of months of imprisonment shall be so many calendar months, and shall expire upon the same numerical day (including the same) of a calendar month upon which it shall have commenced; and an act to be done at the expiration of a term of imprisonment, shall be done on the last day thereof, unless such day should be the Sabbath, then such act shall be done on the day previous. No notice shall be given of the disposal of every person as a servant, for at least ten days before the day of disposal, by advertisements posted in at least two of the most public and suitable places in the county town,

a) Punishment of death,—how, by whom, and on what authority, to be inflicted.

(b) The clerk to deliver to sheriff etc. a copy of every sentence in a criminal case.

(c.) The day for inflicting corporal punishment,—and the day for commencement and expiration of every term of imprisonment, to be assigned and specified in sentence.

Months to be calendar months etc.: act to be done at expiration of imprisonment, shall be done on last day thereof. Sales of persons as servants, under

this act,—  
notice there-  
of,—

sec. 14.  
return there-  
of,—

(d.) applica-  
tion of the mo-  
ney therefrom  
arising,  
sec. 14, 16.

and in at least ten other of the most public and suitable places in the county; in reckoning this time, the day of disposal and the day of posting the advertisements shall be excluded; the sheriff or coroner shall make return of the disposal of every person who shall be by him disposed of, as a servant, and of the sum obtained:

The money, obtained upon the disposal of every person as a servant, shall be applied, in the first place, in payment of the costs of prosecution,—any balance remaining shall be applied in payment of restitution money, if any, or in payment of any fine,—and any balance, not applied otherwise, shall be paid to the State Treasurer.

Powers of  
masters over  
convicts sold  
in part of  
their punish-  
ment, as ser-  
vants under  
this act.—  
secs. 14, 17.

SEC. 5. *And be it further enacted,* That if any person shall be disposed of as a servant, as a part of his or her punishment according to this act, the person or persons, to whom such disposal shall be made, shall, during the period of servitude, be entitled to all the labour service and earnings of such servant,—and shall have all the power and authority of a master or mistress over such servant,—and may carry and export such servant out of this state into any other state for sale or otherwise,—and the servitude of such servant shall be assignable from person to person, and transmissible to executors and administrators;—and any assignee executor or administrator shall have the same rights authority and power, and the same right to export such servant out of this state into any other state for sale or otherwise, during the period of servitude, as the person or persons to whom such servant was at first disposed of,—and, during the term for which such person shall be so ordered to be disposed of as a servant, such person shall not be considered or deemed to be a freeman in this state: excepting only, that if the sentence, pursuant to any clause or provision of this act, shall be, that the person, to be disposed of as a servant, shall be disposed of to a person or persons residing within this state, then such servant shall not be exported or carried out of this state for sale or otherwise, and shall not be sold in this state with intent to be so exported.

Such convicts  
during their  
term of servi-  
tude, not to  
be deemed  
freemen.  
Exceptions to  
this section.

Sec. 17.

SEC. 6. *And be it further enacted,* That if any Person convicted of felony, except of manslaughter, such person shall be forever disqualified incompetent to be a witness on any occasion, orness, or take to make an affidavit, or to take an oath or affirmation, an oath ;  
—except to an answer in the court of chancery when exceptions :  
expressly required by that court, or to make probate of debts demands or accounts due to him or her from the estate of any deceased person ;—and it shall notunlawful to administer an oath or affirmation to such administer oath to such person, except as before excepted.

SEC. 7. *And be it further enacted,* That indictmentsto be found and trials thereof shall be had, in the county wherein the offence shall be committed,—subject to the following exceptions where the offence is committed,—and regulation, that is to say,—in every case of bigamy, the indictment may be found, and the trial had, subject to certain exceptions and regulations :  
in the county, in which the offender shall reside, or be apprehended,—in every case of murder, and of manslaughter, if a person be poisoned, or wounded, in one county, and die, of such poisoning or wounding, in another county, the indictment shall be found, and the trial shall be had, in the county wherein such person was poisoned or wounded,—and in like manner, whenever the cause, producing the death of a person, shall happen in a county, and the death out of it, the offence shall be deemed complete in the county wherein the cause shall happen, and shall there be enquired of, heard and determined ;—If any person shall, in one county, abet, procure, command or counsel another to commit a crime or misdemeanour, and such crime or misdemeanour shall be committed in another county,—or if a crime or misdemeanour be committed in one county, and a person, knowing thereof, shall, in a different county, aid the offender to avoid arrest or to escape,—every person so offending may be indicted and tried in the county in which the principal crime was committed,—and generally every accomplice and accessory in or to an offence may be indicted and tried in the county wherein such offence shall be committed, without respect

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but court may  
change the  
venue.

Standing  
mute.

to the county wherein he or she may have become  
r been such accomplice or accessory ;—the receiver  
buyer or concealer of stolen or robbed goods property  
or things, being the subjects of larceny, knowing the  
same to be stolen or taken by robbery, may be in-  
dicted and tried, either in the county wherein the  
larceny or robbery was committed, or in the county  
in which such property goods or things were bought  
received or concealed,—and if property goods or  
things, the subjects of larceny, be stolen in this state,  
in one county, and carried into another county by  
the thief, the offender may be indicted and tried in  
either of said counties, for the offence shall be deemed  
complete in each county, and the stealing taking and  
carrying away may be laid in either :—but the court,  
upon application made by or on behalf of a person  
indicted, shall, for sufficient cause shown, change  
the venue, and order the trial upon the indictment to  
be had in the county, which they may deem proper  
to assign for that purpose.

SEC. 8. *And be it further enacted,* That if any  
person, indicted for a capital or other crime or mis-  
demeanour, upon being arraigned on the indictment,  
shall, obstinately and on purpose, stand mute, or  
neither confess the said indictment nor answer or  
plead matter or plea allowable according to law,—  
the court shall proceed to the trial of such person,  
upon said indictment, in the same manner as if he  
or she had pleaded not guilty and issue had been  
thereupon regularly joined,—and the verdict of the  
jury shall be available and effectual to all intents and  
purposes, and judgment shall be thereupon rendered  
accordingly :—and the court may either determine  
for themselves, upon view, whether such person  
stand mute obstinately and on purpose,—or they  
may, to assist them. empanel a jury to enquire,  
whether such person stand mute obstinately and on  
purpose, or by the providence and act of God, and  
the finding of said jury, being approved by the court,  
shall be recorded.

SEC. 9. *And be it further enacted,* That a person,

indicted for a crime punishable with death, shall, upon trial upon such indictment coming on, have right to challenge twenty of the jurors summoned, peremptorily, but no more, except for lawful cause;—and a person, indicted for any other crime or misdemeanor, shall have right to challenge six of the jurors summoned, peremptorily, but no more, except for lawful cause, or except as is hereinafter provided;—if several, indicted in one indictment, be tried together by consent or according to course of law, each shall not be allowed the whole number of challenges, but all, joined in the same trial, shall be allowed, in a capital case, only twenty, and in any other case, only six peremptory challenges: If a person indicted, on the trial coming on, insist upon challenging peremptorily a greater number of the jurors than can be lawfully so challenged, the court shall proceed with the trial, and the jurors shall be sworn or affirmed, without respect to such irregular challenging:—That on the trial of any indictment, for any offence not capital, which shall hereafter be brought on in any court of general quarter sessions of the peace and gaol delivery within any county in this state, the Attorney General of the State, or officer prosecuting such indictment on behalf of the state, may challenge, without shewing cause, any juror or jurors drawn for such trial, not exceeding three in number; provided however, that in all cases where the state shall exercise its right to challenge, the prisoner or defendant shall be entitled to challenge as many jurors, in addition to six, as the state shall so challenge.

