LAWS

OF THE

STATE OF DELAWARE,

TO THE YEAR OF OUR LORD, ONE THOUSAND EIGHT HUNDRED AND TWENTY NINE INCLUSIVE: TO WHICH ARE PREFIXED THE DECLARATION OF INDEPENDENCE AND CONSTITUTION OF THE UNITED STATES.

REVISED EDITION.

ARRANGED AND PUBLISHED UNDER THE AUTHORITY

OF THE

GENERAL ASSEMBLY.

Wilmington, Del.
PRINTED BY R. PORTER AND SON, MARKET-STREET.

1829.

ERRATA.

Page 463—*Title*—erase the words *Religious Societies.*

Page 539—on the top in bracket—erase *Lancaster* and substitute Elkton.

Page 732—erase this line, *power of two commissioners* 552, and insert the same in page 734, as the third line.

1829 Code
Part 2

the case, and if he find the said party guilty, shall limit a reasonable fine according to the circumstances but in no case exceeding ten dollars, and shall give judgment, that said party pay to the State said fine and costs and stand committed till payment; and the said Justice shall immediately charge a constable present with said party, and shall enter the name of such constable upon the docket of the case; and the said constable, if the fine and costs be not paid, shall have power to convey said party to the common gaol of the county to be therein detained by the keeper thereof, until the fine and cost be paid: for which a copy of said judgment (which copy the Justice shall make, certify and deliver to the constable on request,) shall be a sufficient warrant.

215 fine not to exceed $10

216 commitment

It shall not be lawful for the Justice in any case to receive the fine by him imposed or the costs.

217 Justice not to receive fine or costs

In such case as mentioned in this section, the Justice shall have power for sufficient cause to adjourn the hearing, taking security for the appearance of the party complained against, at the time adjourned to.

218 Adjournment

It shall be lawful for a Justice of the Peace in every case of assault and battery to permit the parties to settle the matter and either to discontinue any proceedings or to annul any recognizance upon payment of costs.

219 settlem't

If the Justice shall consider, that a case submitted to him ought to be subjected to higher authority, he shall refuse to determine it and shall require sureties for the appearance of the party complained against and the witnesses at the court having jurisdiction of the matter; and in case of failure to give sureties as required, he shall commit the party failing.

220 cases proper for higher tribunal

Passed at Dover, January 30, 1829.

—o—

LANDLORD AND TENANT.

I.

AN ACT *concerning Landlords and Tenants.*

1829

Section 1. Whenever any rent, whether of money or a quantity or share of grain or other produce or of any thing certain or that can be reduced to certainty, is in arrear upon a demise of lands, tenements, or hereditaments for life or a term of one or more years or a less time or at will; the person entitled to such rent, whether the original lessor or an assignee, heir, executor or administrator, either personally or by his bailiff, may, during the demise and afterwards while the tenant or any person coming into possession by or under him shall continue to hold the demised premises and the title to said premises shall remain in the person to whom the rent accrued or his heirs, devisees, executors or administrators or be in his immediate reversioner or remainder-man, distrain for the said rent in arrear as well the grain, grass and other produce found upon the demised premises, whether growing or sever-

1 Rent distrained for

3 Blac. Com 6—15

Bac. Abridg't distress, A.

2 who may distrain

3 What may be distrained

3 Blac. Com. 10
4 exceptions

ed, in sheaves, stacks or otherwise as the horses, cattle and other goods and chattels being upon said premises: except goods and chattels not the property of the tenant but being in his possession in the way of his trade or upon the demised premises in the regular course of any occupation or business there carried on: which exception shall extend to horses and carriages at a livery stable, to property of boarders in a boarding house and to the beasts of a drover depastured while passing through the country, as well as to the more obvious cases of exemption (a) according to the common law; and also except stoves not the property of, but hired by, the tenant and beasts not the property of the tenant, escaping into the demised premises through defect of fences, which the tenant or his landlord was bound to repair.

3 Burr. 1498
3 Blac. Com. 8 & n. 4

5 Goods followed & distrained off the premises

If the tenant, either during his term or estate or after the end thereof, remove his goods and chattels or any part thereof from the demised premises without payment of the rent due or growing due for the said premises, and without license from the landlord or his agent in writing under hand, the goods and chattels so removed, unless sold fairly for a valuable consideration and delivered to the buyer, shall be liable, wherever found, to be distrained for said rent for forty days after the removal, or if the rent be not in arrear at the time of the removal, for forty days after the rent shall become in arrear. Notice to the tenant to remove from the demised premises shall not be a license within this provision.

6 Unreasonable distress
3 Blac Com. 12

Every distress shall be reasonable and not too great; any person taking an unreasonable distress shall answer the damages to the party injured in an action on the case.

7 Notice of distress

Sect. 2. The person or bailiff distraining as aforesaid shall either deliver to the tenant or leave at the mansion house, or if there be none at the most notorious place on the demised premises written notice of the property distrained and the cause of the distress. If said property be not replevied in five days after the day of such notice, the sheriff or under sheriff of the county or any constable for the county or place, where the distress is taken, shall upon application summon two judicious and impartial freeholders of said county and administer to them respectively an oath or affirmation to appraise the said property at its true value in money according to the best of their skill and judgment; and they shall certify their appraisement with the date under their hands.

8 Replevin in five days, or appraisement

9 Rent, not of money, valued

If the rent be not of money, the said sheriff, under sheriff or constable shall also summon the said appraisers and another judicious and impartial freeholder of said county to determine the value of said rent in money and shall administer to them respectively an oath or affirmation to inquire diligently concerning the true value in money of the rent, for which the distress was taken, in arrear at the time of distraining and faithfully determine the same. Upon such inquiry the freeholders shall afford such opportunity, as they shall deem reasonable, to the parties to be heard; and they shall severally have power to administer an oath or affirmation to wit-

(a) More obvious cases of exemption at common law are, when a tenant has in possession goods of another in the way of trade; as a horse at a smith's shop to be shoed; in a taylor's shop cloth or garments of a customer; horses, cattle or goods of a guest in a tavern; grists in a mill; &c. Co. Lit 47 a & n 14. Com. Di. Distress C.

nesses; and the said freeholders or any two of them agreeing shall certify under their hands the value of the rent in arrear. The certificate may be according to the following form:

10 Certificate of value

—— county, ss. Upon a distress for rent on the demand of —— against —— —— We the freeholders summoned to determine the value of said rent in money, upon our oath and affirmation respectively say, that at the time of taking said distress there was rent in arrear from the said —— —— to the said —— —— to the value of —— —— Witness our hands, the —— day of —— 18— The value so certified shall not be questioned except upon replevin of the goods distrained. No further certificate, either of the summoning or the swearing or affirming of the freeholders, shall be necessary; if all the freeholders be sworn, or if all be affirmed, the certificate shall be adapted to the case by omitting the words "*and affirmation*" or the words "*oath and.*"

final unless replevin

11 Sale

The sheriff or under sheriff of the county or any constable for the county or place where the distress is taken, shall have power to sell the property distrained if not replevied or so much thereof, as shall be necessary to satisfy the rent in arrear and all costs, by way of public vendue to the highest and best bidder or bidders at any time after the expiration of six days from the day of the appraisement of said property, giving notice of said sale by advertisements posted in at least five of the most public and suitable places in said county at least six days before the day of sale If there be a surplus of the proceeds of such sale over satisfying the rent and costs, it shall be refunded to the owner or applied according to law without delay. If through mistake or other cause a sufficient distress be not taken, distress may be made for the balance of the rent in the same manner, as for the entire sum.

12 Notice of sale

13 Surplus

14 second distress

3 Blac. Com. 11-12

It shall not be an objection to any officer acting in any of the premises, that he as bailiff made the distress.

Woodfall 395

2 Sellon 268-269

Sect. 3. The person or bailiff making a distress may suffer the property distrained to remain at large upon the demised premises or may impound the same either on the said premises or in any other convenient place in the same county. A distress shall not be removed out of the county where the demised premises are situate: but if the said premises lie in different counties, a distress taken on any part thereof may be carried to the mansion house or other most notorious place thereon, which shall for all purposes be deemed to be the place of the taking: and grain or other produce growing on any part of such premises shall be subject to be appraised by freeholders and to be sold by the sheriff, under sheriff or constable and to be replevied by writ of replevin directed to the sheriff or coroner, all of the county where the mansion house or other most notorious place on said premises is situate, in the same manner, as if every part of said premises was in said county.

15 Distress left on premises, or impounded—but not removed from county

16 demised premises lying, parts in different counties

The person, on whose demand a distress is made, shall have a special property in the things distrained until replevin or sale thereof, so that he may take the same wherever found and recover damages for carrying away or injuring them.

17 Distrainer's property in distress

In case of the property distrained remaining or being impounded on the demised premises, the distrainer and every other person shall have right to go upon said premises to view, appraise or pur-

18 Rights of purchasers & others

chase said property, or to take the same when purchased; and if grain or other produce in the ground be sold, the purchaser shall have right to do all acts requisite for saving, cultivating, gathering and taking the same.

19 Pound breach and Rescue

Sect. 4. If any pound breach or rescous be made of property distrained, the party injured shall in a special action on the case recover double damages and costs against the persons making such pound breach or rescous or any of them, or against the owner of the property if it have come to his possession or use.

20 Distress & sale—when no rent in arrear—penalty

Sect. 5. If any distress and sale be made for rent demanded, when no rent is in arrear, the person, upon whose demand such distress is made, or his executors or administrators shall pay to the owner of the property so distrained and sold or his executors or administrators double the value of said property to be recovered with costs in an action of debt, in which a less sum than that demanded may be recovered.

21 Irregularity not to vitiate distress—special damages therefor

Sect. 6. When a distress is taken for rent justly due, no subsequent irregularity shall make it a trespass or vitiate it; but the party injured by such irregularity may recover the damages sustained on occasion of such injury and no more in a special action on the case; unless sufficient amends shall have been tendered before action brought, in which case there shall be no recovery.

22 Bond on replevin

Sect. 7. The sheriff or his deputy or the coroner having a writ of replevin for property distrained shall before serving the writ take bond from the plaintiff or some substantial person for him, with sufficient surety, to such sheriff or coroner in a penalty double the value of said property (to be estimated by the officer serving the writ, or to be appraised, if either party request it, by two judicious persons to be summoned and sworn or affirmed by such officer,) with condition according to the following form:

23 Condition

The condition of the above written obligation is such, that if ——, *at whose suit against* —— *a writ of replevin has been issued out of the* (describe the court) *of the State of Delaware for* —— *county returnable to* —— *term next, or his executors or administrators shall prosecute said suit with effect and shall fully and without delay satisfy any judgment, which shall be given against the said* —— *or his executors or administrators in the said suit, then the said obligation shall be void.*

24 Avowry or cognizance

In every such suit the defendant may avow or make cognizance generally *for rent in arrear, stating to whom, for what premises and for what time,* without other particulars. Such avowry or cognizance may be entered upon the record by way of suggestion, if in consequence of the plaintiff being nonsuit or judgment being given on demurrer or for other cause, it cannot be entered in the regular course of the pleadings.

25 Rent found by jury

The jury upon the trial of the action shall find the sum due for rent in arrear; and after issue joined the plaintiff becoming nonsuit, shall not prevent a jury from being drawn or sworn or affirmed or from trying the cause or from giving their verdict.

—determined when no trial by jury

If there be judgment of nonsuit or upon demurrer or otherwise without trial by jury, the sum due for the rent in arrear may be found either by a jury drawn and sworn or affirmed and giving their verdict at the bar of the court, as in cases of jury trials, (the

action being put upon the trial list for that purpose,) or by a jury of inquiry upon a writ of inquiry awarded for that purpose. or otherwise as the court may in their discretion order; or the same may be ascertained with or without avowry or cognizance as the parties shall agree; judgment shall be given for the defendant for any sum so found or ascertained, as debt with costs of suit, and like execution shall be had as on judgments for debt. 26 Judgment for rent

If judgment be given for the defendant or his executors or administrators, the sheriff or coroner, to whom the bond was taken upon the service of the writ, shall, on request assign the said bond by assignment under hand and seal before at least one credible witness to the defendant or his executors or administrators, or if the defendant be bailiff, to the person, on whose demand the distress was made, or his executors or administrators: the assignee may sue on the bond in his own name. 27 Assignm't of bond

Sect. 8. The husband of a woman entitled to any rent in fee simple, fee tail, for life or other estate shall have the same remedy by debt or distress after her decease, as during her life, for the arrears of said rent accruing during the marriage. 28 Husband's remedy

A person entitled to any rent for the life of another person may distrain in the same manner after the death, as during the life, of such other person for any arrears of said rent. 29 one entitled for another's life

An action of debt shall lie for the arrears of any rent, whether in fee, in tail or for life either during the continuance or after the determination of the freehold. 30 Debt

The executors or administrators of any person, to whom any rent was in arrear at the time of his death. whether such rent were in fee, in tail, for life, years or other estate, shall have the same remedy by action or distress for such arrears, as the testator or intestate if living could have. 31 Ex'rs—Adm'rs

When any lands, tenements or hereditaments are held by demise of a person having an estate therein determinable on a life or any contingency; if such estate determine before the end of any year or quarter if the rent be payable quarterly, the rent shall be apportioned according to the time; and the proportion thereof for the time the same has been growing due to the determination of said estate shall be paid to the lessor or his executors or administrators and may be recovered by action of debt, or on the case; and if, in case of the determination of such estate before the end of the year or quarter, the whole rent for such year or quarter shall have been paid before such determination. a just proportion thereof according to the time (for which the rent has been paid,) to run after such determination, shall be refunded. 32 Apportionment of rent according to time

Satisfaction for the use and occupation of lands, tenements or hereditaments by permission of a person, without demise by deed or contract under seal for the rent, may be recovered in an action on the case upon assumpsit; and evidence of any demise without deed or of a contract not under seal for a certain rent, shall not defeat such action, but may be used to maintain the same. 33 Use and occupation Bac abr. rent, K 366 Woodfall 430

Sect. 9. When there shall be sufficient ground to believe, that a tenant intends to remove his effects from the county, where the demised premises are, before the rent will become due, so as to defeat a distress for said rent, the landlord or any credible person for him 34 Tenant intending to remove his effects from county.—

Attachment (40)

may before the clerk of the Supreme Court or the prothonotary of the Court of Common Pleas in said county or any person officiating for either of said officers make oath or affirmation, stating the rent and when it will be due and that he does on good grounds believe, that the tenant intends to remove his effects from said county and will remove the same, before the said rent will be due; and thereupon a writ of attachment shall be issued out of said court, returnable to the next term thereof, directed to the sheriff or in case of legal exception to him, to the coroner of said county, against the goods and chattels, rights and credits of such tenant and for summoning the garnishees; if the tenant shall give to the landlord bond with sufficient surety, to be approved by the sheriff or coroner having such writ, before the return thereof, or by the court at the term of the return, to pay the rent when due with the costs that may be awarded to the landlord in the case of said attachment, the goods and garnishees shall be discharged therefrom; if bond as aforesaid be not given, the court shall make an order for the sale of the goods and chattels attached or so much thereof, as shall be necessary to pay said rent with the costs, and shall render judgment against every garnishee summoned upon the attachment upon his answer confessing goods, monies, rights or credits in his hands, or upon the verdict of a jury against him if required to plead, as in other proceedings by attachment.

35 proceedings

36 issue

If the tenant deny the demand of rent, the court, whether he have given bond as aforesaid or not, shall direct an issue to be tried by a jury at the bar of said court for ascertaining, whether there be a just demand of rent and the amount thereof; and the verdict upon such issue, unless set aside by the court, shall be conclusive.