SEC. 10. *And be it further enacted,* That the different degrees of manslaughter shall be distinguished in indictments, by adding to the common form of indictment for manslaughter, after the words “feloniously did kill and slay,” a clause in substance as follows,—viz: “and therein did commit manslaughter of the degree, against the peace and dignity of the state and the act of the General Assembly in such case made and provided”—inserting in the blank the degree;—No further departure from the common form shall be requisite.

(b.) In what cases persons indicted for one offence may be found guilty of another.

A person indicted for murder may be found guilty of either degree of manslaughter;—a person indicted for manslaughter of the first degree may be found guilty of manslaughter of the second degree;—a person indicted for robbery on or near the highway or in a dwelling-house, may be found guilty of simple robbery:—and such convictions shall be as effectual, as if the indictments had been for the crimes whereof the person indicted shall thus be found guilty.

(c.) What to be set forth, in indictment for forgery,

In an indictment for forgery, it shall be sufficient to set forth the substance of the instrument, whereof the forgery shall be alleged.

(d.) In indictment for perjury.

In an indictment for perjury, it shall be sufficient to set forth the substance of the offence charged, stating before whom or in what court the oath or affirmation was administered or taken, the general nature of the cause or proceeding, with the names of the parties, and proper averments to falsify the matter wherein the perjury shall be assigned, without setting forth the bill, answer, indictment, declaration or any part of any record either in law or equity other than as aforesaid, and without setting forth the commission or authority of the court or person or persons, before whom the perjury was committed.

(e.) Indictment for larceny or receiving stolen goods,—against a person not a free negro &c., need not aver that fact;—against a free negro &c. must aver him such.

In an indictment for larceny, or for receiving goods stolen or taken by robbery, knowing the same to be so stolen or taken, against a person other than a free negro or free mulatto, it shall not be necessary to aver such person to be "*other than a free negro or free mulatto*;" but a person indicted, if not averred to be a free negro or free mulatto, shall upon the face of the indictment be deemed and taken to be "*other than a free negro or free mulatto*," and upon conviction, shall be considered accordingly: An indictment against a free negro or free mulatto must aver the person indicted to be such.

(f.) Indictment for second offence.

If a person, for a second or other offence be liable to a greater punishment, it shall be the duty of the attorney general to enquire of the premises upon every accusation of a crime or misdemeanour of this nature, and, if the offence committed be a second or subsequent offence, to draw the indictment with proper averments to subject the offender to the punishment

by law provided in that behalf:—To constitute an offence a second offence, it is not sufficient that a like offence had been previously committed, but there must be a conviction of the first offence before committing of the second.

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SEC. 11. *And be it further enacted*, That the benefit of clergy be and hereby is abolished.

Benefit of  
clergy a-  
bolished.

SEC. 12. *And be it further enacted*, That the courts of oyer and terminer and general gaol delivery shall have jurisdiction of all crimes, which according to the laws of this state, are punishable with death,—and of the offences of all and every the persons, who may be accomplices or accessories in or to any of the crimes which according to the laws of this state are punishable with death,—and may enquire of hear and determine all and every the said crimes and offences, and all and every the offenders committing any the said crimes, which according to the laws of this state are punishable with death,—and his her or their accomplices and accessories shall be prosecuted and tried, and, upon conviction, shall receive sentence in the said court of oyer and terminer and general gaol delivery:—and a slave, who shall commit a crime punishable with death, shall be prosecuted and tried therefor, and upon conviction shall receive sentence, in the said court of oyer and terminer and general gaol delivery, in like manner as a free person. All other crimes and misdemeanours shall be enquired of heard and determined in the court of general quarter sessions of the peace and gaol delivery within the several counties of this state, which court shall have jurisdiction, and take cognizance, of all crimes and misdemeanours not within the jurisdiction of the courts of oyer and terminer and general gaol delivery:—and the said court of general quarter sessions of the peace and gaol delivery, within the several counties of this state, shall have jurisdiction so far as to enquire the truth of all the said crimes and offences cognizable in the courts of oyer and terminer and general gaol delivery as aforesaid,—and that an indictment, for any the said crimes or offences, may

Jurisdiction,  
—of the court  
of oyer and  
terminer,—

(slaves charg-  
ed capitally  
to be tried  
therein.)

of the court of  
quarter ses-  
sions.

CHAP. be found in the said court of general quarter sessions  
 CCCLXII. of the peace and gaol delivery, within any county, by  
 1826. the grand jury attending the same,—and such indictment shall be good, but shall be removed into the courts of oyer and terminer and general gaol delivery for trial,—but process against the person or persons indicted, may be issued out of the said court of general quarter sessions of the peace and gaol delivery, which shall have power to commit the person or persons indicted, or take bail, as to law may appertain: whenever the justices of the said courts of oyer and terminer and general gaol delivery shall issue their precept for holding the said court, the sheriff of the county, in which such court is to be held, shall be commanded by such precept to summon, as directed by the laws of this State, forty-eight sober discreet and judicious freeholders, lawful men of fair characters and inhabitants of his bailiwick, to serve as petit jurors at such court of oyer and terminer and general gaol delivery.

Petit jurors  
 at court of  
 oyer and terminer—their  
 number and  
 how to be  
 summoned

4 v. 446, 447.

Assigning  
 counsel to defend  
 prisoners—in court of  
 oyer,—  
 in quarter sessions.

Slaves charged with offences not capital, how to be tried.

1 v. 104, [307]

436.

2 v. 1524. 6 v.

416.

Cons. art. 1,

sec. 7.

Warrant of a

justice of the

peace, for ar-

resting a per-

son charged

with a crime,

may be exe-

cuted in every

county of the

state, &c.

The courts of oyer and terminer and general gaol delivery shall assign counsel to every person on trial in said court, who, in the opinion of the court, is not of ability to employ counsel: And the court of general quarter sessions of the peace and gaol delivery may assign counsel to persons on trial for a felony, who, in the opinion of said court, are not of ability to employ, but from the character of the offence charged ought to have, counsel.

Slaves shall be prosecuted and tried for offences not capital, as already provided by other acts of the general Assembly.

SEC. 13. *And be it further enacted,* That the warrant of a justice of the peace, in and for either county of this state, for the apprehension of a person charged with any crime deemed or amounting to felony, may be executed in every county of this state,—and it shall be the duty of every constable, sheriff, and other executive officer, and of the citizens, to be aiding and assisting in executing the same; but the person charged, being apprehended, shall be carried before one of the nearest justices of the peace to the

place of arrest, to the end that if bail be admissible it may be taken; but if it cannot be given, he shall be carried before the justice issuing the warrant to be dealt with according to law. And all persons indicted for manslaughter shall be beailable.

Persons indicted for manslaughter to be bailable.

SEC. 14. *And be it further enacted,* That if it shall satisfactorily appear to the court, in which any conviction shall be, that the person or persons convicted is not or are not able to pay the restitution money or fine and the costs, which he she or they, pursuant to such conviction, shall be adjudged to pay, and if it be not a part of the punishment that such person shall be disposed of as a servant—then the said court shall have power to order that every such person shall be disposed of as a servant, to any person or persons residing in this state, for the highest sum that can be obtained, for such term as shall be necessary, in order to raise sufficient money to satisfy such restitution money or fine and costs, or any balance, remaining after such payment as can be obtained from the person convicted;—provided that such term shall not exceed seven years: any person or persons, to whom such disposal shall be made, shall, during the term of servitude, have all the rights power and authority of a master or mistress over such servant, and the term of servitude shall be transmissible and assignable, but the servant shall not be exported from this state, nor transferred with that intention.

Court may order a convict, unable to pay the restitution money or fine and costs, to be disposed of as a servant, &c.

The clerk shall deliver to the sheriff a certified copy of every such order, and shall thereon endorse the restitution money or fine and all the costs specifying the items:—the sheriff, immediately after the disposal, shall return such copy, and thereon shall certify the disposal made, the person or persons to whom, and the sum of money bid and obtained, and this return, with the day thereof, shall be entered by the clerk on the docket of the order: The clerk of the peace and the clerk of the court of oyer and terminer and general gaol delivery shall annually, in the last week in December, report to the State Treasurer the respective sums due from the sheriff upon disposal of persons under the judgment or order of

Sec. 5, 17.  
Copy of such order to be delivered to sheriff, with restitution money or fine and costs endorsed, &c.: (Sec. 4. c.)  
sheriff to return same with his proceedings thereon, etc.

clerks of the peace and of the court of oyer to report annually to State Treasurer sums due from sheriff upon dispo-

sal of persons under this act. their respective courts, after costs and charges deducted, and such report shall distinctly set forth the sum of money obtained and the fine and the costs in each

Money arising from sales of persons under this act to be first applied to the payment of the costs, but if there be not enough to pay the costs, a statement thereof from the court to be transmitted to the levy court— case. If the sum of money obtained on the disposal of a person as a servant, whether pursuant to an order or a judgment, shall not be sufficient to pay the restitution money or fine and costs, the costs shall be first paid; but if there be not sufficient to pay the costs, the court, in which the case shall be, shall cause a list of the fees of officers and witnesses, remaining unpaid after just application of the money obtained, to be made by the clerk, which list shall shew the money obtained, the whole costs and the application of the money, and the same being signed by the chief justice shall be by him transmitted to the levy court

who shall cause the same to be paid, &c. (See sec. 16.) and court of appeal of the county, who shall raise the money requisite to defray the costs remaining unsatisfied, and the clerk shall draw orders upon the county treasurer in favour of the officers and witnesses respectively, whose fees shall remain unpaid, for such fees, and such orders shall be paid out of funds

and a list of the orders for such payment shall be transmitted to auditor, &c. in what case the costs shall be allowed directly by the levy court. in the hands of such treasurer;—a list of all which orders so drawn by any clerk shall be by him transmitted to the auditor of accounts annually in the last week in December. But if the disposal of a person as a servant, shall be transferred for more than six months according to the judgment, the costs shall be allowed, if they cannot be obtained otherwise, directly by the levy court.

Sheriff or clerk neglecting the duties before prescribed. If a sheriff or clerk shall neglect the duty before prescribed, it shall be a contempt of the court in which the judgment or order shall be.

Convicted felons, imprisoned as part of their punishment, may be kept at work, within the prison walls:— SEC. 15. *And be it further enacted,* That if any person shall be convicted of a crime, deemed felony according to this act, and shall be sentenced to suffer imprisonment as a part of the punishment for such crime, it shall be lawful for the sheriff or keeper of the gaol, where such felon shall be so imprisoned, to keep such felon employed in such work or labour, within the walls of the prison, as he may deem reasonable, and that the profits of such labour shall be applied to and for the use of the county.

and the profits to be for the county.

SEC. 16. *And be it further enacted*, That the disposal of a person as a servant, whether pursuant to a judgment or an order of court, shall not discharge the property real or personal of such person, or that may ever come to him or her, from lien and liability to answer any part of the restitution money fine and costs remaining unpaid, after application of the money raised by such disposal. Property of a person, sold as a servant under this act, to be liable for restitution money fine and costs notwithstanding such sale.

SEC. 17. *And be it further enacted*, That whenever, by a judgment of court and for punishment, or by an order of court and for payment of restitution money or fine and costs, according to this act, it shall be adjudged or directed that a person, convicted of a crime or misdemeanour, shall be disposed of as a servant, to any person or persons residing in this state, and such convicted person shall accordingly be disposed of as a servant by virtue of such judgment or order,—if any person or persons, during the period or term of servitude of such servant, shall export or convey such servant out of this state to any other state or place for sale or otherwise,—or shall transfer or assign such servant to any person residing at the time out of this state,—or shall assign or transfer such servant, or agree to do so, with intent that such servant shall be exported out of this state to any other state or place for sale or otherwise;—every person so offending, upon conviction thereof, shall forfeit and pay to the state a fine of five hundred dollars, and such servant shall thereby be enfranchised and become and be free and absolutely discharged from such servitude;—provided that the supreme court, or court of common pleas, in term time, in the county wherein such servant shall be held, shall have power, upon a proper case made, to grant license to the master or mistress of any such servant, to export him or her, or to transfer him or her for the purpose of being conveyed out of the State;—and such license shall be a sufficient warrant for so doing, any thing, herein before contained, to the contrary notwithstanding,—provided that nothing, in this act contained, shall be construed to hinder or prohibit any person, going a journey, from taking such servant as afore- Penalty for exporting or selling with intent to export &c. a convicted servant out of this State, who by order of court has been disposed of to a person residing in it—secs. 5, 14; without license first obtained &c.: exceptions.

CHAP. said with him or her, as a servant, nor any person re-  
 CCCLXII. moving with his or her family out of the state from  
 1826. removing such servant.

A civil officer,  
 convicted of  
 a misdemea-  
 nour in office,  
 shall thereby  
 forfeit it,—

SEC. 18. *And be it further enacted:* That if any civil officer, duly commissioned or appointed under the authority of this state, shall be guilty of a misdemeanor in office, and be thereof duly convicted, such conviction shall, ipso facto, create a forfeiture of the office, for a misdemeanor in which such officer shall be convicted,—and the justices, before whom such conviction shall take place, shall, in addition to the punishment or penalty provided for such offence, adjudge and declare the office so held by the person so convicted to be forfeited.

Returns of  
 commitments  
 and recogni-  
 zances to be  
 made on the  
 first day of  
 the term, &c.

SEC. 19. *And be it further enacted,* That all commitments and recognizances, for or concerning any crimes or misdemeanours, shall be duly certified or returned to the court, which the same shall concern, on the first day of the term thereof, by the justices taking such recognizances, or by the sheriff or gaoler to whom such commitments shall be directed.

Repeal of—  
 c. xxii, a, v.  
 l, p. 64;  
 c. lxxiv, a,  
 v. 1, p. 225;  
 c. li, a, v. 1,  
 p. 119;  
 s. v, c. lxvii,  
 a, v. 1, p. 174;