37 costs

The court in respect to the costs and touching the premises generally may exercise equitable powers.

38 overplus

The residue of the goods or money after satisfying the rent and costs shall be restored or paid to the tenant without delay, unless there be legal cause to apply the same otherwise.

39 Tenant about to leave State & not sufficient goods that can be attached

Also a landlord or any credible person for him may in manner aforesaid make oath or affirmation, stating the rent which his tenant is to pay or render and when it will be due, and that he does on good grounds believe, that the said tenant does intend to leave this State and will depart from the same, before said rent will be due, and that there are not goods and chattels, rights and credits of said tenant, that can be attached, sufficient to secure said rent, and that the said tenant does not intend to make any provision for the payment of said rent; and thereupon proceedings shall be had against said tenant according to the twentieth section of the "Act directing the manner of suing out attachments within this government." Nothing in this section shall be construed to extend to more than one year's rent.

(Attachment 21)

40 only one year's rent

41 Goods taken on execution, &c liable to 1 year's rent of money

Sect. 10. If goods and chattels of a tenant being upon premises held by him by demise under a rent of money be taken by virtue of any process of execution, attachment or sequestration, the said goods and chattels shall be liable for the rent of said premises in arrear or growing due, at the time of such taking, in preference to such process; provided that this preference shall not extend to more than one year's rent; accordingly the landlord shall be paid

at the common law goods and chattels taken in execution prior to a distress were first applicable to such execution?

Guam - What is meant by the words "having upon premises"?

such rent (not exceeding one year's rent) out of the proceeds of the sale of such goods and chattels, before any thing shall be applicable to such process; but if the landlord, before the taking of the goods and chattels of his tenant by virtue of such process as aforesaid, have distrained such goods and chattels for rent in arrear, such distress or the levying of the rent in arrear under it shall not preclude him from the preference given by this section.

42 Grain or produce liable to the rent in kind—in preference to execution

And if the grain or other produce growing or being upon premises held by a tenant by demise under a rent of a quantity or share of grain or other produce, be taken by virtue of any process of execution, attachment or sequestration; such grain or produce shall be liable for the year's rent proper to be rendered thereout in preference to such process, that is to say; the indian corn shall be liable for the quantity or share of indian corn to be rendered as rent, the wheat shall be liable for the quantity or share of wheat to be rendered as rent, and so of the other produce; this preference extending only to the rent for one year; and such grain or produce, if sold in pursuance of being so taken, shall be sold subject to such rent, and the purchaser shall be liable for said rent and the delivery thereof according to the tenant's contract and for the proper cultivation and care of the crop; and in addition to the remedy arising from this liability, such grain or other produce may be distrained for the rent proper to be rendered thereout, when due, in the same manner, as if the same had not been sold: and it shall not be lawful to remove said grain or produce from the demised premises without either paying the rent proper to be rendered thereout, or giving or tendering to the landlord or person entitled to said rent good security to pay the same when due; and in case of a removal contrary to this provision, the landlord or person entitled to such rent may immediately follow and distrain the grain or produce removed and may proceed in the same manner, as if the rent had been in arrear at the time of removal.

43 sold on execution subject to such rent

44 not to be removed without payment

45 Notice to Landlord of sale of Tenant's goods

The sheriff or other officer, who shall sell goods and chattels of a tenant taken upon process of execution, attachment or sequestration, shall at least ten days before such sale give written notice of the time and place thereof to the landlord if residing in the county, and if not, to any known agent of the landlord in the county.

46 Goods in execution may be distrained

47 Notice of such distress

The levy of process of execution, attachment or sequestration upon goods and chattels shall not prevent such goods and chattels from being taken and sold as a distress for rent; but the landlord or person making such distress shall at least six days before the sale of the goods and chattels distrained give written notice of such distress and the time and place of such sale to the plaintiff or one of the plaintiffs if several, in every such process or his attorney (if such plaintiff or attorney reside in the county,) or he shall forfeit the benefit of this provision. Such distress shall not impair the levy nor obstruct the authority of the officer to sell said goods and chattels by virtue of the process at any time before the sale thereof pursuant to the distress; and such distress or a sale pursuant to it shall not vary the rights of the parties in respect to the application of the proceeds of the goods levied on, so as to give to the demand of rent any additional preference over the other process.

48 Straw, Manure, &c. not to be removed

Sect. 11. If any person shall carry from demised premises any straw, corn-husks or manure without the consent of the owner of said premises, he shall pay to such owner double the value of such straw, corn-husks or manure to be recovered with costs in an action on the case; but this section shall not extend to any premises of less quantity than five acres.

49 restriction

50 Entry under agreem't to pay rent, a lease—if no term limited—for 1 year.

Sect. 12. Any contract or consent, pursuant to which a tenant shall enter into or continue in possession of lands, tenements or hereditaments under an agreement to pay rent, shall be a demise; if no term be expressly limited, the demise shall be construed to be for a year, except of houses and lots usually let for a less time; and no demise, except it be by deed, shall be effectual for a longer term than one year. When lands, tenements or hereditaments are demised for a term of one or more years, if three months or upwards before the end of the term either the landlord do not give notice in writing to the tenant in possession to remove, or the tenant do not give notice to the landlord of his intention to remove, from the demised premises. the term shall be extended for another year, for which the tenant shall pay the rent and all stipulations of the demise shall continue in force. If the tenant three months or upwards before the end of the term shall give such notice, and shall not deliver up the demised premises accordingly, such tenant shall pay double the rent that was payable according to the demise; and the withholding of the possession in such case shall be deemed a forcible detainer and may be proceeded upon as such; or if the tenant or any person coming into possession by permission or collusion with the tenant shall hold over the demised premises after the end of the term and after notice in writing given three months or upwards before the end of such term to the tenant then in possession to remove from said premises, such tenant or person so holding over shall pay double the rent that was payable according to the demise.

51 if 3 months notice not given the term extended for one year

52 Tenant giving notice & not delivering possession (Forcible entry & detainer 5)

53 or holding over against notice to him (Forcible entry & detainer 13) double rent

Double rent payable according to this section may be levied by distress or recovered by action in the same manner, as the single rent, if the said demise had continued, could have been.

54 Ejectment penalty on tenant not giving notice

Sect. 13. If a tenant, on whom a declaration in ejectment shall be served, shall not give notice thereof to his landlord or his agent without delay, such tenant shall forfeit and pay to such landlord the value of two years full rent of the premises to be recovered with costs by action of debt. The landlord upon entering into the common rule shall be admitted defendant with his tenant in such ejectment; but if the tenant refuse to appear, and the landlord apply to be admitted defendant, judgment shall be entered against the casual ejector with stay of execution subject to the order of the court; and the landlord on entering into the common rule and admitting on record, that he is, and at the time of commencing the action was, in possession of the premises mentioned in the declaration or any described part thereof, for which he defends, shall be admitted defendant.

55 rights of Landlord

56 Limitation of distress for rent

Sect. 14. An executor or administrator shall not distrain for rent in arrear to the testator or intestate after the expiration of six month from the death of the testator or intestate; any other person entitled to the rent of premises but having no estate in said

premises shall not distrain for said rent after the expiration of six months from the time of the same becoming in arrear; and in no case shall a distress be taken for rent after the expiration of two years from its becoming in arrear.

No distress shall remain in force more than sixty days from the time of making it. If the property distrained be not sold within the said sixty days, it shall at the expiration of that period be discharged from the distress.

A distress without a sale shall not satisfy the rent for which such distress was taken; but a second distress shall not be taken for the said rent. 57 Distress without sale

Sect. 15. The fees upon a distress shall be 58 Fees

For making distress and giving notice - -	$0 50
For summoning and qualifying freeholders - -	50
To each freeholder - - - - - -	20
For advertising - - - - - -	40

and the rate of two cents a dollar on the proceeds of the sale applied to the rent.

In cases in which freeholders value the rent as well as appraise the goods, there shall be allowed only one fee for summoning and qualifying freeholders and one fee only to each freeholder. For giving notice to landlord of sale of his tenant's goods a fee of twenty cents and the rate of two cents a mile from the demised premises to the landlord's residence, shall be allowed. This fee shall be chargeable to the tenant and first paid on the sale of his goods. But an officer shall demand only one fee for giving such notice whatever number of executions or writs he may have in his hands against the tenant at the time. If there be executions or attachments in the hands of several constables at the time of giving such notice, he only, who made the first levy, shall be entitled to the fee allowed by this provision.

Sect. 16. Rent in arrear or growing due may be attached. If the rent attached be not due at the return of the attachment, the court may render judgment upon such terms and may make such order, as shall be deemed proper to secure the parties and carry the attachment into effect. After attachment served, distress may be made for the rent attached if in arrear, unless the tenant will pay it to the sheriff to be paid into court; and in case of such distress or of a distress made before service of the attachment, the attachment shall not prevent proceeding upon the distress; but if the distress proceed to sale, the officer selling shall pay the money into court, where the attachment is depending, to abide any order that may be made in said court. In case of replevin, the court in which the attachment is, shall have power to order any assignment of the interest in the action of replevin and of the replevin bond, that may be necessary to give effect to the attachment, and to enforce obedience to such order by imprisonment; and such order in respect to the interest in the action shall have the effect of an assignment, and any person, to whom said bond shall be assigned pursuant to such order, may sue thereon in his own name. 59 Rent attached 60 Distress not prevented 61 power of court

Passed at Dover, February 10, 1829.

II.

1829 AN ACT *concerning remedies by and against grantees of reversions or remainders in lands, tenements and hereditaments leased.*

62 Remedies by & against grantees of reversions, &c

Section 1. Grantees of reversions and remainders in any lands, tenements or hereditaments let to lease and their heirs, executors, administrators or assigns shall have the same remedies by entry or action or otherwise against the lessees, their executors, administrators or assigns, for waste done, or for the non-performance of any condition, covenant or contract contained in the leases, as the grantors could have. Also the lessees of any lands, tenements or hereditaments for life or years, or their executors, administrators or assigns shall have the same remedies by action and advantages against the grantees of the reversions and remainders in such lands, tenements or hereditaments or their heirs, executors, administrators or assigns for non-performance of any condition, covenant or contract contained in the leases (except a covenant of warranty of title,) as they could have against the grantors or their heirs, executors or administrators.

63 Rent in arrear before grant, &c. not assignable

But rent in arrear before a grant or damages for a breach, before a grant, of a covenant or contract shall not be assignable by force of this Act.

Passed at Dover, February 11, 1829.

—o—

LEGACIES.

1764 AN ACT *for the more easy and speedy recovery of legacies.*

Whereas the proceedings in the Courts of Chancery, within this government, for the recovering of legacies are tedious and expensive;

1 Suits at law for legacies

(Executors & Administrators—93)

Section 2. It shall and may be lawful for any person or persons, to whom any legacy or bequest of any sum or sums of money or other goods or chattels have been or may be made by the last will and testament of any other person or persons legally made, to commence, sue and prosecute an action of debt, detinue or account render, as the case may require, for such legacy, after it becomes due, in any of the Courts of Common Pleas within this government: And if it shall appear that the legacy or legacies is or are due, and there be sufficient assets in the hands of the executors or administrators with testaments annexed to discharge the just debts of the testator and the legacy or legacies bequeathed, the plaintiff or plaintiffs shall recover, with costs of suit, any law, usage or custom, to the contrary notwithstanding.

2 Abatement

Sect. 3. *Provided always*, That where it shall so happen that there are assets in the hands of any executors or administrators with testaments annexed to discharge all the debts of the testator with an overplus not sufficient to discharge all the legacies which may be given, then an abatement shall be made in proportion to the

legacies so given, unless it shall otherwise be provided by the will. And where any legatee or legatees are or may be under age at the time when such legacy or legacies shall become due, in such case such legatee or legatees shall and may maintain an action for their respective legacies by guardian or next friend as fully and effectually, as by law they may do in any other actions whatsoever. 3 Infant

Sect. 4. The respective courts, where the said actions shall be commenced, upon the plea of the want of assets to pay all the debts and legacies shall appoint auditors to examine the accounts of the executors and administrators with testaments annexed, who, after full hearing of the parties at such times and places, as by them the said auditors shall be appointed with notice to the parties, shall report how the accounts of the executors or administrators do stand, what assets will remain after payment of all the debts, and what part of the remainder is the proportion, that ought to go towards paying of the plaintiffs legacies, having regard to all such settlements as have been or shall hereafter be made before any court or proper officer or officers, that may have jurisdiction and power to settle the same; for which proportion only, unless it be otherwise provided by the will, the court shall then award execution upon the judgment to be had in the said suit; which judgment shall remain a security for the payment of the remainder of the said legacies and costs, when sufficient assets for the payment thereof come to the executors' or administrators' hands: And where any exception shall be taken by either of the parties to the report of the auditors; it shall and may be lawful for the court, in which the action shall be depending, on hearing of the parties to correct and amend any mistakes or errors, which may happen in the accounts so to be reported. 4 Plea—want of assets—auditors

Sect. 5. The Justices of the courts aforesaid respectively upon cosideration of the report of the auditors aforesaid shall according to justice and equity either award no cost or costs out of the testators' estate; or in case the executors or administrators have been faulty in delaying to pay the legacy demanded or a proportional part thereof, without sufficient excuse, then out of the proper estate of the executor or executors, administrator or administrators; any thing herein contained to the contrary notwithstanding. 5 Costs, discretionary

Sect. 6. *Provided always,* That no such suit shall be maintained for any such legacy until reasonable demand made of the executor or executors or administrators with testaments annexed, who ought to pay the same, and an offer made of two sufficient sureties to the said executor or executors, administrator or administrators aforesaid, who, if they think proper to accept thereof, shall become bound to them the said executor or executors, administrator or administrators aforesaid, in double the sum of the legacy given, with condition under written, *that if any part or the whole thereof shall at any time after appear to be wanting to discharge any debt or debts, legacy or legacies, which the said executor or executors, administrator or administrators shall not have other assets to pay, then the said legatee will return his said legacy or such part thereof, as shall be necessary for the payment of the said debts or the payment of a proportional part of the said legacies.* And if the said executors or administrators shall not think pro- 6 No suit till demand and bond to refund

per to accept of such bond, then the said legatees shall file the same with the clerk of the court before obtaining any process against the executor or executors, administrator or administrators; otherwise and in default thereof the process issued shall abate.

7 Several legatees—proportionable abatement

Sect. 7. *Provided also*, That where there are or may be several legatees and a return of part of the said legacy sued for appears necessary, in such case each legatee shall only be compelled to return a proportionable part of his legacy so as to make up the whole sum wanting.

Passed March 31, 1764.

—o—

LEVY COURT.

I.

1829 AN ACT *concerning the constitution of the Levy Court and Court of Appeal.*

1 Commissioners (§ 9. 13. 14.)

Section 1. The Levy Court and Court of Appeal in each county shall be composed of commissioners for the hundreds respectively in such county as follows:

2 in N. Castle

The said court in New-Castle county shall be composed of eleven commissioners, to wit: two for Christiana hundred, two for Appoquinimink hundred, and one for each of the other hundreds in said county.

3 Kent

The said court in Kent county shall be composed of nine commissioners, to wit: one for Little Creek hundred, and two for each of the other hundreds in said county.

4 Sussex

And the said court in Sussex county shall be composed of ten commissioners, to wit: one for each hundred in said county.

5 elected (11-12)

The commissioners of the said court in each county shall be elected by ballot at the General Election in such county by the citizens residing in said county having right to vote for representatives; and the election shall be conducted according to the law regulating the General Election.

6 term (11-12)

Each commissioner shall hold his office for the term of three years from his election; except that if an office become vacant before the regular expiration of the term thereof,

7 vacancy

a commissioner shall be elected to fill such vacancy and shall hold the office for the residue of said term. In computing the term, the period from a General Election to the next General Election shall be reckoned a year.