SEC. 20. *And be it further enacted,* That the act entitled “An act for the advancement of justice and more certain administration thereof,”—and the supplementary act to the said act, of 15 Geo. 2,—and the act entitled “An act against riots, routs and unlawful assemblies,”—and the fifth section of the act against drunkenness, blasphemy and to prevent the grievous sins of profane cursing, swearing and blasphemy,”—and the “Act for more effectual preventing and punishing the evil and wicked practices of horse stealing and other felonies and offences committed within this Government,”—and the second section of the “Act against forcible entry, barratry, maintenance, champerty and embracery,”—and the “Act to prevent duelling and fighting of duels within this Government,”—and the “Act against spreading false news and defamation,”—and the “Act against larceny to the value of five shillings and upwards,”—

s. ii, c. xci, a,  
 v. 1, p. 239;  
 c. xciii a, v.  
 l, p. 240;  
 c. xcv, a, v. 1,  
 p. 244;  
 c. cxx, a, v.  
 l, p. 296;

and the "Act to repeal an act, entitled, an act directing the punishment of petty larceny and for other purposes therein mentioned,"—and the "Act against menacing assault and battery,"—and the "Act for the restraining and preventing lotteries," and the "Act for the better proportioning the punishment to the crime of slave and horse stealing and conjunction and for other purposes,"—and the "Act for the suppression of idleness vice and immorality,"—and the "Act to suppress vice and immorality,"—and the ninth section of the "Act to prevent the exportation of slaves and for other purposes," passed February 3, 1787,—and the "Act to alter the judgment at common law against persons convicted of petit treason,"—and the first section of the "Act to punish the practice of kidnapping free negroes and free mulattoes and for other purposes,"—and the "Act to make it felony to steal bonds notes or other securities for the payment of money,"—and the twentieth section of the "Act for the better securing personal liberty and for other purposes,"—and the "Act respecting free negroes and free mulattoes," passed at Dover January 30th 1811,—and the first and second sections of the "Act concerning free negroes free mulattoes servants and slaves," passed at Dover 9th February 1816,—and the "Act supplementary to an act entitled an act for the trial of causes by special juries and for other purposes,"—and the "Act against forgery," passed at Dover 15 February 1816,—and the "Act against forgery," passed at Dover 7 February 1817,—and the third, fourth, fifth, sixth and seventh sections of the act entitled "A supplement to an act entitled an act enjoining certain duties on the Secretary of State and other officers therein mentioned,"—and the "Act concerning the execution of criminals in capital cases,"—and an "Act to alter and amend an act to regulate the courts of this State,"—and so much of the fourth section of the act, passed at Dover on the 2 day of February 1811, entitled, "An act concerning awards, to regulate the summoning of juries and for lessening the expenses thereof, to repeal the savings in certain acts of limitation, to confirm the title of

CHAP. lands of the husband conveyed by husband and wife  
CCCLXII. and to direct the examination of such wives, to au-  
1826. thorise the court of chancery to order lands to be sold,  
to fix a limitation for appeals from decrees in equi-  
ty," as is hereby altered,—shall be and hereby are  
annulled and repealed, from and after the first day

This repeal of June next: Provided, that any act, or part of an  
not to operate act, repealed by either of the aforesaid acts or sec-  
as a revival of tions, shall not be revived by this act or section, but  
other repea- shall stand and continue repealed in the same manner  
led acts; as if this act had not been passed; and the repealing  
clauses of the aforesaid acts shall be and are excepted

nor to extend from the effect of this repeal: And provided further,  
to any crimes that all and every the crimes and offences, which  
or offences have been, or, on or before the first day of June next,  
committed shall be done or committed, against any the said acts  
before the or sections above in this section mentioned and now  
first of June in force, shall be prosecuted heard determined and  
next. punished, in the same manner, in the same court, in  
the same mode of proceeding, and with the same  
penalty pains or punishment, as if this act had not  
been passed; and all the acts and sections, which  
are now in force in respect to and so far as shall con-  
cern every the said crimes and offences, which have  
been or, on or before the first day of June next, shall  
be committed, shall not be repealed by this act.

Operation of SEC. 21. *And be it further enacted,* That this  
this act to act shall commence and be in operation, from and  
commence after the first day of June next.  
from and af-  
ter the 1st  
June 1826.

PASSED AT DOVER, }  
8 February, 1826. }

### CHAPTER CCCLXIII.

AN ADDITIONAL SUPPLEMENT to an act  
entitled, "*An act to survey, lay out and regu-  
late the streets of Smyrna, and for other pur-  
poses.*"

5, vol. p. 219;  
6, vol. p. 552.

SECTION 1. BE IT ENACTED, *by the Senate and*

*House of Representatives of the State of Delaware, in General Assembly met;* That the election, mentioned in the fifth section of the act to which this is an additional supplement, for choosing the several officers in the said section directed to be elected or chosen, shall be held on the first Monday of March next, and on the first Monday of March in every year thereafter, between the hours of ten o'clock in the forenoon and six o'clock in the afternoon, at the place in the said fifth section prescribed;—and if there should not be present, on the first Monday of March next, or on the first Monday of March in any year thereafter, at ten o'clock in the forenoon, at the place of holding such election, three substantial freeholders, duly appointed pursuant to the said fifth section, to hold conduct and carry on said election under their superintendence and management, then and in every such case,—the persons entitled to vote at such election, present at the place of holding the same, shall, immediately after ten o'clock of such day, appoint, viva voce, some substantial freeholder, entitled to vote at such election, to be the judge of the choice and appointment of an inspector to hold said election,—and shall, immediately after the said judge shall be appointed as aforesaid, under the superintendence and direction of the said judge so appointed as aforesaid, choose, without ballot, some substantial freeholder, entitled to vote at the election aforesaid, to be the inspector to hold the same; and the person, whom the judge, so appointed as aforesaid, shall declare to be chosen inspector, shall hold conduct and carry on the election, at such time and place, and shall exercise all the powers, and do all the acts, which could have been exercised or done by three substantial freeholders, duly appointed, pursuant to the said fifth section, to hold conduct and carry on said election under their superintendence and management:—and the election held by such inspector, and his certificate or memorandum thereof, shall be lawful and conclusive.

SEC. 2. *And be it further enacted,* That Robert Register, James Hoffecker, junr. William Ringgold, Review authorized of the proceed.

ings of the persons appointed by original act to survey and lay out the streets of Sm, ma;

powers of reviewers;

reviewers and surveyor to be sworn;

certificate of reviewers—

to be recorded;

and their proceedings—

William Denney and Abraham Moore, or a majority of them; or the survivors of them, or a majority of them, be and they are hereby appointed and authorized,—to review the proceedings of Henry M. Ridgely, Willard Hall, Jacob Stout, Jonathan Jenkins and Alexander M'Clyment, named in the act aforesaid, to which this is an additional supplement, or a majority of them under the said act,—with power to confirm vacate or alter either or any of the streets lanes or alleys, which the said Henry M. Ridgely, Willard Hall, Jacob Stout, Jonathan Jenkins and Alexander M'Clyment, or a majority of them, pursuant to the said act, caused to be surveyed located and laid out, and which have not yet been opened,—and to locate and lay out any new streets lanes or alleys,—to increase or diminish the compensation already allowed in any instance or instances touching the premises,—and to allow any further or other compensation as may be deemed just and proper under all circumstances,—and to do all the acts, and exercise all the powers, which the said Henry M. Ridgely, Willard Hall, Jacob Stout, Jonathan Jenkins and Alexander M'Clyment were authorised to do and exercise by the said act, in as full and ample a manner, and subject to the same restrictions as prescribed by the said act,—and to appoint a surveyor to assist them in the premises; which surveyor and the said reviewers shall, before acting, be sworn or affirmed, before some judge notary public or justice of the peace, to perform the duties, incumbent upon them under this act, with diligence and impartiality and according to the best of their skill and judgment:—and the certificate under the hands of the said Robert Register, James Hoffecker, jr. William Ringgold, William Denney and Abraham Moore, or a majority of them, or of the survivors of them or of a majority of such survivors, with any plot or map, which may be annexed thereto and referred to therein, shall be recorded in the office for recording of deeds in Kent County; and the record thereof, or a copy of such record, shall be good evidence for all purposes; and the proceedings of the said Robert Register, James Hoffecker, jr. William Ringgold,

William Denney and Abraham Moore, or a majority of them, or of the survivors of them or a majority of such survivors, so certified and recorded, shall be conclusive,—final and conclusive: *Provided always*, that such proceedings shall be so certified and recorded within one year after the passing of this act; and in case such proceedings shall not be so certified and recorded within that time, the same shall be void, and this act of no effect.

SEC. 3. *And be it enacted*, That any compensation, allowed under the preceding section, shall be paid in the same manner as directed by the original act in relation to the payment of compensation therein provided for, and shall be considered as allowed under said act so as to come within its provisions.

SEC. 4. *And be it enacted*, That the persons herebefore appointed to make review as aforesaid, or a majority of them or the survivors of them or a majority of them, shall, on the first Monday in April next and before they commence their review, meet at the house now occupied by Mrs. Lockwood, in the town of Smyrna,—and shall hear and determine all claims, for services, advances or expenses incurred under the act to which this is an additional supplement and the supplement to said act,—and shall receive, adjust and settle all accounts or statements touching expenses charges advances or services as aforesaid, which may, then and there, be presented for their examination and settlement: And the said persons, so appointed to make review as aforesaid, or a majority of them or the survivors of them or a majority of them, shall, after examining and settling the said accounts and claims aforesaid, forthwith draw their order or orders on the treasurer for the time being, in favour of the person or persons whose claims are so settled and allowed, and for the respective and several amounts so allowed;—which order or orders the said treasurer is hereby authorized and required to pay: and the said orders, so paid, shall be a sufficient voucher to the said treasurer of such payment:—and if any person or per-

CHAP. sons, having claims against the town of Smyrna; for  
 CCCLXIV. such expenses charges advances or services as afore-  
 1826. said, shall neglect or refuse to present such claims to  
 the said reviewers, at their meeting aforesaid, and if  
 any claim shall not be presented to the said review-  
 ers at their said meeting, or shall not be considered  
 and determined by them, any such person or persons  
 may present all such claim or claims to the commis-  
 sioners of the town of Smyrna, for the time being,  
 who shall examine settle and determine all such claim  
 or claims, and shall draw their order or orders, on  
 the treasurer for the time being, for any such sum or  
 sums as may so be settled and allowed by them.

PASSED AT DOVER, }  
 8th February, 1826. }

## CHAPTER CCCLXIV.

AN ACT to enable Enoch Spruance to collect and  
 settle up the outstanding tax, for the year eigh-  
 teen hundred and twenty-five, in the Town of  
 Smyrna.

5 vol. 219.

Preamble. WHEREAS, it has been represented to this General Assembly, that George Walker, late of Smyrna, in Kent county, was duly elected treasurer of said town, for the year eighteen hundred and twenty-five, and that said treasurer died, leaving a considerable portion of the taxes in said town uncollected, whereby his surety experienced considerable difficulty and embarrassment in settling up the same ;—

Enoch Spruance authorized to collect the arrearages of the town taxes assessed on the property in Smyrna for the year 1825.

SEC. 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 passage of this act, it shall and may be lawful for Enoch Spruance, surety of George Walker, late treasurer of the town of Smyrna, deceased, to collect and settle up the outstanding taxes due and unpaid in the town of Smyrna for the year eighteen hundred

and twenty-five; and he is hereby vested with full power and authority to complete the collection of the same, in such manner and form as the said George Walker was authorized and empowered to do by the existing laws of this State, at any time during his appointment; any law custom or usage to the contrary notwithstanding: <sup>(5 vol. 227.)</sup>

SEC. 2. *And be it further enacted*, That from and after the passage of this act, it shall and may be lawful for the said Enoch Spruance to collect and settle up all the outstanding taxes which are due and unpaid for any former year; and he is hereby vested with full power and authority to complete the collection of the same, in such manner and form as the said George Walker was authorized and empowered to do by the existing laws of this state at any time during his appointment, any law custom or usage to the contrary notwithstanding: And the said Enoch Spruance shall pay over, to the commissioners of the town of Smyrna, all monies he shall so collect; and in case he shall neglect or refuse to pay over any monies he shall so collect, for sixty days after he shall have received the same, the said town commissioners may sue for and recover the same in like manner as debts of like amount are recoverable by law. <sup>and for any former year; and to pay them over to the commissioners of said town; remedy against him on failure to pay them over within 60 days after their collection.</sup>

PASSED AT DOVER, }  
February 8, 1826. }

## CHAPTER CCCLXV.

AN ACT to appropriate the money in the treasury of this State.

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware, in General Assembly met*, That the money, now in the treasury of this state, shall be applied in the following manner, that is to say, so much as may be <sup>Appropriation for paying the—</sup>

Governour, Judges, Attorney General, Secretary of State, Auditor of Accounts, General Assembly, printing laws and journals, &c., claims of citizens.

necessary shall be applied to the salaries due and to become due to the governour, chancellor, judges of the Supreme court, and judges of the court of common pleas, attorney general, Secretary of State, and auditor of accounts; and so much thereof as may be necessary shall be applied to the payment of the daily allowance and mileage of the members of the General Assembly, their clerks, officers and other expenses, and for printing the laws and journals of the present session: And the residue thereof, if any, shall be applied to the payment of any sums due to the citizens of this State, for which provision has been or may be made by law.

PASSED AT DOVER, }  
February 9, 1826. }

## CHAPTER CCCLXVI.

AN ACT *for the payment of claims for the tuition of poor children, and for other purposes.*

Trustee of school fund to pay claims for the education of poor children,—

in Newcastle county;

in Kent county;

SEC. 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the trustee of the fund for establishing schools in this State be and he is hereby authorized and required to pay, out of any unappropriated money belonging to that fund, in his hands, the following claims for the tuition of poor children, that is to say,—*in Newcastle county,* to Maria C. Smith, free harmony school in Wilmington, eighty dollars, to Eliza A Weaver, for the female benevolent society of Newcastle, eighty dollars, to William Steeling, eight dollars and sixty seven cents, to Merrick Lamson, three dollars and thirteen cents, to Jehu Clendenill, seven dollars and fifty cents, to Moses Lowther, sixteen dollars, to Amos Pierson, three dollars, to Chevney Pyle, ten dollars and twenty-six cents:—*In Kent county,* to Mary Farsons, for the female union society of Smyrna, forty dollars and seventy eight cents, to Daniel Ma-

son, twenty dollars, to Thomas Green, six dollars:—  
*In Sussex county*, to James F. Dutten, twenty-one <sup>in Sussex</sup> dollars and fifty-three cents, to Wesley Morgan, three <sup>county:—</sup> dollars, and forty-two cents, to Clifford Shanahan, seven dollars and forty-one cents, to Daniel W. Brenton, twenty-three dollars, to William H. Adams, thirteen dollars and forty cents, to William Bell, thirteen dollars and fifty-eight cents,—and to Willi- <sup>to pay W. W.</sup> am W. Green, trustee of the fund for establishing <sup>Green his ex-</sup> schools, twenty dollars and fifty-six cents, for his <sup>p. s. in sub-</sup> trouble and expenses in subscribing for canal stock, <sup>canal stock,</sup> and for postage. <sup>&c.</sup>