8 qualificat'ns

No person shall be a commissioner of the said court for a hundred, unless he resides and is a freeholder therein. If a person, being a commissioner of the said court for a hundred, removes from said hundred or ceases to be a freeholder therein, his office shall thereupon become vacant.

9 disqualifications (Offices incompatible)

No county treasurer, trustee of the poor, coroner or sheriff shall during his office be a commissioner of the said court; and no commissioner shall during the term, for which he is elected, be appointed a collector of a county, poor, road or State tax, county treasurer or trustee of the poor.

Amended in extenso St. Vol. 163.

Sec. 1. Amended. 8 Vol. 129. by striking out "last Tuesday of September" and inserting "first Tuesday of November"

The commissioners of the said court in each county now in office, shall continue in office for the terms, for which they were respectively elected, that is to say; a commissioner elected for a full term shall continue in office for the term of three years from his election; a commissioner elected to fill a vacancy shall continue in office for the residue of the original term; and if there be now a vacancy in the office of such commissioner, or if the office of any of the present commissioners shall become vacant before the regular expiration of the term thereof, such vacancy shall be filled by a commissioner to hold the office during the residue of the original term, so that the rotation of commissioners heretofore established shall continue. 10 present commission'rs

The clerk of the peace for each county shall after the twelfth and on or before the fifteenth day of September in each year under his hand and seal of office make known to the sheriff of his county the hundreds, for which commissioners of said court in said county are to be elected at the next General Election, stating the names and hundreds of the commissioners, whose terms of office will expire, and the name and hundred of any commissioner, whose office has become vacant, if such vacancy have happened; and if afterward and on or before the twenty-eighth day of September, the said clerk shall be duly informed of a vacancy in said office not made known to the sheriff as aforesaid, he shall immediately make the same known to the Sheriff in manner aforesaid; and the sheriff shall within two days give public notice thereof by a proclamation posted in one or more of the most public places in each hundred of his county, and also give written notice thereof to the inspector of each hundred in said county. 12 Clerk of Peace —duty 13 Sheriff

Every commissioner before taking his seat as a member of said court shall make oath or affirmation according to the following form; *I do solemnly swear (or affirm) that I will perform the duties of my office of commissioner of the Levy Court and Court of Appeal truly, diligently and faithfully according to law, and 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:)* which oath or affirmation may be administered by the clerk of the peace or any commissioner of said court; and an entry thereof shall be made in some book of said court. 13 Oath

A majority of the commissioners of the said court in each county shall constitute a quorum to do business; but a smaller number may adjourn the court or administer the oath or affirmation and give instructions to assessors, as prescribed by law in these particulars. 14 Quorum (16–21)

Passed at Dover, January 30, 1829.

II.

AN ACT *concerning the Levy Court, Clerk of the Peace, Assessors, Collectors and County Treasurers.* 1825

Section 1. The Levy Court and Court of Appeal in each county shall meet at the Court House of their county three times in every year, that is to say; on the last Tuesday of September, on 15 days of meeting

the first Tuesday of February and on the first Tuesday of March, and may adjourn from time to time as occasion shall require; and one commissioner, if no more shall attend on any day of meeting, or the clerk of the peace, if none attend, shall have power to adjourn the said court.

16 adjournm't

17 Clerk of the Peace

18 duties

Sect. 2. The clerk of the peace in each county shall be the clerk of the Levy Court and Court of Appeal of his county and shall safely keep the books, minutes and papers belonging to said court and shall make full and true minutes of all the proceedings of said court and shall deliver to the county treasurer certified transcripts of all allowances made by the said court of the appointment of collectors and the amount to be collected by each, and of all matters, that shall concern the said treasurer or be requisite for keeping the accounts of the county, and shall observe the orders and rules of the said court in all things relating to the duty of his office: and the seal of office of the clerk of the peace shall be the seal of the Levy Court and Court of Appeal.

19 Seal

20 Assessors qualified (23-24)

Sect. 3. The assessors of the several hundreds in each county shall appear before the Levy Court and Court of Appeal of their county at the meeting of the said court on the last Tuesday of September and shall each in the presence of said court take an oath or affirmation according to the following form:

21 their oath

I do solemnly swear (or affirm) that I will perform the duties of my office of asssessor truly, diligently and faithfully according to the laws of the land; that I will spare no person for favor, 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.)

22 instruct'ns

(98. 102. 103. 110-121)

(27)

(25-34)

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 Act "for the valuation of real and personal property within this State" passed February 9, 1796, and the eighth section of the additional supplement to that Act passed January 19, 1797, and the fourth and sixth sections 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 commissioners of the said court shall constitute a quorum for administering the oath or affirmation and giving instructions to assessors.

23 other days

24 quorum (14)

25 Return of Assessors

Sect. 4. 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

36 their property valued

Sec 3. Amended. 8 Vol. 129. Striking out "last Tuesday of September" and inserting "first Tuesday of November"

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 ommitted 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 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 pro-

27 correction of returns

28 statements required

neglect or fraud

(34)

29 Clerk of the Peace to publish lists, & notice of day of appeal

perty 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-officer 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.

30 notice to non-resident

31 Assessors to attend Levy Court

Sect. 5. The Levy Court and Court of Appeal in each county shall sit, as a *Court of Appeal*, on the first Tuesday of March in every year and on such days and times thence ensuing, as it shall be necessary to adjourn to, and shall examine the rates and valuations made and returned by the assessors and the corrections thereof and additions thereto, that may have been made, 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 valuation 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 omitted 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 refusal or neglect to exhibit a statement according to such requirement or the exhibiting a false and fraudulent 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 valuation shall be in a hundred, to which it does not belong, 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 the Levy Court and Court of Appeal; and the same, as it shall stand in the said court, shall be absolutely conclusive.

32 Appeal (128)

(27-28)

33 Assessm't List not otherwise questioned

Sect. 6. A general rate of persons and valuation of personal property in each hundred in the several counties shall stand and be acted on for six years: and such general 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 sixth year thereafter: and a general valuation of the real property in each hundred in the several counties shall stand and be acted upon for twelve

34 Duration of assessment list

years; and 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 twelfth year thereafter: and 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 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.

35 Yearly duties of Ass'rs

36 returns

Sect. 7. 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 New-Castle and Sussex counties the proviso *(a)* 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.

37 Laying Taxes (41-42) (Roads, &c. 5-10-31-34-36-60-85-90) *a* (41-42)

38 Warrants to Collectors (64)

county ss. The State of Delaware to the collector of hundred greeting: We command you, that you collect from

39 form

years; and 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 twelfth year thereafter: and 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 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.

35 Yearly duties of Ass'rs

36 returns

Sect. 7. 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 New-Castle and Sussex counties the proviso *(a)* 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.

37 Laying Taxes (41-42) (Roads, &c. 5-10-31-34-36-60-85-90) a (41-42)

38 Warrants to Collectors (64)

county ss. The State of Delaware to the collector of hundred greeting: We command you, that you collect from

39 form

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 following 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 persons named in said duplicate shall neglect or refuse to pay the said rates in ten days, after you 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 prescribed by our laws in such case made and provided; 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 custody, till the rates with costs be paid or such person shall be legally discharged: And we further command you, that you pay the amount, which according 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

a (64) *court the (a) day of in the year of our Lord one thousand eight hundred and*

Seal of Office of the Clerk of the Peace. } *Commissioners.*

Attest

Clerk of the Peace.

40 Seal

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 New-Castle 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 Act: And also, that the Levy Court and Court of Appeal 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 labor or materials.

41 Road tax in Newcastle (Roads, &c. 60)

42 & Sussex [Roads 5. 8. 9. 85. 94. 10]

Sect. 8. If any person or persons shall refuse or neglect to pay to the collector in ten days after demand the amount of all the rates, which such collector according to his duplicate and warrant shall be required to collect 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 sale of the goods and chattels of the person or persons so refusing or neglecting; and any surplus, that 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: and if the owner or owners of any lands or tenements in any hundred shall not reside in the hundred, where 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 persons, if payment shall not be made in ten days after such tenant, tenants or other persons shall be 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 owners 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 recover the same from the owner or owners with costs; *Provided* that nothing herein contained shall alter 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 duplicate and warrant to levy and make the rates required 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 according to such duplicate and warrant shall be required 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 tenants or persons occupying and having the charge of lands or tenements according to the provision hereinbefore 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 advertisements posted in at least five of the most public 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

43 Powers of Collectors [53] [Fees 100—101]

44 tenant liable

45 his remedy

46 lands when liable

47 sale of timber &grass

48 sale of land [58—59]

timber or grass cannot 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 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 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 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 delinqencies 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 owners of any lands, their heirs, executors

49 notice

50 return of sale

(59)

51 Owner may pay

52 imprisonment

53 Collector's power extends over county

54 Oath of Collector—of demand.

55 No demand as to non-residents

56 restriction of proceedings before Justices [Justices of the Peace 177]

57 How long warrant is in force;

but delinquencies not allowable after—

[Fees 102]

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.

58 Land sold, redeemable

59 when deed may be given

Sect. 9. 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 condition thereunder written according to the following form, viz:

60 collectors appointed

61 bond [63-64-69]

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 according 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, commissions or otherwise, to the officers authorized 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 furthermore, 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:

62 condition

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 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 and his sureties shall by and upon the issuing and 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

63 judgment bond

64 Warrant not dated till collector appointed and bond given

65 Liability of collector and sureties

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.

66 Ex'r or Adm'r of collector

67 Remedy for sureties

68 collector appointed in vacancy

69 bond—how kept & proceeded on

70 Collectors —when to pay (73)

Sect. 10. 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 labor 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 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 control 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.

(Roads, &c. 85-94.95.101)

71 earlier payments

72 road tax

73 duplicate receipts

74 penalty, collector, cl'k of peace, treasurer of county and of poor

75 Collector's account

Sect. 11. 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 named , being County Treasurer for county, 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 according 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 Treasurer 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 furthermore, if the said shall perform the*

76 County treasurer appointed

77 bond

78 condition

duties of his office of County Treasurer as aforesaid in all things with fidelity; then the above written obligation shall be void:

79 judgment bond

And to the said bond there shall be subjoined a warrant of attorney 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 appointed County Treasurer shall neglect or refuse to give bond with sureties as aforesaid, within such time as the said court shall order, the appointment shall be absolutely void: and another person may be appointed by said court, who shall give bond with sureties as aforesaid, and so on until bond with sureties shall be given.

80 duty of County Treasurer

Sect. 12. It shall be the duty of the County Treasurer to demand and receive from the collector of every hundred in his county the amount of the rates, which such collector according to his duplicate and warrant 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 overseers of roads, and to keep just accounts with every collector, charging him with the respective amounts of the rates required to be collected by him for said taxes, separating and crediting him with all payments by him made on account of each of said taxes distinctly; and in Sussex County certificates for labor granted according to law shall be credited to the collector as to the road tax; and it shall 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 or otherwise; and it shall further be the duty of the County Treasurer to punctually pay and apply the money, which he shall receive (whether from collectors for rates collected or by means of loans or otherwise) 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 allowances he shall keep) and to hold any balance in his hands over and above satisfying such orders and allowances subject to the order of said court, and to pay and

81 accounts

apply the same as the said court shall appoint, and to keep a just and fair account of all his receipts and disbursements, to lay all the accounts belonging to his office before the said court or any committee thereof as the said court may direct, and in February in every year to render to a committee of three members of said court to be appointed to receive the same a full and just statement of all the accounts relating to the public in his hands; which accounts such committee or any two of them shall examine and settle; and the settlement shall be signed by the committee or a majority of them and the County Treasurer and reported to the said court in March following the appointment of such committee and filed among the papers of said court. The County Treasurer shall also annually

82 Settlement before Audit'r (Auditor of Accounts 9)

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 purpose, 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 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.

83 to deliver books, &c. to successor

Sect. 13. 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 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 labor 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

84 Overseer of roads appointed

85 their limits

86 sum for each [89]

[Roads, &n. 5, 10, 31, 34, 36, 37, 85, 94, 101]

87 Warrants

88 Cl'k of the Peace to deliver copy, &c.

89 apportionment varied

90 additional road tax

91 Vacancy

92 acc't of overseers [91]

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 laborers employed each day; and he shall exhibit all his vouchers; 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, laborers, 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 labor in like manner, as others. And in Kent or Sussex county the offices of the 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.

93 settlement

94 not to furnish materials &c.

95 Form of Accounts

Sect. 14. 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.

96 Penalty on Clerk of the Peace and Overseer of Roads—for default

Sect. 15. 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.

97 Constables attending Levy Court

Sect. 16. 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 Quarter Sessions of the Peace and Gaol Delivery within the county.

Passed at Dover, February 4, 1825.

III.

1796 AN ACT *for the valuation of real and personal property within this State.*

98 Assessm't (101. 103. 104 109. 110. 114)

Section 1. All real and personal property in this State not belonging to this State or to the United States or to any church, county, religious society or parish or to any college or to any county school or to any corporation for charitable uses shall be valued agreeably to the directions of this Act and shall be chargeable according to such valuation with the public assessment: *Provided always,* That provisions necessary for the use and consumption of the person, to whom the same shall belong, and his or her family for the year (not including live stock), plantation

99 property exempt

utensils, the working tools of mechanics or manufacturers actually and constantly employed in their respective occupations, the implements of a person's trade or profession, stock on hand of a manufacturer or tradesman, household furniture other than plate, grain and other produce of land, wearing apparel, ready money, bonds and other securities for money, goods, wares and merchandises imported, such carriages of pleasure or travel as are already taxed by law, shall be and are hereby excepted from any rate or sessment: *And provided always*, That it shall and may be lawful for the assessors of the several hundreds respectively to estimate and value the stock on hand of a manufacturer or tradesman according to the real profits arising to the owner or possessor thereof, regarding the debts due from the person or persons respectively, from the best information that he can obtain.

100 Stock of manufacturer or tradesman.

Sect. 4. The assessors in the several hundreds in each county respectively shall take an accurate account of the land in their respective hundreds and return the same in writing specifying therein the quantity of acres belonging to every person or persons, what part thereof is improved and what part is unimproved, with the buildings and improvements thereon: And the said assessors shall estimate each tract or parcel of land at its actual worth in ready money from the best information, they can obtain, regarding all circumstances and advantages of the same from situation or convenience to market; and the said assessors are authorized and required to call upon the owner or owners of the land in the several hundreds respectively in the county, in which the land lies, to discover and ascertain the quantity thereof, and also on the Recorder of deeds and surveyor of their respective counties, who is hereby required to give any information to the said assessors or any of them, which his records may afford.

101 Assessors return of value of land

102 how estimated and quantity found

Sect. 5. The said assessors shall ascertain and make a return of the lots and houses in the cities, boroughs, towns and villages within their hundreds respectively and by whom held, possessed or claimed, and the value thereof in ready money, and the rents of such houses and lots, and by whom paid; and they shall have power to call on the owner or possessor of such houses and lots to ascertain the quantity of land and the value thereof and to discover what rent is paid for the same, and shall assess the value thereof, as is herein before directed, upon the best information, they can get, and view of the premises, if necessary, and shall value the ground rent according to the rules herein after mentioned.