PASSED AT DOVER, }  
 February 9, 1826. }

## CHAPTER CCCLXVII.

### AN ACT *for the payment of claims against the State.*

SECTION 1. BE IT ENACTED, *by the Senate and State Treas-*  
*House of Representatives of the State of Delaware,* <sup>urer to pay</sup>  
*in General Assembly met,* That the State-treasurer <sup>certain</sup> claims; to—  
 be and he hereby is authorised and directed to pay—  
 to James Kimmey, for taking care of public lands in James Kim-  
 Kent county, five dollars,—to James Wilson, for <sup>mey,</sup> printing, fifteen dollars,—to Philip Rasin, as crier of <sup>James</sup> Wilson,  
 the high court of errors and appeals, nine dollars,—<sup>Philip Rasin,</sup>  
 to William W. Green, for postage, nine dollars and <sup>W. W. Green,</sup> twenty cents,—to Samuel Harker, for public printing, <sup>Samuel</sup> fourteen dollars and fifty cents,—to Ebenezer Black-<sup>Harker,</sup> iston, auditor of accounts, for postage and for travel—<sup>Ebenezer</sup> Blackiston,  
 ling expenses, eight dollars and eighty cents,—to Pa-<sup>Patrick</sup> trick Byrne, a balance due him for painting State-<sup>Byrne,</sup> house, forty-six dollars and forty-nine cents,—to Ca-<sup>C. H. Sipple,</sup> leb Sipple, for services to the high court of errors and  
 appeals, four dollars and seventy-five cents,—to Da-<sup>Daniel</sup> niel Godwin, escheator of Kent county, for expenses <sup>Godwin,</sup>  
 incurred in escheating the Stevenson lands, thirty-se-  
 ven dollars and thirty-seven cents,—to William John-<sup>William</sup> Johnson,

Thomas  
Fisher,

William Hop  
kins.

Appropriation for the use of the secretary's office:—

to be accounted for.

son, for survey and plotting Stevenson lands by order of the escheator; twenty-three dollars,—to Thomas Fisher, sheriff of Kent county, for official services in the case of escheats, eighteen dollars and twenty cents,—to William Hopkins, as a commissioner to run the line between Kent and Sussex, seven dollars and fifty cents.

SEC. 2. *And be it enacted*, That the State-treasurer be and he is hereby authorised to pay to the Secretary of State the sum of one hundred and fifty dollars, to be applied by him to the payment of the contingent expenses of his office,—an account of which shall be submitted to the General Assembly at the next January session.

PASSED AT DOVER, }  
9th February, 1826. }

## CHAPTER CCCLXVIII.

AN ACT to authorise Curtis Brinckle Beswick to remove, from the State of Maryland, into this State, a certain female negro slave.

PASSED AT DOVER, }  
February 9, 1826. }

PRIVATE ACT.

## CHAPTER CCCLXIX.

AN ACT directing the manner of choosing commissioners to regulate and repair the streets and alleys in the Town of Frederica, and for other purposes.

Commissioners, assessor and treasurer of the town of Frederica,—by whom,

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 white inhabitants of said village,—living within the limits hereinafter described,

who may be taxables in said town, or who are entitled to vote at the General election,—to assemble at any convenient place in 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.

when, and how to be chosen;  
their continuance in office.

SEC. 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 of March next, to cause all the streets and alleys within said village, 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 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 said village, and the courses, width and names of the several streets and alleys;—which names shall be given by said commissioners to the said streets 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.

Commissioners to have the streets surveyed, &c.,  
surveyor to be sworn, &c.,  
plot to be made, &c.;—what it shall contain;—  
to be signed by commissioners and surveyor;—and deposited in recorder's office, etc.

SEC. 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, 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.

Commissioners to fix stones in the centre of the intersections of the streets, etc.; which shall be deemed land marks.

Commission-  
ers,—to have  
the streets  
regulated, re-  
paired etc,—

to raise by  
way of tax,  
etc. the funds  
necessary  
therefor,—

and for erect-  
ing public  
pumps, etc.

SEC. 4. *And be it enacted*, That the said commissioners, for the time being, shall have full power and authority to cause the said streets 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 said village,—and shall cause a fund to be raised, by way of tax upon the persons and estates within the said village, to discharge the expense of surveying, laying out, repairing and supporting the said streets and alleys, and making and recording a plot thereof, for setting up and fixing land marks, and for erecting public pumps in the streets of the said town, and making a rate or assessment on the persons and estates within said town; *Provided always*, that the said commissioners shall not be compelled to support or repair the streets in said village, now deemed public highways and supported by the county of Kent.

Commission-  
ers to cause  
nuisances to  
be removed,  
etc.

SEC. 5. *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 and alleys; and in case any person or persons, who shall occasion such nuisance, shall neglect or refuse to remove the same, as soon as conveniently may be after being requested so to do 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 village, one dollar to be recovered as debts under forty shillings are recoverable.

Assessor,—

his oath,

his duties;

SEC. 6. *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 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 overrated by the said assessor, they may, within twenty days after said duplicates are put up, appeal to the commissioners, who shall hold a meeting in said village for that purpose, whose decision thereupon shall be final.

SEC. 7. *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 said assessor and corrected by the commissioners in cases of appeals; and the said treasurer shall have the same power and authority to collect said taxes, as are given to the collectors of county rates and levies; and the said treasurer, before he enters on the duties of his office, shall give his bond, with sufficient 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 account annually, in the month of February, with said commissioners, or as often as a majority of them shall call on him for that purpose; and said treasurer and assessor shall receive a reasonable compensation for their trouble in the premises, to be determined by the said commissioners.

SEC. 8. *And be it enacted,* That the following shall be deemed and taken and considered as the bounds and limits of the said village of Frederica,—beginning at the forks of Murderkill and Spring creeks and running up Spring creek to the division line of the heirs of Mathew 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 line dividing the lands of said Leech now Vincent Moore and the heirs of Thomas Lowber to the line of Joseph G. Rowland and with said line to the end thereof continuing said

Commission-  
ers,—to have  
the streets  
regulated, re-  
paired etc,—

to raise by  
way of tax,  
etc. the funds  
necessary  
therefor,—

and for erect-  
ing public  
pumps, etc.

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his duties;

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*Treasurer,—his duties—*  
*and powers;*  
*to give bond, etc.,*  
*to settle his accounts with the commissioners, etc.*  
*Compensation to assessor and treasurer.*

SEC. 8. *And be it enacted,* That the following shall be deemed and taken and considered as the bounds and limits of the said village of Frederica,—beginning at the forks 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 line dividing the lands of said Leech now Vincent Moore and the heirs of Thomas Lowber to the line of Joseph G. Rowland and with said line to the end thereof continuing said

*Limits of the town.*

CHAP. course to Murderkill creek, and down said creek to  
CCCLXXI. the forks of Spring creek and place of beginning.  
1826.

PASSED AT DOVER, }  
February 9, 1826. }

## CHAPTER CCCLXX.

AN ACT *providing for the sale of a tract of land, near Laurel, in Sussex county, belonging to Levin G. Irving, a minor.*

PASSED AT DOVER, }  
February 10, 1826. }

PRIVATE ACT.

## CHAPTER CCCXXI.

5 vol. 176. AN ACT *to revive the act entitled, "An act to incorporate a company for making a turnpike road from the village of Stanton to the village of Newark, ending at the limits thereof, near Holtzbecker's gate, and from the western extremity of the village of Newark, beginning near Pritchard's Tavern, to the Maryland line, in a direction to Rock Run, on the Susquehanna," and the supplement thereto, passed at Dover, Feby. 7, 1817.*

The previous  
acts re-  
vived:—

and the com-  
missioners  
therein na-  
med autho-  
rized to open  
subscription  
books for  
stock of the  
company.

SECTION 1. BE IT ENACTED, *by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That the above-recited acts be and the same are hereby revived, and that the commissioners, or the survivors of them, named in said acts, or a majority of them, are hereby authorized to open books, at such time or times, and at such place or places, as they may deem best calculated to obtain subscriptions to the stock of the company incorporated by the above-recited acts.