103 lots and houses in towns

Sect. 6. As a rule to ascertain the value of ground rent in the said cities, boroughs, towns and villages, the person or persons entitled to ground rent to the amount of eight pounds, shall be assessed as for one hundred pounds capital, and in the same proportion for any greater or less sum of ground rent: And the lessees or persons holding the ground shall be assessed on the actual worth of the improvements made since the lease or conveyance and the present value of the land, after deducting therefrom the value thereof at the time of the lease or conveyance, which value shall be estimated at one hundred pounds for every eight pounds of ground rent reserved, and so *pro rata* for every greater or less sum of ground rent; and the lessees or persons holding the ground shall be charge-

104 ground rents

105 tenemens on ground rent

106 lessees to pay tax of lessor out of rent

able and pay the sum rated to the lessors, and may deduct the same out of the rent, unless otherwise agreed between the person holding the ground and the person claiming the rent; but if the lessee or person holding the ground when the same was assessed, cannot be found, so that the sum rated to the person entitled to the ground rent cannot be collected from the person holding the ground, then the person entitled to the rent shall be entitled to pay the assessment on the same: And as a rule to ascertain the value of houses and lots in the said cities, boroughs, villages and towns, yielding an annual rent, the lessor or the person entitled to the house or lot shall be assessed for every twelve pounds of the rent reserved, as for one hundred pounds capital, and in the same proportion for any greater or less sum reserved; and upon leases for above three years and where the value of the ground, house or houses and improvements exceeds the value of the rent reserved, the lessees or persons holding the ground, house or houses and improvements shall be assessed upon the sum, which the actual worth of the ground, house or houses and improvements in ready money exceeds the value of the rent reserved, calculating twelve pounds at one hundred pounds capital as aforesaid; and the lessees or persons holding the ground, house or houses and improvements shall be chargeable with and may pay the sums rated to their lessor and may deduct the same out of the rent, unless otherwise agreed upon between lessor and lessee; but if the lessee or person holding and possessing the ground, house or houses and improvements or their effects or estate cannot be found, so that the sum rated to the lessor may be collected, then the lessor shall be chargeable with the same. And houses, lots and parcels of land in the same places shall be valued at their actual worth in ready money; but where lands have been leased or taken on ground rent, and the lessee or grantee has deserted the ground and left it to the lessor or grantor, and the lessor or grantor cannot obtain the rent agreed to be paid, in such case the ground shall be estimated at its real value and not upon a calculation from the rent reserved.

107 houses & lots in towns on rent

108 if at under rent, lessee assessed

109 When grantee on ground rent is insolvent, &c.

Sect. 7. Every assessor shall inform himself by all lawful ways and means of all personal property in his hundred (except as before excepted) and shall immediately on such information proceed to value such property agreeably to the directions of this Act, and shall form a statement in writing of the particulars of all personal property in his respective hundred and of his valuation thereof, in which shall be expressed the number of slaves of each description and the weight of plate and the value of each of the above species of property and all the other personal property and the value thereof, and the amount of the whole personal property of every person within his hundred, and the amount of the value of all personal property in the hundred, and shall return with his statement an alphabetical list of the names of all persons, whose property he shall value: and if any assessor cannot discover the owner of any property, real or personal, in his hundred, he shall value and mention the same in his return and note that the owner is unknown.

110 valuation of personal property

111 statement of particulars

112 return

113 Property owner unknown

Sect. 8. The following species of personal property shall be valued as follows, *to wit*: every male and female slave from eight

114 Slaves (117.118.119)

to fourteen years of age in any sum over ten pounds and not exceeding forty pounds, and every male slave from fourteen to forty-five years of age in any sum over twenty pounds and not exceeding seventy pounds, and every female slave over fourteen and not exceeding thirty-six years of age in any sum over fifteen pounds and not exceeding thirty-five pounds; male and female slaves under eight years of age and male slaves above the age of forty-five years and female slaves above the age of thirty-six years to a true proportioned value to male and female slaves above or under those ages, who shall be particularly noted; and if any slave should not be perfect in his limbs or sight or from the want of health or any visible infirmity shall be rendered incapable to perform his usual labour, the assessor shall make a reasonable abatement for such cause and shall note the same in his return: And silver plate shall be valued at eight shillings and fourpence *per* ounce; and other articles of personal property shall be left to the discretion and judgment of the several assessors, who shall estimate the same at its actual worth in ready money: *Provided*, That the said assessors shall be at liberty to estimate male slaves, who are tradesmen, at such value as they may judge them to be worth, regarding their respective trades and their proficiency therein.

115 Plate

116 Other articles

117 slaves being tradesmen

Sect. 9. Any person owning any slave or slaves or any person having the care and management of such slave or slaves shall deliver to the assessor of the hundred, in which he or she resides, when required by such assessor an account of all the slaves owned by him or her or under his or her care and management with the name and age of each; and such account shall be dated and signed by the person making the same; and the assessor shall view and examine each slave and diligently enquire into his age, and return the account of the owner or owners or person having the care and management of such slaves with his determination of the age and value of such slave: and if any owner or any person having the management of any slave shall refuse or omit to give in any slave to the assessor of the hundred, in which he resides, or wilfully lessen or increase his age, such owner or person having the management of such slave shall pay double the tax on the real value of such slave.

118 Owners or possessors of slaves to render an account of them (120)

119 Assessor to examine them

120 penalty—acc't not given, or false

Sect. 10. Every person, when required by the assessor of the hundred, in which his or her real and personal property or the real and person property under his or her care and management lies, shall give in to such assessor in writing dated and signed as aforesaid, if capable of writing, and if not, the same shall be shown to the assessor and by him inventoried, and the said inventory shall have the usual mark placed at the foot of the same by such person or persons, a full and particular account of all other his or her real and personal property in the same and of all real and personal property in his or her possession or under his or her care and management liable to assessment, and to whom the same belongs: and if any person shall refuse or after ten days notice by the said assessor in writing shall neglect to render such account or show his property as aforesaid, he shall forfeit the sum of three pounds to be recovered by action of debt, one moiety to him who will sue for the same, and the other moiety to and for the use of the State: And

121 statement duty of every one to give

122 if refusal or neglect

how it shall then be valued

the assessor shall on his own knowledge or the best information he can obtain, value the real and personal property of such person to the utmost sum, he believes in his conscience the same may be worth in ready money and shall certify the sum so valued, and also the refusal or neglect; and shall double the assessment of such person; and the same shall be collected as the public assessment: And if any person shall give in a partial account of his or her real and personal property, under his or her care and management, or of the property in his or her possession, with intent that the payment of the assessment or rate on any property omitted may be avoided, such person shall forfeit the value of the property so omitted, if personal, and if real, forty dollars.

123 penalty for giving a partial acc't

124 Persons removing property to escape taxation, how proceeded ag'nst

Sect. 13. If any person, who ought to be assessed by virtue of this Act for any personal property, shall by removing his or her effects from the county, where they ought to have been valued, or by any other fraud or device escape and not be taxed, and the same be proved before any Justice of the Peace of the county, where the person resides, at any time within one year next after his property ought to have been valued, every such person shall be charged in the county, where he or she is found, upon proof thereof, double the value of the sum he or she ought to have been rated at by this Act; and the same shall be collected from such person, as in other cases, in the county, where he or she shall be found; and if any person shall remove his or her property for the purpose aforesaid, and the same shall thereby or by any other fraud or device escape being assessed, such person shall forfeit thirty dollars.

125 Power to summon witnesses

Sect. 22. The said commissioners of the Levy Court and Court of Appeal shall have full power and authority to summon and compel the attendance of witnesses, who may by them or either of them be thought necessary to give information relative to their duty respectively.

126 Limitat'n of action—evidence on general issue, plaintiff failing—treble costs to def't.

Sect. 30. If any suit shall be brought against any person or persons for any thing done in pursuance of this Act, the suit shall be commenced within six months after the fact committed; and the defendant or defendants in any suit may plead the general issue, and give this Act and the special matter in evidence, and that the same was done in pursuance and by the authority of this Act; and if it shall appear so to be done or if any suit shall be brought after the time limited, then the jury shall find for the defendant or defendants; and if the plaintiff shall become non suited or suffer a discontinuance, or if a verdict shall pass, or upon demurrer judgment shall be given, against him, the defendant or defendants shall recover treble costs and have a judgment and execution for the same.

Passed, February 9, 1796.

1797 **AN ADDITIONAL SUPPLEMENT** *to the Act, entitled, An Act for the valuation of real and personal property within this State.*

127 Of a personal tax

Sect. 8. Every freeman above the age of twenty-one years shall be rated, in addition to his assessment, a personal tax for a capital not exceeding one thousand pounds nor less than fifty pounds, at the discretion of the assessors. *Passed, January* 19, 1797.

IV.

AN ADDITIONAL SUPPLEMENT *to an Act, entitled "An Act for the valuation of real and personal property within this State."* 1805

Section 1. As often as any owner or possessor of any real property or landed estate shall make it satisfactorily appear to the Levy Court and Court of Appeal of any county of this State, wherein such real property or landed estate may lie, that such real property or landed estate, for which such person is assessed, hath become less productive or profitable, than it was at the time of its assessment, from any accident or accidents, that have occurred since such assessment by means of any cause not in the power, diligence or foresight of such owner or possessor to have prevented or averted, the said Levy Court and Court of Appeal is hereby authorized, empowered and required to lower the rate of assessment of such real property or landed estate in proportion, as its value may from any of the causes aforesaid have diminished, since the same was assessed; or in case the said real estate shall by the causes aforesaid have become wholly unproductive, the said court is hereby empowered and required to take off from the assessment list any such rate or assessment of real property so made as aforesaid; any law, custom or usage of this State to the contrary in any wise notwithstanding.

128 Property reduced in value, without fault; —assessment reduced, or stricken off

Passed at Dover, January 25, 1805.

V.

AN ACT *to authorize the Levy Court of Kent county to remove lunatic and insane persons from the public gaol of Kent county to the poor house.* 1812

Whereas it hath been represented to this General Assembly that there are a number of lunatic and insane persons now confined in the public gaol of Kent county, some of whom have been confined for a number of years, and maintained by said county at a great expense; that a large and commodious house has lately been erected for the accommodation of the poor of said county, with sufficient apartments therein to accommodate persons of that description, where they can be maintained at a much less expense to the county.

Sect. 1. It shall and may be lawful for the commissioners of the Levy Court and Court of Appeal to issue their order or orders to any constable of said county of Kent, therein authorizing and commanding him to demand and receive from the sheriff of said county all such lunatics and insane persons, as are now confined or hereafter shall be confined in said gaol, who shall forthwith take such person or persons into his custody and immediately convey him, her or them to the poor house of said county and deliver him, her or them to the overseer or keeper of said house who is hereby authorized and required to receive and take every such person or persons under his care into said house for safe

129 Removing insane persons from gaol to Poor House (131)

keeping; and they shall from thenceforth be maintained and supported in the same manner as the other poor of said county are supported and maintained.

130 confinement

Sect. 2. It shall and may be lawful for the said overseer or keeper of said poor house under the direction of the Trustees of the Poor of said county to keep any such person or persons that may be committed to his charge as aforesaid in close confinement, if it be unsafe for him, her or them to have their liberty.

Passed at Dover, February 11, 1812.

1815

A SUPPLEMENT *to an Act, entitled "An Act to authorize the Levy Court of Kent county to remove lunatic and insane persons from the public gaol of Kent county to the Poor House."*

131 extended to N. Castle & Sussex

Sect. 1. That the Act to which this is a supplement, be and the same is hereby extended to, and declared to be in full force and operation, in the counties of New-Castle and Sussex respectively; and the commissioners of the Levy Court and Court of Appeals, the constables, Trustees and overseers or keepers of the poor in the said counties respectively are hereby invested with the same powers and authorities, and are required and directed to execute the same in relation to all such lunatic and insane persons as now are or hereafter shall be confined in the gaols of the said counties of New-Castle and Sussex respectively, that are given by the said Act, to which this is a supplement, to the same officers in the county of Kent in relation to lunatic and insane persons confined in the gaol of the said county.

131 Duty of Trustees of Poor

Sect. 2. When it shall appear to the Trustees of the Poor in the counties of New-Castle, Kent or Sussex, that any lunatic or insane persons maintained and supported agreeably to this Act, or the Act to which this is a supplement, have or possesss any real or personal estate, it shall be lawful for them, and they are hereby authorized and required to take all lawful ways and means to recover a reasonable compensation for the support and maintenance of such lunatic and insane person.

Passed at Dover, January 17, 1815.

—o—

LIEN OF JUDGMENTS & EXECUTIONS.

1829

AN ACT *concerning the lien of judgments and executions.*

1 Lien of judgments (Executors & Administrators 69)

Section 1. *Be it declared and enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That a judgment does not bind lands, tenements or hereditaments from the first day of the term, in or of which it is entered, by relation thereto, but only from the time of actually entering or signing it.

2 on a verdict

Sect. 2. *Provided, and be it enacted,* That a judgment upon a verdict, if entered before the end of the term next after that in which the verdict is given, shall be deemed to be entered at the

same time as the verdict and shall bind accordingly; and that a judgment *given, amount to be ascertained by clerk or other person,* shall bind from the time of entering it, if the amount be ascertained and entered upon the docket before the first day of the term next after that in which the judgment is given, but otherwise only from the time of entering upon the docket the ascertained amount.

3 amount to be ascertain'd

If several judgments be entered against the same person on the same day, the first entered shall have priority: but if it does not appear by the entries in case of several judgments against the same person, which were first entered, they shall when given in suits previously commenced have priority according to the priority of the dates of the suits, in which they are respectively given. A judgment entered during a term, if the day of entering it does not appear by the docket, shall be postponed to a judgment entered during the period of the same term, the day of entering which does appear by the docket; but these regulations shall not contravene the preceding provision respecting a judgment on a verdict.

4 several entered on same day

5 day not appearing

Sect. 3. A final judgment of the High Court of Errors and Appeals given upon the reversal of a judgment of the Supreme Court or of the Court of Common Pleas shall bind lands, tenements and hereditaments in the county wherein were the proceedings in the court below, from the date of entering it in the High Court of Errors and Appeals; provided that, the record being remanded, the said judgment be entered upon the docket of the court below within twenty days after said date, but otherwise only from the time of entering it upon the docket of the court below; and the clerk or prothonotary of the court below, to whom a record remanded with a duly certified copy of the proceedings and judgment of the High Court of Errors and Appeals is delivered, shall without delay file it and enter upon the docket of the court below, in connexion with the entries of the proceedings in the cause in the said court, the said proceedings and judgment of the High Court of Errors and Appeals with the date of making such entry; and the said entry shall be a record and the said judgment so entered shall have the same force and effect, as a judgment of said court below and shall be executed by the process of the said court in like manner, as judgments of said court; and the lien thereof may be extended to lands and tenements in another county by means of a testatum fieri facias entered of record in the office of the prothonotary of such county. Upon affirmance of a judgment in the High Court of Errors and Appeals the costs of the defendant in error shall be added by way of increase to his costs in the first judgment and be a part of said judgment; and the amount may be stated accordingly in process and pleadings. The lien of a judgment shall not be extended by affirmance to lands, tenements or hereditaments not bound by the original judgment: and a judgment of the High Court of Errors and Appeals shall not bind lands, tenements or hereditaments otherwise, than as prescribed by this section.