SEC. 2. *And be it enacted*, That the time limited, <sup>The time extended for</sup> in the before mentioned acts, for commencing and <sup>commencing</sup> carrying on the work thereby authorized to be done, <sup>and completing the road,</sup> be and the same hereby is extended to the period of <sup>etc.</sup> three years from and after the passing of this act, and <sup>5 v. 192, 265.</sup> the time limited for the completion thereof shall be extended to the first day of May which will be in the year one thousand eight hundred and thirty-five.

PASSED AT DOVER, }  
February 10, 1826. }

## CHAPTER CCCLXXII.

AN ACT *to dissolve the marriage contract between Daniel Buffon and Mary Buffon late Mary Landers.*

PASSED }  
Feb. 10, 1826. }

PRIVATE ACT.

## CHAPTER CCCLXXIII.

A SUPPLEMENT *to the act entitled "An act* <sup>6 v. 392.</sup> *regulating the general election."*

SECTION 1. BE IT ENACTED, *by the Senate and* <sup>Place of hold.</sup> *House of Representatives of the State of Delaware,* <sup>ing the elec-</sup> *in General Assembly met,* <sup>tions in Bran-</sup> That, from and after the <sup>dywine hun-</sup> passing of this act, the general and special elections, <sup>dred, chan-</sup> in and for the hundred of Brandywine in the county of Newcastle, shall be held at the house, known by the name of the Green Tree tavern, now occupied by Joel J. Baily, and situated in the Village of Brandywine: *Provided,* the Wilmington and Great Valley turnpike company, and the Wilmington and the Philadelphia turnpike company, shall each respectively, on or before the fourth day of July next, issue their licenses under the seal of their respective corporations, thereby exempting the electors of Brandywine hundred from the payment of tolls, in going to <sup>on certain conditions.</sup>

CHAP. and returning from any general or special election  
 CCCLXXV. hereafter to be held at the tavern house known by the  
 1826. name of the Green Tree aforesaid,—and shall cause  
 said licenses respectively to be filed and recorded in  
 the office for recording of deeds in and for New-  
 castle county, within the time aforesaid,—and also  
 to be published, in two newspapers published in the  
 borough of Wilmington, for one month after issuing  
 said licenses; and if said licenses shall not be so issued,  
 filed, recorded and published, then and in that  
 case, all the general and special elections, to be held  
 in said hundred, shall be held as heretofore at the  
 Practical Farmer.

PASSED AT DOVER, }  
 February 10, 1826. }

#### CHAPTER CCCLXXIV.

AN ACT to enable Thomas W. Smith to bring in-  
 to this State, from the State of Maryland, a  
 negro man called Nathan, and to retain him as  
 a slave.

PASSED }  
 February 10, 1826. }

PRIVATE ACT.

#### Resolutions.

#### CHAPTER CCCLXXV.

William P. BROBSON appointed agent to settle with the U. S. war department the account for arms delivered this State under the act of con-  
 RESOLVED, by the Senate and House of Representatives of the State of Delaware in General Assembly met, That William P. Brobson be, and, as agent on the part of this state, he is hereby appointed, and vested with full power and authority, to settle and adjust, with the proper officer of the war department of the United States, the account of that department with this state, relative to arms and mili-

tary supplies, furnished under the authority of an act<sup>gress for</sup> of congress for "arming and equipping the whole bo<sup>arming the</sup> dy of the militia of the United States;"—and that<sup>militia, etc.</sup> the said agent be also authorized and empowered to<sup>and also the</sup> adjust and finally settle all claims this state may have<sup>claims of this</sup> against the United States, for expenses incurred du<sup>State for ex-</sup> ring the late war with Great Britain, as fully and<sup>penses during</sup> effectually as the late Joshua Gordon Brinckle might<sup>the late war,</sup> or could have done, was he now living;—and that,<sup>&c.:</sup> in the adjustment of such claims, the said agent be instructed to demand the payment of interest upon the money expended by this state for the common defence during the aforesaid war;—for which service, when performed, the said agent shall receive a rea-<sup>his compensa-</sup> sonable compensation.<sup>tion.</sup>

*Resolved*, That the Secretary of State furnish the<sup>Necessary pa-</sup> said agent such papers, or certified copies of all such<sup>pers to be</sup> papers, as may be found in his office, and which may<sup>furnished to</sup> be deemed useful and necessary in such settlement;—<sup>him.</sup> and that the clerk of the House of Representatives, and the clerk of the Senate, in like manner, furnish any papers in their respective Houses; in relation to these matters, which may be called for by the aforesaid agent.

*Resolved*, That the said agent be required to make<sup>Report of his</sup> report of his proceedings to the next January session,<sup>proceedings</sup> of the legislature;—and that he be authorised, in the<sup>to be made to</sup> mean time, to draw, by his warrant, on the State<sup>General As-</sup> Treasurer, for the sum of two hundred dollars, which<sup>sembly:</sup> the said treasurer is hereby required to pay out of any<sup>authorised to</sup> money in the treasury not otherwise appropriated.<sup>draw on the</sup>

ADOPTED AT DOVER, }  
Jan. 28, 1826. }

## CHAPTER CCCLXXVI.

*RESOLVED* by the Senate and House of Repre-<sup>Directors of</sup> sentatives of the State of Delaware, in General<sup>the F-rmers'</sup> Assembly met, That the following persons be and<sup>Bank,</sup>

CHAP. they are hereby appointed directors of the Farmers'  
 CCCLXXVII. Bank of the State of Delaware, on the part of this  
 1826, state, agreeably to an act of the General Assembly in  
 at Dover, such case made and provided;—for the principal  
 Bank, Thomas Clayton, John Bell and Elias Nau-  
 Wilmington, dain;—for the Branch at Wilmington, Joseph C.  
 Gilpin, E. I. Dupont, and John Gordon;—for the  
 Newcastle, Branch at Newcastle, Levi Boulden, Samuel Meter  
 Georgetown, and John Moody;—for the Branch at Georgetown,  
 David Hazzard, Stephen M. Harris and Jehu Stockley.

ADOPTED AT DOVER, }  
 January, 31, 1826. }

## CHAPTER CCCLXXVII.

Ezekiel Cow-  
 gill appointed  
 State Treas-  
 urer.

RESOLVED *by the House of Representatives of  
 the State of Delaware with the concurrence of the  
 Senate*, That Ezekiel Cowgill be, and he is hereby  
 appointed State Treasurer.

ADOPTED AT DOVER, }  
 February 9, 1826. }

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### SECRETARY'S OFFICE,

DOVER, 9 MAY, 1826.

In obedience to the directions of an act of the General Assembly of the State of Delaware, entitled "An act to enjoin certain duties to be performed by the Secretary of State, and for other purposes," I have collated with, and corrected by, the Original Rolls, and caused to be published, this edition of the Laws of the said State, passed during the last Session of the General Assembly, which commenced on Tuesday the third day of January, and closed on Friday the tenth day of February, in the year of our Lord one thousand eight hundred and twenty-six.

H. M. RIDGELY,  
*Secretary of the State of Delaware.*

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OF THE

## SIXTH VOLUME

OF THE

### Laws of Delaware.

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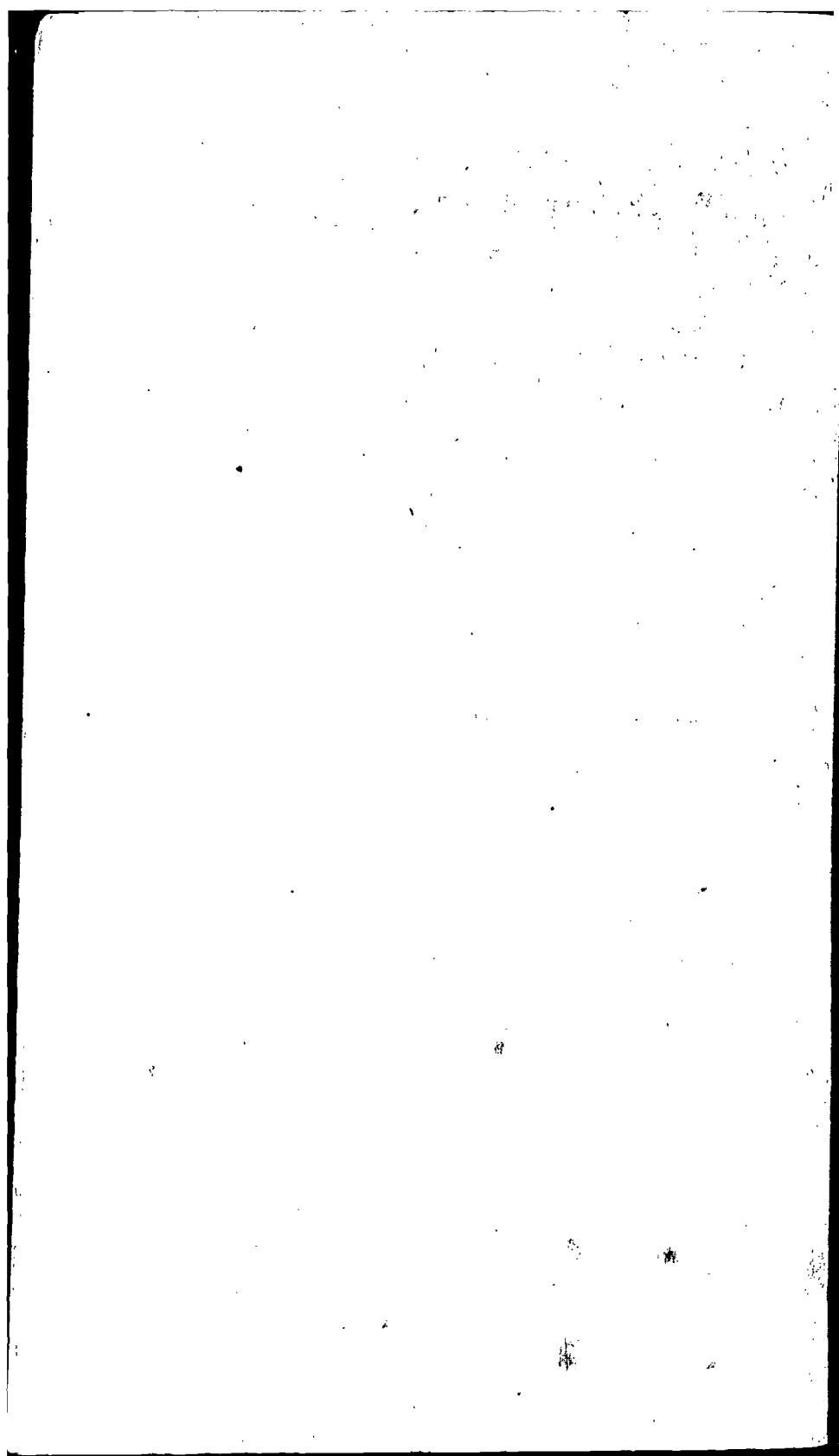
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## SIXTH VOLUME

OF THE

### Laws of Delaware,

*Beginning with the acts passed at a session of the General Assembly which commenced on the fourth day of January, 1820, and ending with the acts passed at a session of the General Assembly which commenced on the third day of January, 1826.*

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Indict

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Time

PETIT

PETTY

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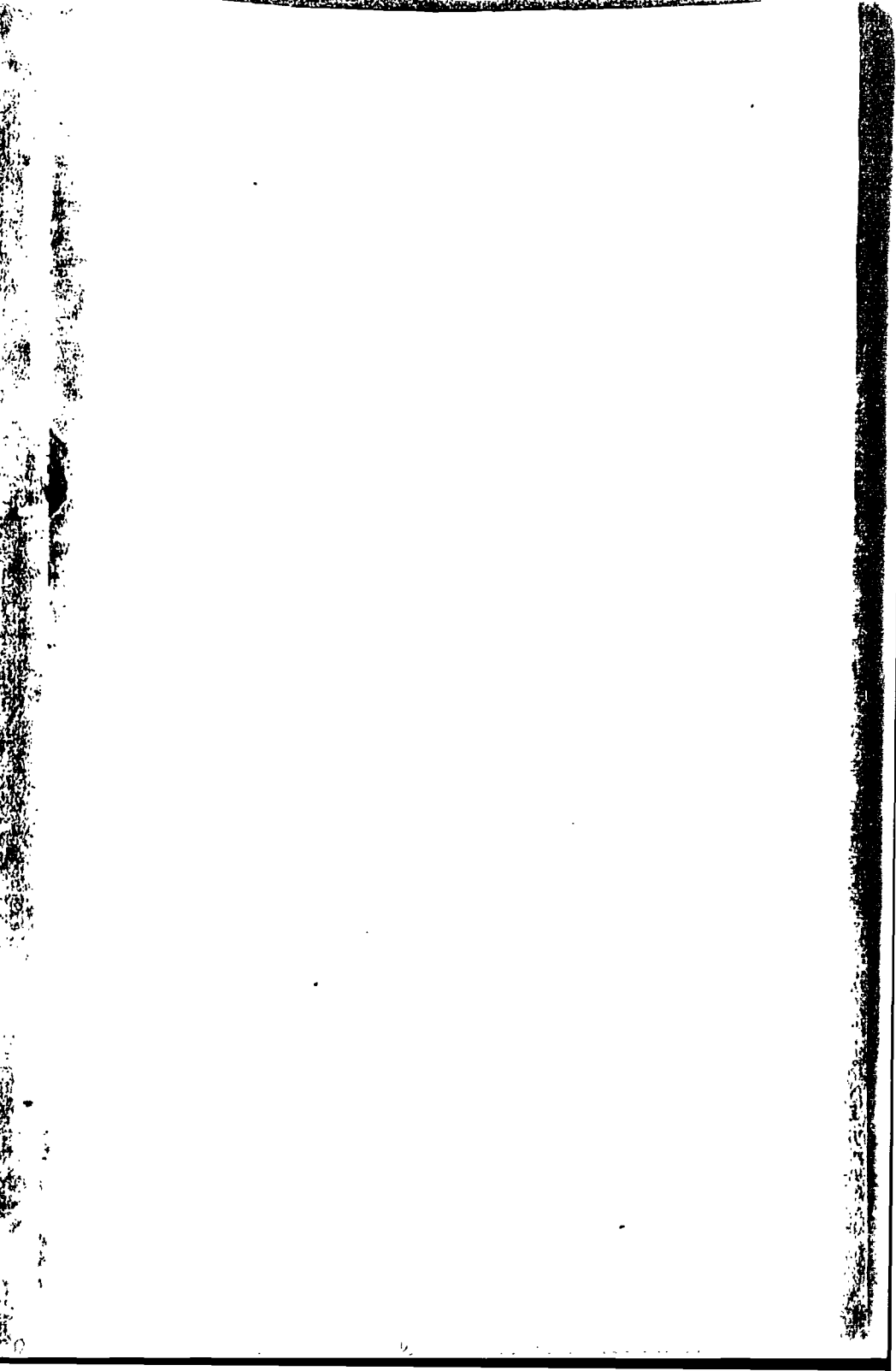
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