6 of High Ct. of Err & Ap. (Constitution 87)

(Constitution 83)

7 Costs in H. C. of Err & App. on affirmance

Sect. 4. The clerk of the High Court of Errors and Appeals, each clerk of the Supreme Court and each prothonotary of the Court of Common Pleas, whenever a judgment is entered or signed in the court of which he is the officer, (except a judgment upon a verdict when entered before the end of the term next after that,

8 Dates of Judgments

in which the verdict is given,) shall set down upon the docket thereof the true date (viz: *the day, month and year*) of actually entering or signing it; it shall be sufficient, when such date is contained in the entry. Each clerk of the Supreme Court and prothonotary of the Court of Common Pleas, when entering upon the docket the ascertained amount of a judgment *given, amount to be ascertained by the clerk or other person*, shall set down upon the docket the true date (viz: *day, month and year*) of the entry. Each clerk of the Supreme Court and prothonotary of the Court of Common Pleas shall keep to every docket belonging to his office, in which judgments are entered or signed except the appearance docket, two indexes of such judgments, the one of the names of the plaintiffs in alphabetical order according to the first letter of the surnames in connexion with the names of their defendants, and the other of the names of the defendants in like alphabetical order in connexion with the names of their plaintiffs, and shall enter in said indexes the names of the parties to every judgment within twenty-four hours after it is entered or signed, except judgments entered in the appearance docket which judgments shall within two weeks after the entry thereof be transferred to the continuance docket and immediately carried into the indexes. A testatum fieri facias and a judgment of a Justice of the Peace entered of record in the prothonotary's office for the purpose of binding lands and tenements shall be carried into the indexes in like manner, as judgments. Also when a case is continued after verdict for the plaintiff without judgment, it shall be carried into the indexes in the same manner, as if judgment was given; and a judgment of the High Court of Errors and Appeals entered in the court below shall be carried into the indexes in the same manner, as a judgment of the court below.

9 Indexes

names enter'd within 24 hours

Testa fi. fa. &c.

to be carried into indexes

10 Penalty on cl'k or proth'y for neglect

If any clerk or prothonotary shall refuse or neglect to perform any duty by this Act enjoined upon him or shall not perform the same truly and faithfully, he shall be deemed guilty of a misdemeanor in office; and further he shall be answerable in an action of trespass on the case to any person or persons or corporation injured by his default in the premises for all damages sustained through such default; and furthermore every such default shall be a breach of the condition of his official obligation. But the duties enjoined by this Act upon the clerks and prothonotaries shall not commence until the first day of August in the year of our Lord one thousand eight hundred and twenty-nine, and shall not extend to any judgment or matter entered before that day.

11 Lien of executions

Sect. 5. No writ of execution shall bind goods and chattels, until it is delivered to the sheriff or other proper officer to be executed. If several executions against the same defendant be so delivered on the same day, the first delivered shall have priority. The sheriff or other officer receiving an execution shall in a docket set down the date of receiving it; and when several executions are delivered on the same day, this docket shall shew the order in which they are received; and the clerk or prothonotary issuing an execution shall indorse thereon the date of the issue.

Sheriff to note the time of receiving executions

12 Just. Peace judgm'ts, &c. not within this Act

This section and the first and second sections of this Act do not concern judgments or executions before Justices of the Peace.

Sect. 6. Whenever judgment is confessed by virtue of a war-

rant of attorney for a penalty, the real debt and the time from which interest is to be calculated shall be entered upon the docket thereof; and whenever an execution is issued upon any judgment for a penalty, the real debt and the time from which interest is to be calculated shall be indorsed upon the execution: To this end the attorney confessing the judgment or ordering the execution or the plaintiff shall in a written direction to the officer entering the judgment or issuing the execution set down in words and figures such real debt and time from which interest is to be calculated; and the said officer shall enter or indorse the same, as herein required: such real debt and time from which interest is to be calculated need not be set down in a direction with respect to an execution when the same have been previously entered upon the docket.

13 Real Debt & interest entered indorsed on execution

duty of Attorney entering judgment

& of clerk, &c

Passed at Dover, January 29, 1829.

—o—

LIMITATION OF APPEALS.

AN ACT *of limitation of appeals in causes in equity.* 1829

Section 1. No appeal from an interlocutory decree or order of the Chancellor shall be received in the High Court of Errors and Appeals unless the petition or assignment of causes of appeal with a certified copy of the record and papers of the case be filed in the said court or in the office of the clerk thereof on or before the first day of the term of said court next after the entering of the said decree or order; but the said court shall have power to extend said time to a further day, if this limitation shall not in any case allow sufficient time for copying the record and papers; and an omission or failure to claim or prosecute an appeal from an interlocutory decree or order shall not debar a party from making any objection to such decree or order upon appeal from the final decree.

1 Limitation of Appeals from interlocutory decrees

No appeal from a final decree of the Chancellor shall be received in the High Court of Errors and Appeals, unless the petition or assignment of causes of appeal with a certified copy of the record and papers of the case shall be filed in the said court or in the office of the clerk thereof within two years after the signing of said decree; provided that this limitation, with respect to any person under disability of infancy, coverture or incompetency of mind at the time of signing a final decree, shall begin to run from the ceasing of such disability and not from the time of signing said decree.

2 of Appeals from final decrees

3 saving as to infants, &c.

It shall be the duty of the clerk of the High Court of Errors and Appeals, upon a petition or assignment of causes of appeal with a copy of the record and papers in a case of appeal from the Court of Chancery being delivered to him, to file the same forthwith indorsing thereon the date of said filing, and to enter the appeal with said date on the docket of said court.

4 Time of filing noted

No omission or mistake of the register of the Court of Chancery in making a copy of the record and papers of a case shall affect an appellant; but it shall be sufficient to file within the time limited a copy certified under the hand and seal of office of the register;

5 Mistake of Register

and any defect may be corrected according to the course or order of the High Court of Errors and Appeals.

6 original papers

For saving costs, the Chancellor shall have power to direct the original depositions and exhibits in a case or any part thereof, instead of copies, to be sent upon appeal into the High Court of Errors and Appeals under such regulations, as he may prescribe; and the same shall be instead of copies within the foregoing provisions.

7 Appeals from C. C. P. in equity

Sect. 2. The provisions of the preceding section shall be extended to appeals from the Court of Common Pleas in cases of equity jurisdiction; the entering of a final decree in said court being substituted for the signing of such decree.

Passed at Dover, January 23, 1829.

—o—

LIMITATION OF ACTIONS AND ENTRIES, CONCERNING LANDS, &c.

1793 AN ADDITIONAL SUPPLEMEMT *to the Act, intitled An Act for the limitation of actions, and proving accounts against the estates of persons dying within this government.*

Whereas peaceable possession of real estates for many years is a strong evidence of right; and the limitations of actions concerning them has a direct tendency to prevent expensive contests, to secure property, to give quiet to the minds of the people, to encourage improvements, and to promote the transfer of such estates according to their value; by which means the public prosperity is advanced.

1 Limitation

Section. 1. From henceforth no person or persons whatsoever shall make an entry into any lands, tenements or hereditaments, but within twenty years next after his, her or their right or title first descended or accrued; nor shall any person or persons whatsoever have or maintain any writ of right or any action, real, personal or mixed for, or make any prescription or claim to or in, any lands, tenements or hereditaments, of the seisin or possession of him, her or them, his, her or their ancestor or predecessor, and declare or allege in any manner whatever any further seisin of him, her or them, his, her or their ancestor or predecessor, but only an actual seisin or possession of him, her or them, his, her or their ancestor or predecessor, of the premises sued for or claimed, within twenty years next before such writ or action hereafter to be had or brought: *Provided nevertheless,* That any person or persons now having right or title of entry and the heirs of such person or persons may within ten years from this time proceed as might have been done heretofore: *And provided also,* That if any person having right or title of entry was and now is or if any person hereafter having right or title of entry shall be at the time of such right or title first descended or accrued an infant, *feme covert non compos mentis* or a prisoner; then, but in no other case whatever except as before provided, such person or the heirs of such

2 Saving for infants, married women, &c.

person may within ten years next after the removal of such disability, but not afterwards, proceed, notwithstanding the said twenty years be expired, as might have been done before the same were expired; and if any such person shall die under any of the disabilities aforesaid, the heirs of such person shall have the like benefit, that such person might have had by living till the disability had ceased.

Passed June 19, 1793.

—o—

LIMITATION OF PERSONAL ACTIONS.

AN ACT *for the limitation of certain personal actions and of exceptions to accounts.* 1829

Section 1. No action shall be brought upon the official recognizance of any sheriff, or upon any administration, bond or upon any testamentary bond, against either the principal or sureties after the expiration of six years from the date of such recognizance or bond. 1 Sheriff's recog. & ex'rs or adm'rs bond

Sect. 2. No action shall be brought upon any guardian bond against either the principal or sureties after the expiration of three years from the determination or ceasing of the guardianship. 2 Guardian bond

Sect. 3. No action shall be brought upon any recognizance taken in the Orphans Court with condition for the payment of appraised value or of purchase money of lands, tenements or hereditaments, against any surety in such recognizance or the heirs, terretenants, executors or administrators of such surety, after the expiration of three years from the time, when the value or money mentioned in the condition or the last instalment thereof (when it is payable by instalments) is payable. 3 Surety in recog for appraised value of lands

Sect. 4. No action shall be brought upon the official obligation of any State Treasurer, Secretary of State, County Treasurer, Treasurer of the Trustees of the Poor, 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, clerk of the Orphans Court, collector or constable, against either the principal or sureties, after the expiration of three years from the accruing of the cause of such action. 4 Bond of St. Treasurer, Secretary of State, County Treasurer, Treasurer of Poor, Collector, Constable, Register, &c

Sect. 5. No action of tresspass, no action of replevin, no action of detinue, no action of debt not founded upon a record or specialty, no action of account, no action of assumpsit and no action upon the case whatever shall be brought after the expiration of three years from the accruing of the cause of such action: Except that the time prescribed by the preceding limitation shall not begin to run in the case of a mutual and running account between parties, while such account continues open and current; and that when the cause of action arises from a promissory note, bill of exchange, or an acknowledgment under the hand of the party of a subsisting demand, the action may be commenced at any time within six years from the accruing of such cause of action. 5 Trespass, replevin, detinue, debt, account, assumpsit, case 6 Exception of Account current 7 & promissory note, &c.

8 Saving, as to infants, &c

Sect. 6. *Provided*, That if the person entitled to any action comprehended within either of the foregoing sections shall have been at the time of the accruing of the cause of such action under disability of infancy, coverture or incompetency of mind, this Act shall not be a bar to such action during the continuance of such disability nor until the expiration of three years from the removal thereof.

9 penal statutes

Sect. 7. No civil action for a forfeiture upon a penal statute, whether at the suit of the party grieved or of a common informer or of the State or otherwise, shall be brought after the expiration of one year from the accruing of the cause of such action.

10 official bonds to banks & corporations

Sect. 8. No action shall be brought upon any bond given to the president, directors and company of any bank, or to any corporation in the State, by any officer of such bank or corporation with condition for his good behavior or for the faithful discharge of his duties in his station, or touching the execution of his office, against either the principal or sureties, after the expiration of two years from the accruing of the cause of such action: and no action shall be brought and no proceedings shall be had upon any such bond or upon any judgment thereupon, against either the principal or sureties, for any cause of action accruing after the expiration of six years from the date of such bond.

11 duty of directors, &c

The directors or managers of any bank or corporation are authorized and enjoined to take from each officer thereof, required by the charter or by-laws to give bond, a new bond as often, as may be deemed expedient, but at furthest every six years, and so that the date of the new bond shall not be more than six years posterior to the date of the bond immediately preceding.

12 Defendant out of State—time deducted

Sect. 9. *Provided*, That when a cause of action arises in this State if the person liable to such action be not an inhabitant of this State at the accruing of such cause, or abscond or remove from this State before the expiration of the time allowed by this Act for bringing such action, the time during which such person shall have been out of this State, shall, in applying either of the limitations in this Act, be deducted; and in every such case at least one year from the return of such person into this State shall be allowed for bringing such action.

13 New action in certain cases

Sect. 10. *Provided also*, That if in any action, judgment shall be rendered for the plaintiff and the said judgment be afterward reversed, or verdict be given for the plaintiff and judgment be arrested, or judgment be given against the plaintiff on a plea in abatement, or the plaintiff or defendant die after writ sued and before the defendant's appearance; a new action may be brought upon the same cause of action at any time within a year after said reversal, arrest, abatement or death. This proviso however shall not avail, if the first action at the time of bringing it were barred by this Act; but if this Act were pleaded in the first action and verdict thereupon found for the plaintiff, such verdict shall be conclusive evidence that the first action was not at the time of bringing it barred by this Act.

14 Exceptions to accounts

Sect. 11. No exceptions to an account of an executor, administrator or guardian settled by the Register for the county shall be received or filed in the Orphans Court after the expiration of three

"beyond sea" – This in the English Statute was held to be within England & Scotland – But here a question arose whether they should be construed to mean "in another State"

years from the settlement of said account; provided that this limitation, in respect to any person under disability of infancy, coverture or incompetency of mind at the time of the settlement of any such account, shall begin to run from the ceasing of such disability and not from the time of such settlement.

Sect. 12. This Act shall extend and apply to all recognizances, bonds, obligations and accounts herein mentioned, as well those, that have been taken, executed or settled heretofore, as those, that shall be taken, executed or settled hereafter, and to all actions and causes of action herein mentioned, as well those, that have accrued heretofore, as those, that shall accrue hereafter; saving only, that upon sheriffs' recognizances taken before the first day of January in the year of our Lord one thousand eight hundred and twenty-three the period of limitation shall be seven years from the date of such recognizances, and upon official obligations of constables taken before the first day of January in the year of our Lord one thousand eight hundred and twenty-seven the period of limitation shall be four years from the date of such obligations; and this Act shall not be a bar to any action commenced before the first day of September in the year of our Lord one thousand eight hundred and thirty upon any recognizance taken in the Orphans Court, or upon the official bond of any officer of a bank or corporation, or of a State Treasurer, Secretary of State, County Treasurer, Treasurer of the Trustees of the Poor, collector, or for a cause of action arising from a promissory note, bill of exchange, or acknowledgment under the hand of the party of a subsisting demand. 15 Causes of Action, &c. heretofore existing

Passed at Dover, January 30, 1829.

---o---

MARINERS.

AN ACT *against trusting mariners.* 15 Geo. II.

To the end that no ship or vessel may be detained from proceeding in the intended voyage by the arrest of any sailor or mariner shipped or belonging to any such ship or vessel in any port or harbor within this government;—

No tavernkeeper or innholder or other person within this government shall trust any sailor or mariner shipped or belonging to any ship or vessel in any port or harbor within this government above the sum of ten shillings, unless the master, commander or owner of such ship or vessel, to which such sailor or mariner belongs, give his or their orders or consent for the trusting such sailor or mariner. And no person trusting any sailor or mariner belonging to, or shipped as aforesaid, for any value above the sum of ten shillings without such order or consent as aforesaid, after tender to him or her made of the said sum of ten shillings and costs if any shall have arisen, shall stop or hinder such sailor or mariner from proceeding the intended voyage, for which he shall then be shipped; any law, custom or usage to the contrary notwithstanding. Sum, above which mariner not to be trusted

1829 **AN ACT** *regulating marriage.*

(11-12-13) Section 1. No man or woman shall intermarry within the degrees hereinafter named, that is to say:

1 Degrees prohibited

No man shall marry his—grandmother, grandfather's wife, wife's grandmother, father's sister, mother's sister, son's wife, sister, son's daughter, daughter's daughter, son's son's wife, daughter's son's wife, mother, step-mother, wife's mother, daughter, wife's daughter, wife's son's daughter, wife's daughter's daughter, brother's daughter, sister's daughter.

No woman shall marry her—grandfather, grandmother's husband, husband's grandfather, father's brother, mother's brother, father, step-father, husband's father, son, husband's son, daughter's husband, brother, son's son, daughter's son, son's daughter's husbend, daughter's daughter's husband, husband's son's son, husband's daughter's son, brother's son, sister's son.

2 White and colored persons

Marriage shall be unlawful between a white person and a *negro or mulatto.*

3 How solemnized

Sect. 2. Every preacher of the gospel, ordained or appointed according to the rules of the church to which he belongs, shall have authority to solemnize marriages. Also marriages may be solemnized or contracted between persons of any religious society according to the forms and usage of such society.

4 License (14)

5 Bans

But a preacher of the gospel shall not solemnize a marriage without a license signed by the Governor, and countersigned by the Secretary of State and sealed with the seal of his office, unless the bans of such marriage have been published at some church or stationary place of religious worship belonging to the district, wherein the woman resides, or to the congregation, of which she is a member, or to the next adjacent congregation of the same society, on two several sabbaths immediately after divine service, and no objection has been made to such marriage. If there be no regular preaching of the gospel within the district, in which the woman resides, or in the congregation, of which she is a member; the bans may be published in a church or stationary place of religious worship belonging to the next district or to the next congregation of the denomination, to which she belongs, in which there is preaching of the gospel.

6 Consent of parents (17)

Sect. 3. A marriage, if the male be under the age of twenty-one years, or the female be under the age of eighteen years, shall not be solemnized without the consent of the father, or if there be no father, the guardian, or if there be no guardian, the mother of the party under such age.

7 of master

A marriage, if either of the parties be a servant, shall not be solemnized without the written consent of the master or mistress.

Penalties on marriage—8 servant without leave

If a servant contract marriage during his or her term of servitude without consent as aforesaid; the term of his or her servitude shall be extended six months after the regular expiration thereof, and all the rights and powers of the master or mistress shall continue during such extended term.

9 free person with servant

If a person being free marry with a servant without consent as aforesaid; such person shall forfeit and pay, if a man, thirty dollars, and if a woman, fifteen dollars, to the master or mistress

to be recovered before any Justice of the Peace proceeding according to the Act providing for the recovery of small debts.

Sect. 4. Every preacher of the gospel, who shall solemnize a marriage, and every religious society, in which a marriage shall be solemnized or contracted according to their forms and usages, shall enter in a book by him or them provided for that purpose a true account of such marriage with the date thereof. 10 Register of marriages

Sect. 5. If a marriage, unlawful according to the first section of this Act, be solemnized; the same shall be absolutely void; and the parties thereto shall each be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay to the State a fine not less than one hundred dollars nor more than five hundred dollars: and if any preacher of the gospel shall knowingly and wilfully solemnize any such marriage; or if any person shall knowingly and wilfully procure, aid or abet the solemnizing or contracting of any such marriage; every preacher or person so offending shall be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay to the State a fine not less than one hundred nor exceeding five hundred dollars. 11 Marriage void (1-2) penalty 12 on the parties 13 on the preacher

If a preacher of the gospel solemnize a marriage without a license contrary to the second section of this Act, except after publication of bans and without objection being made as prescribed in said section; he shall be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay to the State a fine of thirty dollars. 14 Marriage contrary to section 2 (4-5) penalty

If a person not authorized according to the second section of this Act shall solemnize or pretend to solemnize a marriage; the said marriage shall be void; and such person shall be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay to the State a fine not less than one hundred dollars nor exceeding five hundred dollars. 15 solemniz'd by person not authorized penalty

If any person not being a preacher of the gospel ordained or appointed according to the second section of this Act, shall falsely assume the character of such preacher and solemnize a marriage, he shall be deemed guilty of a misdemeanor and on conviction thereof forfeit and pay to the State a fine of one thousand dollars. 16 assuming character of a preacher

If any preacher of the gospel shall knowingly and wilfully solemnize a marriage contrary to the third section of this Act, the party aggrieved shall have an action of trespass on the case against him, and shall recover damages. 17 Marriage contrary to sect. 3 penalty

Sect. 6. The fee for solemnizing a marriage shall be one dollar and fifty cents. 18 Fee

Passed at Dover, February 16, 1829.

I.

25 Geo. II. AN ACT *for the regulation of toll.*

Whereas the inhabitants of this government do greatly suffer, by reason of the exorbitant toll taken by millers within the same, for the grinding of grain: Therefore, for the better and more just regulation of the same for the future;—

1 Toll

Sect. 2. No person or persons keeping a mill or mills within this government shall after the publication of this Act presume on any pretence whatsoever to take more than the tenth part of each bushel of wheat, rye, indian corn, buckwheat or malt, as toll for grinding the same, within the county of New-Castle, or more than the tenth part, for grinding each bushel of wheat or malt, and the eighth part of indian corn, rye and buckwheat within the counties of Kent and Sussex; and if any miller or millers within this government shall take or cause to be taken any greater or larger toll, than is allowed by this Act, he or they so offending, being legally convicted thereof, shall be adjudged to pay double damages to the party injured with costs of prosecution, and shall be fined the sum of five pounds, one moiety whereof shall go to the Governor for the time being towards support of government, and the other moiety to the party grieved, to be recovered by bill, plaint, or information, wherein no essoin, protection or wager of law shall be allowed.

2 Penalty for unlawful toll

II.

1785 AN ACT *for the regulation of certain water grist-mills in New-Castle county.*

Whereas the Legislature of this State hath heretofore made provision for the encouragement of owners of mills within the same, and fixed a reasonable toll for grinding the several species of grain usually brought to those mills: *And whereas* great complaints have been made by some of the inhabitants of the said county of New-Castle, as well of the unreasonable delays of the owners and occupiers of the water grist-mills within the same county to grind grists of grain for their family-consumption as of the refusal of some owners and occupiers of mills to grind such grists; for the remedying of which complaints,—

2 Mills on Christiana creek, &c. to grind for family consumption, Monday & Saturday

Section 1. All owners, occupiers or possessors of water grist-mills on Christiana creek and on the creeks, whose waters empty into the same, within the county of New-Castle (the water grist-mills on Brandywine creek below the bridge on the public road leading from Wilmington to Chester excepted) shall, from and after the passing of this Act, appropriate the Monday and Saturday of every week to the grinding and manufacturing wheat and other grain into flour for the family-consumption of the inhabitants of said county, which may be brought to the said mills for that purpose; and if any owner, occupier or possessor of any such mill shall neglect or refuse to grind or manufacture wheat or other grain as aforesaid in such quantity, as he reasonably may, observing the rule of first come first served, and that in a good and artifi-

4 refusing

cial manner, on the Monday and Saturday of every week for the toll allowed by law, and shall be convicted thereof before any two Justices of the Peace for the said county upon the oath or affirmation of the party complaining or of any other credible witness or witnesses, such owner, occupier or possessor of a grist-mill shall forfeit and pay the sum of [*twenty shillings (a)*] for every such neglect or refusal [*to be applied towards supporting the poor (b) of the hundred;*] which shall be recovered with costs by distress and sale of the offender's goods and chattels by warrant under the hands and seals of the Justices before whom such conviction may be had.

penalty *a* £5 (8) *b* (8)

Sect. 2. *And* for regulating the water grist mills on Brandywine creek below the bridge on the public road leading from Wilmington to Chester herein before excepted;—The Justices of the Peace of New-Castle county shall at the Court of General Quarter Sessions of the Peace to be holden in the present month of February and at the said court to be holden in every February thereafter fix and determine which day in every week for the year thence next ensuing the said mills shall appropriate to the grinding and manufacturing wheat and other grain into flour for the family-consumption of the inhabitants of the said county; beginning with the mills commonly called or known by the name of Shipley and Canby's and Marshall's, and then fixing the days of rotation so that two mills on every day on each week may be employed in that service; the days of grinding so as aforesaid fixed, the said court shall cause to be advertised at the door of every of the said mills and also at five of the most public places in Christiana and Brandywine hundreds in New-Castle county aforesaid forthwith after the sitting of the said courts; and if any of the owners, occupiers or possessors of any of the said mills, shall neglect or refuse to grind and manufacture wheat or other grain into flour for the purpose aforesaid, in a good and artificial manner, for the toll allowed by law, on such days in every week as by the Justices aforesaid shall be fixed for him to grind, and shall be convicted thereof in the manner herein before directed, he shall forfeit and pay the like sum of [*twenty shillings*] for every such neglect or refusal to be recovered with costs [*and applied, as before it is prescribed.*]

4 Mills on Brandywine regulated by Ct. of Quarter Sessions

5 Penalty for violation (8)

Sect. 3. If it shall so happen that the Court of Quarter Sessions shall omit to fix and determine the days of rotation for the grinding and manufacturing of grain as aforesaid by the said mills below the bridge in the month of February in any year succeeding the present one, then and in such case the last rotation fixed by the said court shall continue as the rule for grinding and manufacturing grists for the inhabitants of the said county, until another shall be made under the directions of this Act.

6 regulation omitted in any year, that of preceding year continue

Sect 4. Each and every owner, occupier and possessor of any of the water grist-mills aforesaid shall have his mill-stones and bolting-chest in reasonable order and condition for the grinding and manufacturing the grists that may be brought to him on the days appointed or to be appointed under this Act, except in case of unavoidable accident, under the penalty herein before mentioned, which shall be recovered and applied in the manner before directed.

7 Penalty for Mills being out of order

Passed February 5, 1785.

1790 A SUPPLEMENT *to an Act, entitled An Act for the regulation of certain water grist-mills in New-Castle county.*

Whereas it hath been found by experience, that the sum of twenty shillings prescribed by an Act, entitled *An Act for the regulation of certain water grist-mills in New-Castle county*, to which this is a supplement, as a forfeiture for every neglect or refusal to comply with the regulations therein mentioned, respecting certain water grist-mills in New-Castle county, is insufficient to compel the owners, occupiers or possessors of such mills, to comply therewith; and forasmuch as the same is a just, and if executed, would be a beneficial law:

Section 1. All and every owner, occupier or possessor of the said mills described in the Act, to which this is a supplement, and all and every part owner, occupier or possessor of the same, who shall neglect or refuse to comply with any or either of the rules or regulations in the manner therein directed, or with the determination and directions of the Court of General Quarter Sessions of the said county pursuant to the authority by the same recited Act vested in the said court, shall forfeit and pay, for every such neglect or refusal, the sum of five pounds, one moiety thereof to the informer, and the other moiety to be applied towards supporting the poor of the hundred in which the offence may be committed, to be recovered in like manner as the forfeiture of twenty shillings is directed to be recovered by the Act, to which this is a supplement.

8 Penalties in preceding Act increased and applied

Sect. 2. So much of the said recited Act as respects the forfeiture of twenty shillings, which is hereby altered, shall be and is hereby repealed, made null and void.

Passed January 27, 1790.

—o—

MILLS.

I.

1773 AN ACT *for the encouragement of the owners of mills within this government, and for the repealing of an Act of Assembly, intituled An Act to encourage the building of good mills in this government, and the supplement thereto, passed in the thirty-fourth year of his late Majesty's reign.*

1 Owner of Mill injured by mill-dam or works of another—remedy

Section 1. If any owner or owners of a mill already built or hereafter to be built within this government shall conceive him, her or themselves to be injured or aggrieved by any mill-race, mill-dam or mill-pond hereafter to be made by any other person or persons, upon the petition of such owner or owners or guardians of minor owners to the County Court of Common Pleas, setting forth the same, the Justices of the said court shall issue a writ to the sheriff of the county, commanding him to summon a jury of twelve honest and lawful men to go with him and view the premises in the presence of the parties interested, if they will attend upon notice given them by the sheriff for that purpose, and to ap-

pear before the Justices of the next County Court of Common Pleas, when and where they shall upon their oaths or affirmations respectively after hearing the proofs and allegations of the parties by their verdict say and determine, whether any and what damages and loss, the person or persons so complaining has or have sustained by reason or means of the said race, dam or pond: And the Justices of the said court shall give judgment for or against the person or persons petitioning according to the said verdict with costs, and may issue an execution thereupon for the damages and costs or for costs only, as the case may require, to be levied by the sheriff on the goods and chattels, lands and tenements of the person or persons, against whom the judgment shall be given as aforesaid. But if the said jury shall be of opinion, that the race, dam or pond made as aforesaid is so injurious to any mill above or below it, that such race, dam or pond ought not to continue, they shall by their verdict say so; and thereupon the Justices of the said court shall adjudge and decree, that the erector or maker of any such dam or race shall pull down such dam or stop such race, as the case may require, so that the water may flow freely in the same course, that it might or could have done before the erecting or making such dam or race. And if the erector or maker of such dam or race will not comply with such judgment or decree, the said court may and are hereby required to enforce obedience to the same by imprisoning the person or persons so refusing or neglecting to comply therewith, and may and shall order the same dam to be prostrated or race to be stopped by the party or parties injured as aforesaid.

2 damages

3 or—abated

4 Powers of court

Sect. 2. *Provided always*, That the person or persons aggrieved in manner aforesaid do prefer their said petition within six years from the time of the injury or damage done to him, her or them as aforesaid and not after; *Saving* the rights of infants, *femes covert*, persons *non compos mentis*, imprisoned or out of this government, so as they exhibit their petition within one year after the impediments aforesaid are removed.

5 Limitation

Passed November 6, 1773.

II.

AN ACT *for the preservation of mill property.*

1819

Section 1. If any person or persons being the owner or possessor, owners or possessors of any mill within this State worked by a water power, shall at any time after the passing of this Act, wilfully and knowingly by any means discharge or cause to be discharged from any mill-dam an unusual quantity of water, or if by the accidental breaking or overflowing of any mill-dam an unusual quantity of water should be discharged; it shall be the duty of such person or persons owning, possessing or having the charge of, and residing at or near, the said mill, as soon as the nature of the case will admit to give notice of the wilful or accidental discharge of such water to the owner, possessor or keeper or to either of them, who may reside at or nearest to, any mill which may be sit-

6 Notice—when unusual discharge of water from mill-dam, by design or accident—to holders to Mills below

7 penalty for neglect

uated next below upon the same stream; and for omitting or neglecting to give such due and reasonable notice, the offender shall, on due proof thereof being made, forfeit and pay double the amount of all damages, with costs of suit, which may be sustained by the owner, possessor or keeper of any such lower mill as aforesaid, to be recovered as debts of a like amount are or may be recoverable by the laws of this State.

Passed at Dover, 1 February, 1819.

—o—

NEGROES & MULATTOES.

I.

1767

A SUPPLEMENT *to An Act for the further and better regulation of servants and slaves within this government.*

Whereas it is found by experience, that free negroes and mulattoes are idle and slothful, and often prove burthensome to the neighborhood wherein they live, and are of evil example to slaves:

1 Indemnity to county on freeing slave altered (2. 43)

Sect. 2. If any master or mistress shall by will or otherwise discharge or set free any mulatto or negro slave or slaves, he or she or his or her executors or administrators at the next respective County Court of Quarter Sessions shall enter into a recognizance with sufficient sureties to be taken in the name of the Treasurer of the said county for the time being, in the sum of sixty pounds for each slave so set free, to indemnify the county from any charge they or any of them may be unto the same, in case of such negro or mulattoe's being sick or otherwise rendered incapable to support him or herself; *and until such recognizance be given, no such negro or mulatto shall be deemed (a) free.*

a altered (43)

Passed October 31, 1767.

1787

AN ACT *to prevent the exportation of slaves, and for other purposes.*

Sect. 3. *And whereas* some doubts have arose, whether a negro or mulatto slave heretofore manumitted by his master or mistress by writing, last will or otherwise, without having entered into the security to indemnify the county required by the several laws of this State, could be entitled to his or her freedom; to remove all such doubts;—where any master or mistress may have heretofore manumitted and set free any negro or mulatto slave that is now above the age of twenty-one years and who at the time of such manumission was not above the age of thirty-five years, and who was healthy and no ways decrepit or rendered incapable of getting his or her living, without having given the securities to indemnify the county required by the laws of this State, shall and is hereby declared to be absolutely free in as full and ample a manner to all intents and purposes, as if the security aforesaid required by the laws aforesaid had been given.

1 Manumissions without indemnity—good in certain cases

Sect. 4. *Provided,* That no manumission made by any master or mistress as aforesaid shall affect or prejudice his or her creditor or creditors, who are such at the time of manumission, where the master or mistress so manumitting hath not sufficient real or personal estate to satisfy the *bona fide* debts of such creditor or creditors. No such manumission to affect creditors

Sect. 6. Any master or mistress after the passing of this Act may by any last will in writing or otherwise, manumit and set at liberty any negro or mulatto slave above the age of eighteen years and under the age of thirty-five years, who is healthy and no ways decrepit or rendered incapable of getting his or her living, without giving the security required by any of the laws of this State; any law, usage or custom to the contrary in any wise notwithstanding. 2 In what cases—Manumissions good without indemnity

Sect. 8. No slave manumitted agreeably to the laws of this State or made free in consequence of this Act or the issue of any such slave, shall be entitled to the privilege of voting at elections, or of being elected or appointed to any office of trust or profit, or to give evidence against any white *(a)* person, or to enjoy any other rights of a freeman, other than hold property, and to obtain redress in law and equity for any injury to his or her person or property. 3 Privileges of freed negroes & mulattoes and their issue *a* (4)

Passed February 3, 1787.

AN ACT *to allow free black persons and free mulattoes in certain cases to give testimony in courts of justice.* 1799

Whereas great injustice and many inconveniences have heretofore arisen from free black persons and free mulattoes not being allowed to give testimony in courts of justice:

In all criminal prosecutions, where it shall appear to the court, before whom the prosecutions are depending, that no white person or persons competent to give testimony was or were present at the time, when the fact charged is alleged to have been committed, or where such white persons, who were present, have since died, or are absent from the State and cannot be produced as witnesses, any free black person or free mulatto may be admitted in the same manner and under the same circumstances, that white persons may now be allowed to give testimony, any law, usage, or custom to the contrary notwithstanding, *Provided nevertheless,* That no free negro or free mulatto shall be admitted as a witness nor allowed to give testimony against any white man to charge such white man with being the father or reputed father of any bastard child. 4 Witnesses in certain cases exception

Passed at Dover, February 1, 1799.

II.

AN ACT *concerning negro and Mulatto slaves.* 1797

Whereas it is necessary for the security of negro and mulatto slaves, whose masters or mistresses may intend to manumit them, and also for the safety of persons holding such property, that the

mode of manumitting such slaves should be rendered certain, and not depend upon verbal contracts or manumissions, which are often misunderstood and forgotten;

5 Slaves not set free by verbal contracts

Section 1. No negro or mulatto slave shall be set free and at liberty, nor discharged from the service of his or her master or mistress, or masters or mistresses by the adjudication or decree of any court whatsoever in virtue or in consequence of any verbal contract or agreement hereafter made by such master or mistress, or masters or mistresses; but that every such contract and agreement shall be null and void and shall not be binding or obligatory upon such master or mistress, or masters or mistresses.

6 Manumission—requisites (9)

Sect. 2. All and every manumission of any negro or mulatto slave shall be in writing and signed and sealed by the master or mistress or masters or mistresses manumitting such slave and shall be attested and subscribed in the presence of such master or mistress or masters or mistresses by one or more competent and credible witnesses: or else such manumission shall be utterly void and of none effect.

7 acknowledged or proved—and recorded

Sect. 3. It shall and may be lawful for any master or mistress or masters or mistresses named in such manumission, which shall be signed, sealed, attested and subscribed as aforesaid, in his, her or their proper person or persons or by his, her or their attorney or attornies for that purpose appointed to appear before the Supreme Court, or before the Court of Common Pleas, or before the Chancellor or any Judge or Justice of the Peace in the county, in which such master or mistress or masters or mistresses reside, at any time after the execution of such manumission, and acknowledge, that such manumission is the act or deed of such master or mistress, or masters or mistresses; and in case such master or mistress or masters or mistresses be dead or cannot appear, it shall and may be lawful for any one or more of the witnesses, who attested and subscribed such manumission, to be brought before the Supreme Court, or Court of Common Pleas, or before the Chancellor, or any Judge or Justice of the Peace, which witness or witnesses shall be examined upon oath or affirmation to prove the execution and their attestation and subscription of the manumission then produced, whereupon the clerk or prothonotary of the said court under his hand and the seal of his office, or the said Chancellor, Judge or Justice of the Peace under his hand and seal shall certify such acknowledgment or proof upon the back of the manumission as aforesaid, within the year when the same was made, and by whom; and every such manumission so acknowledged or proved shall be recorded in the office for recording of deeds, after the execution thereof; and after the same shall be recorded, the recorder shall certify on the back thereof or at the foot thereof under his hand and seal of his office the day he recorded the same, and the name of the book and page wherein it is recorded.

8 No action on contract (9)

Sect. 4. No action shall be brought whereby to charge any person or persons upon any agreement or contract for the liberation or manumission of any negro or mulatto slave, unless such agreement or contract shall be in writing and signed and sealed by the party making the same, and shall be attested and subscribed by one or more competent and credible witnesses.

8th vol. 96.- Words "Supreme Court" and "Court of Common Pleas" to be stricken out passim and "Superior Court" inserted

"High Court of Errors and Appeals" to be stricken out passim and "Court of Errors and Appeals" inserted

Sect. 5. *Provided*, That nothing in this Act shall prevent any master or mistress from manumitting any negro or mulatto slave by his or her last will. 9 Will not affected

Sect. 6. The security required by the laws of this State to be given by any master or mistress on liberating or manumitting his or her slave shall be given according to the true intent and meaning of such laws; any thing herein contained to the contrary notwithstanding. 10 Indemnity altered (43) (37)

Sect. 7. If any person or persons shall conceive him, her or themselves aggrieved by any discharge, adjudication, decree or sentence made, ordered, given or rendered by the Judges of the Court of Common Pleas on the hearing of any petition for freedom preferred to them by any person held or detained as a servant or slave, it shall and may be lawful for such person or persons to appeal from the discharge, adjudication, decree or sentence of the said court to the High Court of Errors and Appeals. 11 Appeal—petition for freedom (Servants and Slaves)

Passed January 18, 1797.

III.

AN ACT *concerning negroes and mulattoes.* 1810

Section 1. *Be it enacted and declared, by the Senate and House of Representatives of the State of Delaware, in General Assembly met,* That where by any deed of manumission executed agreeably to the form prescribed by the Act entitled "An Act concerning negro and mulatto slaves or by any last will and testament, any negro or mulatto slave hath been or hereafter shall be declared to be free after serving a limited time, such negro or mulatto shall in the mean time, until the term for which he or she shall be held to service, be deemed and taken to be a slave, but nevertheless after the expiration of such term to be entitled to his or her freedom and to all the immunities and privileges which a free negro or free mulatto may or can enjoy by the laws of this State. 12 To be free at future day, in mean time Slaves (II.) (3, 4)

Sect. 2. *And be it further enacted and declared*, That the children of any such female negro or mulatto born within the said term of service and the issue of such female children shall be in like manner deemed and taken to be slaves; the males until they severally arrive at the age of twenty-five years, and the females until they severally arrive at the age of twenty-one years; and after they shall have arrived at the respective ages aforesaid, they shall be free and be entitled to all the immunities and privileges of free negroes or free mulattoes. 13 Issue of females, born during intermediate time

Sect. 3. *And be it further enacted and declared*, That any negro or mulatto manumitted as aforesaid, who hath heretofore been or hereafter shall be brought into this State from any other State, shall in like manner be deemed and taken to be a slave until the expiration of the term, for which he or she shall be held to service by the terms of such manumission; provided that the said negro or mulatto shall not be older than thirty-five years of age at the expiration of the said term. 14 To be free at future day, brought from other State—same principle

Sect. 4. *And be it further enacted and declared*, That the chil-

15 issue of such females—born in intermediate time

dren of any such female negro or mulatto born within the said term of service and the issue of such female children shall be in like manner deemed and taken to be slaves; the males until they severally arrive at the age of twenty-five years, and the females until they severally arrive at the age of twenty-one years; and after they shall have arrived at the respective ages aforesaid, they shall be free and be entitled to all the immunities and privileges of free negroes or free mulattoes.

16 Satisfact'n by servitude for absence

Sect. 6. And for the prevention of such manumitted person or persons or their issue as aforesaid absenting themselves from their master's or mistress' service;—For such time, as any such slave as aforesaid shall absent him or herself from his or her master's or mistress' service without leave first obtained for the same, every such slave as aforesaid, for such absence and expenses of taking up, securing and other necessary charges, shall at the expiration of the time of his or her servitude make satisfaction by servitude according to the judgment of any court of law or equity within this State, before which such slaves as aforesaid shall be brought for that purpose.

17 Issue of females as aforesaid (13, 15) certified by Master to Recorder within 12 months after birth

Sect. 7. Every person being an inhabitant of this State, who shall be entitled to the services of any child hereafter born of any negro manumitted as aforesaid or of the issue of such manumitted negro as aforesaid, shall within twelve months after the birth of such child cause to be delivered to the Recorder of the county, whereof such person shall be an inhabitant, a certificate in writing containing the name, age and sex of the child so born; which certificate shall be by such Recorder entered in a book to be by him provided for that purpose; and such record or a certified copy thereof under the hand and seal of such Recorder shall be received in evidence in all courts of law or equity in this State and be deemed and taken as evidence of the age of such child: and such Recorder, by whom such certificate shall be recorded, shall have and receive from the person giving such certificate twenty-five cents for recording the same; and if any person shall neglect to deliver such certificate to said Recorder within the said twelve months such person shall forfeit and pay for every such offence the sum of five dollars, and the further sum of one dollar for every month, such person shall neglect to deliver the same, to be sued for and recovered by any person who will prosecute for the same, one moiety thereof to the use of such persons who will sue for the same, and the residue to the use of the poor of the county, where such person so neglecting shall reside, to be recovered before any Justice of the Peace in like manner, as debts under thirty-two dollars are recoverable.

18 Recorder's fees

19 Penalty for neglect

Passed at Dover, February 1, 1810.

IV.

1811 AN ACT *to prohibit the emigration of free negroes or mulattoes into this State, and for other purposes.*

20 Free negroes & mulattoes, from other States

Section 1. No free negro or free mulatto not now residing in this State shall hereafter come into this State to reside; and if any

free negro or free mulatto shall come into this State contrary to the directions of this Act, it shall be the duty of any Justice or conservator of the peace, who shall have knowledge or information thereof, to issue his warrant or precept to any constable of the county, commanding him to notify and warn the said negro or mulatto to depart this State; and if said negro or mulatto shall not depart or remove from this State within ten days after being warned and notified as aforesaid, he or she shall forfeit and pay the sum of ten dollars for each and every week he or she shall remain within this State after the expiration of the said ten days and notice as aforesaid, to be paid to such person or persons, as shall first give notice or information thereof to any Justice or conservator of the peace; and upon such information being given to any Justice or conservator of the peace, it shall be his duty forthwith to issue a warrant under his hand and seal directed to any constable of the county, who shall forthwith proceed to arrest the said free negro or free mulatto and bring him or her before the said Justice or conservator of the peace, who shall in case said negro or mulatto be unable to pay said fine with costs and give surety to be approved of by said Justice or conservator for his or her departure from this State within five days, commit the said free negro or free mulatto to the public gaol of the county; and said Justice or conservator shall specify in said warrant of commitment the amount of the fine imposed on such negro or mulatto together with costs and also the name of the person or persons, to whom such fine is payable; and it shall be the duty of the sheriff of the county, where such negro or mulatto shall be committed, forthwith to proceed to sell such negro or mulatto to any person or persons residing in this State for such term, as shall be sufficient for payment of said fine and costs together with the charges of imprisonment and sale; first giving ten days public notice of such sale by advertisements to be set up in the most public places in each hundred of the county where such sale shall be made.

21 warned to depart

22 refusal—proceedings & penalty

23 inability to pay—imprisonment

and sale

Sect. 2. If any free negro or free mulatto shall remain or continue to reside in this State for the space of ten days after the expiration of the time, for which he or she shall or may be sold as aforesaid, he or she shall be deemed and taken to be a non-resident and shall be proceeded against, and be liable to the same penalties and punishments, as herein before limited and appointed against free negroes and free mulattoes now residing out of this State.

24 remaining in this State after end of term penalty

Sect. 3. The return of the said constable to the warrant or precept aforesaid, certified or indorsed thereon, shall be admitted to be read as competent evidence against any such free negro or free mulatto of such notification or warning: *Provided always*, that said constable be sworn or affirmed by said Justice or conservator of the peace to the truth of said return so to be certified or indorsed as aforesaid, which oath or affirmation the said Justice or conservator of the peace is hereby empowered and directed to administer and to certify the same under his hand upon the said warrant or precept.

25 Evidence of notice to depart

Sect. 4. If any free negro or free mulatto residing in this State shall from and after the passing of this Act remove out of or depart therefrom and shall there remain or abide for the space of six

26 Out of State 6 months non-resident

months; then such free negro or free mulatto shall be deemed and taken to be a non-resident and shall be proceeded against and liable to the same penalties and punishment, as hereinbefore limited, directed and appointed against free negroes and free mulattoes now residing out of this State: *Provided* that nothing herein contained shall be construed to extend to any sea-faring person or persons of color, who may be following his or their occupation, or any wagoner or messenger while in the actual employment of any citizen or citizens of this State.

Proviso

27 Penalty for hiring, &c non-resident free negro, &c after due notice

Sect. 5. If any person or persons residing in this State shall hereafter hire, employ or harbor any free negro or free mulatto, who shall emigrate or settle in this State after the passing of this Act, such person or persons shall for each and every such offence forfeit and pay the sum of five dollars for each and every day any such free negro or free mulatto may be so employed, hired or harbored, to be recovered by action of debt, bill, plaint or information in any court of record in this State with costs, one moiety thereof to be paid and applied to the use of the State and the other to such person or persons as shall sue for the same: *Provided always*, That nothing herein contained shall be construed, deemed or taken to extend to affect or make liable any person or persons, who may hire or employ such free negro or free mulatto, unless such person or persons shall have received notice from some Justice or conservator of the Peace of the county, that such free negro or free mulatto is not a resident of this State.

28 to be given in charge to Grand Jury

Sect. 6. It shall be the duty of the Court of General Quarter Sessions of the Peace to give this Act in charge to the grand jury at each and every court, that shall hereafter be held in the respective counties of this State.

29 exceptions

Sect. 7. Nothing contained in this Act shall be construed to extend or apply to the case of any negro or mulatto, who has at any time heretofore resided within this State but is now resident out of this State, and who returning to reside therein shall bring with him or her a certificate of fair conduct and character signed by at least one Justice of the Peace of the county, town or place, where such negro or mulatto has resided one year immediately preceding his or her coming into this State: *Provided* such certificate be approved of and indorsed by two Justices of the Peace of the county, into which the said negro or mulatto may come to reside, and the same be recorded in the office for recording of deeds of such county within one month next immediately after his or her coming for the purpose aforesaid into such county; nor shall this Act be in any way construed to apply to the case of a negro or mulatto returning to this State next immediately after his or her having been unlawfully taken out of the same.

Passed at Dover, January 28, 1811.

6. Section repealed 8th Vol. 245.

V.

AN ACT *concerning free negroes, free mulattoes, servants and slaves.* 1816

Sect. 3. If any person or persons shall after the passing of this Act apprehend or take up any runaway servant or slave, he or they shall forthwith carry him or her before the next Justice of the Peace of the county, where such servant or slave shall be so taken up or apprehended; and if on examination by said Justice of said servant or slave the said Justice shall find sufficient cause for his or her detention, he is hereby authorized and directed to commit to the public gaol of the county, in which said Justice may reside, by regular commitment directed to the sheriff of said county the said servant or slave so taken up and carried before him. 30 Runaway slaves & servants to be carried before Justice & committed (36) (Fugitives from labor—1—5)

Sect. 4. The said sheriff shall forthwith upon the reception by him of the commitment directed to him by the Justice of the Peace in conformity to the third section of this Act cause such servant or slave to be advertised in some public newspaper of the borough of Wilmington for the space of six weeks next after such servant's or slave's commitment; and if the master or owner of such servant so imprisoned as aforesaid, shall omit or neglect to release such servant or slave from prison within the time of six weeks next after the commitment to prison of such servant or slave, then and in such case the sheriff is hereby directed to discharge such servant or slave from his custody; nor shall such servant or slave be liable to any of the costs and charges of his apprehension, commitment or prison fees. 31 Advertised & if not released by master discharged exempt from costs

Sect. 5. The sheriff or gaoler shall not deliver to any person or persons whomsoever any such slave or servant without the authority of a Justice of the Peace residing in the town, in which the gaol in which the said servant or slave shall be confined is situate, or if there be none such or none present in such town, then of the nearest Justice of the Peace of the county given in writing under the hand and seal of such Justice, nor in such case except in the hours between the rising and setting of the sun; and such Justice of the Peace shall, before he grants such authority, require reasonable proof, that the person or persons applying for such slave or servant is or are *bona fide* entitled to such slave or servant, or the agent or agents, attorney or attorneys of the person or persons, who shall be proved before the said Justice to be *bona fide* entitled to such servant or slave; and the said Justice, as proof that any person or persons applying to him as agent or agents, attorney or attorneys are such, shall require a document in writing under the hand and seal or hands and seals of the principal or principals duly constituting such agent or agents, attorney or attorneys, and shall also require reasonable proofs, that such principal or principals are *bona fide* entitled to such slave or servant; and if any sheriff or gaoler shall without such authority deliver any servant or slave confined as aforesaid to any person or persons whomsoever, such sheriff or gaoler shall for such offence forfeit and pay the sum of five hundred dollars to be recovered by indictment in the Court of General Quarter Sessions of the Peace and Gaol Delivery. 32 not delivered without authority of Justice in writing, signed & sealed—nor in night 33 Proof (36) 34 penalty

35 Penalty for employing harboring, &c another's slave or serv't

Sect. 7. No person or persons whatsoever shall knowingly employ, conceal or entertain another's servant or slave at his, her or their house or houses, plantation or plantations without the master's or owner's consent, except in distress of weather, sickness or other extraordinary occasions or accident, under the penalty of fifty dollars for every twenty-four hours he or she shall entertain any such servant or slave as aforesaid, so in proportion for any less time.

36 exceptions

Sect. 9. *Provided always*, That nothing in this Act contained shall be construed in any manner to affect any person or persons travelling with his, her or their servant or slave, or who shall move out of this State with his or her family, or who shall send or carry his or her servant or slave out of this State on his or her lawful business or service: *And provided also*, That nothing in this Act contained shall be taken or construed to affect any sheriff, gaoler or other person acting under the authority of a Judge or Justice of the Peace pursuant to an Act of Congress, entitled "An Act respecting fugitives from justice, and persons escaping from the service of their masters."

Passed at Dover, 9 *February*, 1816.

VI.

1819

AN ACT *to provide for the indemnity of the counties of this State against the maintenance of slaves discharged by their masters and mistresses without giving the security required by law.*

Section 1. Whereas many masters and mistresses have attempted to manumit negro and mulatto slaves without giving the security required by law in such cases to indemnify the county from any charge, such county may be put to in case of such negro or mulatto being sick or otherwise rendered incapable to support him or herself; and such slaves have generally acted as free negroes or free mulattoes and have been dealt with and treated by most people as such and have enjoyed the privileges of free negroes or free mulattoes without any hindrance or interruption of their masters or mistresses or their executors or administrators: and whereas the instances of such kinds of manumissions are so numerous and have been of such long continuance, that it is necessary to make some provision by law to indemnify the counties as well as to effectuate the intentions of such masters and mistresses, and to secure to such negroes and mulattoes their freedom: *Be it therefore declared and enacted by the Senate and House of Representatives of the State of Delaware, in General Assembly met, and it is hereby declared and enacted by the authority of the same*, that all and every negro and mulatto slave, who at any time before the passing of this Act hath been discharged from the service of his or her master or mistress, his or her executors or administrators by any last will in writing, or by some duly executed manumission in writing, and whom it was the intention of such master or mistress to manumit and set free by such last will in writing or manumission in writing, and who hath not been reclaimed by such master or mistress, his or her executors or administrators, and who at the time of passing this Act is in the

37 Set free by deed or will, without indemnity to county—free

actual enjoyment of immunity from laboring for or on account of, or for, the benefit of, his or her master or mistress, his or her executors or administrators, shall be and is hereby declared to be free and at liberty, and shall and may enjoy all the benefits and advantages, that a free negro or free mulatto may or can do within this government, notwithstanding such master or mistress, his or her executors or administrators shall not have given the security required by the laws of this State to indemnify the county from any charge such county shall have been or may be put to in case of such negro or mulatto's being sick or otherwise rendered incapable to support him or herself.

38 & in case of county charge—when Master not liable

Sect. 2. The master or mistress, his or her executors or administrators, of any such negro or mulatto slave, who at the time he or she was discharged from the service of his or her master or mistress, his or her executors or administrators was not above the age of thirty-five years, and who at the time of such discharge was healthy and no ways decrepit or incapable of getting his or her livelihood (except from infancy only,) shall not be liable nor chargeable for his or her maintenance or support; but such negro or mulatto shall in case of necessity be supported by the county in like manner, as other free negroes or free mulattoes are maintained and supported who are poor and incapable of getting their livelihood.

39 When Master liable

Sect. 3. The master or mistress of any such negro or mulatto slave, who at the time he or she was discharged from the service of his or her master or mistress as aforesaid, was above the age of thirty-five years or was unhealthy or decrepit or incapable of getting his or her livelihood (except from infancy only,) shall be liable and chargeable for the maintenance and support of such negro or mulatto in case such negro or mulatto hath become or shall become unable to support or maintain him or herself; and the Trustees of the Poor of the proper county may maintain an action therefor against such master or mistress in any court of record in this State or before any judicial tribunal of competent jurisdiction: and as an additional remedy it shall and may be lawful for the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery to make an order, from time to time, on the master or mistress for such sum or sums of money as will reimburse to the Trustees of the Poor of the proper county the expenses from time to time of the maintenance and support of such negro or mulatto: provided, that such suit shall not be maintained nor such order made against or on any other person or persons than such master or mistress.

40 Remedy

41 issue of females so act free

Sect. 4. The children of such female slaves as aforesaid, which shall have been born at any time since such female slave was discharged from the service of her master or mistress, his or her executors or administrators as aforesaid, shall be and are hereby declared to be free to all intents and purposes whatsoever and shall be liable to all the regulations and provisions of the Acts of the General Assembly in like manner, as the children of any free negro or free mulatto whatsoever in the State.

42 Privileges, kidnapping—giving testimony

Sect. 5. The Act of the General Assembly entitled "An Act to punish the pratice of kidnapping free negroes and free mulattoes, and for other purposes," passed the fourteenth day of June seven-

teen hundred and ninety-three, and the Act entitled "An Act to allow free black persons and free mulattoes, in certain cases, to give testimony in courts of justice," passed the first day of February seventeen hundred and ninety-nine, shall from and after the passing of this Act be extended to and include all such negro and mulatto slaves as herein before are mentioned and herein before are declared to be free and at liberty, and to the children of all such female slaves as fully to all intents and purposes, as the same extend to, comprehend, include or relate to any free negro or free mulatto whatever.

(4)

Sect. 6. *And whereas* it is highly unjust that slaves, who are unhealthy or decrepit or incapable of getting their livelihood, should become burdensome to the country at the pleasure of their masters or mistresses under the pretence of setting them free, and it is equally unjust that such slaves after being discharged by their masters and mistresses should be again seized or claimed as slaves or liable to be so, and not be entitled to the privileges and protection of the law by reason of their masters or mistresses not giving security to indemnify the county;—it shall and may be lawful for all and every master and mistress of any negro or mulatto slave or slaves to manumit and set free and at liberty in manner and form, as is prescribed by the laws of this State, any negro or mulatto slaves or slaves without giving the security required by law to indemnify the county from any charge, such county may be put to in case of such slaves being sick or otherwise rendered incapable to support him or herself; and if any such negro or mulatto so manumitted and set free shall be under the age of ten years or above the age of thirty-five years at the time of such manumission or shall of any age be unhealthy or decrepit or blind or lame or maimed and incapable of getting his or her livelihood at the time of such manumission, then and in every such case the master or mistress, his or her heirs, executors, administrators or assigns shall be liable and chargeable for the maintenance and support of all and every such negro or mulatto at all times, that such negro or mulatto shall be incapable of getting his, her or their livelihood; and it shall and may be lawful for the Trustees of the Poor of the proper county to maintain an action for the maintenance and support of all and every such negro or mulatto against such master or mistress in any court of record in this State or before any judicial tribunal of competent jurisdiction: and as an additional remedy, it shall and may be lawful for the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery to make an order, from time to time, on such master or mistress, his or her heirs, executors, administrators or assigns for such sum or sums of money as will reimburse to the Trustees of the Poor of the proper county the expenses from time to time of the maintenance and support of all and every such negro or mulatto; and the said Justices may make such order on such heirs, executors, administrators or assigns or on any of them, either separately or jointly, and in such shares and proportions as shall be agreeable to equity and good conscience: *Provided*, that if any such negro or mulatto shall be under the age of ten years at the time of such manumission and shall not be unhealthy nor decrepit nor blind nor lame nor maim-

43 Indemnity to county not requisite to freeing slave (1)

44 Liability of Master & remedy

45 restricted

ed, such master or mistress shall not be liable or chargeable for the maintenance and support of such negro or mulatto so under the age of ten years any longer, than until such negro or mulatto can be bound out agreeably to the provisions of the Act of the General Assembly entitled "An Act for the relief of the poor," passed the twenty-ninth day of January, seventeen hundred and ninety-one, or of an Act entitled "An Act enjoining certain duties on Justices of the Peace, Trustees of the Poor and constables," passed the fourth day of February, eighteen hundred and eleven.

Sect. 7. In all suits concerning, or brought by the Trustees of the Poor of any county for, the maintenance of any such negro or mulatto manumitted and set free as aforesaid, and in all applications or controversies, which be made for or which arise before the Justices of the Court of General Quarter Sessions of the Peace and Gaol Delivery, the burden of the proof of the age or ages of any such negro or mulatto slave or slaves discharged or manumitted, as herein before mentioned, shall be upon the master or mistress, his or her heirs, executors, administrators or assigns. 46 proof of age of negro, &c. on Master

Passed at Dover, February 5, 1819.

—o—

NUISANCES.

AN ACT *to prevent certain nuisances.*

1829

Section 1. If any circus rider or other person or persons at any place within this State shall exhibit or cause to be exhibited or aid in exhibiting, tumbling or other feats in riding upon or managing a horse or horses or any circus show or sport whatever, for the purpose of gain, or for admission to be present at or to see which, any money or value shall directly or indirectly be demanded or received, or if any rope dancer, tumbler, mountebank or other person shall exhibit or cause to be exhibited or aid in exhibiting at any place in this State rope dancing, tumbling, tricks or puppet shows, for the purpose of gain or for any gratuity, every person so offending in either of said particulars shall forfeit and pay the sum of fifty dollars to any person, who will sue for the same before any Justice of the Peace with costs of suit, proceeding therefor according to the 'Act for the recovery of small debts,' with a right of appeal under the same provisions, as therein provided. 1 Penalty for exhibiting certain shows

Sect. 2. If any person or persons shall wilfully suffer to be erected, constructed or made in or upon any land or building in his, her or their possession any structure, tent, stage or place for the purpose of exhibiting any circus show or sport, rope dancing, tricks, or other shows contrary to the form or effect of the preceding section or either of the provisions thereof, or shall erect, construct or make, or procure, counsel or abet the erecting, constructing or making of any structure, tent, stage or place for the said purpose, or shall wilfully suffer any circus show or sport, 2 Penalty on owner of Lands, &c. permitting such shows to be exhibited thereon

rope dancing, tricks or other shows to be exhibited contrary to the form or effect of the preceding section or any provision thereof in any house or building or on any land in his, her or their possession, 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 fifty dollars nor exceeding one hundred dollars.

Passed at Dover, February 4, 1829.

—o—

OATH & AFFIRMATION.

I.

1775 AN ACT *for the easing scrupulous consciences, in the mode of taking an oath.*

Whereas there are some persons, who declare, they cannot take an oath by laying the right hand upon the book and kissing the same in the manner now used, for conscience sake, and yet are willing to take an oath in another mode and to serve their country in all cases, where an oath is by law necessary and are in every respect good subjects :—

1 Persons scrupulous of taking an oath in common form, to have it administered by holding up of right hand, &c.

Section 1. Every person, who shall be hereafter called upon as a witness or otherwise have occasion to take an oath and shall solemnly declare that he or she is conscientiously scrupulous of taking the same by laying the right hand upon the book and kissing it according to law, may and shall instead thereof take an oath in the form following, *to wit; He or she may and shall lift up the right hand and swear by the ever living God the searcher of all hearts, that,* &c. And at the end of the oath administered shall say, *As he or she shall answer to God at the Great Day;* which oath of such persons shall be accounted and deemed in the law to have the full effect of an oath in any case whatsoever in this government.

2 Swearing thus falsely, perjury, &c.

Sect. 2. All such persons, as shall be convicted of falsely and corruptly declaring and swearing in manner aforesaid any matter or thing, which, if the same had been upon oath in the present legal form, would by law amount to wilful and corrupt perjury, shall incur the same penalties, forfeitures and disabilities, as persons convicted of wilful perjury do incur by the laws of this government. And every person, who shall unlawfully and corruptly procure and suborn any witness to testify falsely and corruptly in any matter, cause or thing judicially to be determined according to the form prescribed by this Act, shall suffer the pains, forfeitures and disabilities, which are inflicted by the laws of this government upon persons guilty of subornation of perjury.

Passed March 29, 1775.

2 Section repealed 8th Vol. 14.

II.

AN ACT *concerning the administering of certain oaths and affirmations.* 1829

Section 1. The persons appointed or authorized by any decree, order, rule or commission made in, or issued out of, the High Court of Errors and Appeals, the Court of Chancery, the Supreme Court, the Court of Common Pleas, the Court of General Quarter Sessions of the Peace and Gaol Delivery or the Orphans Court, to perform any duty, or for any purpose, shall severally have authority to administer to each other and to any surveyor or person by them employed and to any witness produced before them any oath or affirmation required or proper to be taken in the case.

3 Persons appointed by the courts to perform any duty, may swear each other

& also the surveyor and witnesses

Every surveyor shall have authority to administer the proper oath or affirmation to chain carriers acting under him.

4 surveyor may swear chain carriers

The form of the oath or affirmation required to be taken by persons appointed or authorized as aforesaid, with directions for administering the same shall accompany every commission, rule or order issued out of any court as aforesaid.

5 Form of oath shall accompany the rule, &c.

The Chancellor, each of the Judges, every Justice of the Peace and every Notary Public in this State shall have authority in every case, in which an oath or affirmation is necessary or proper, to administer such oath or affirmation.

6 Chancellor, &c may administer oaths

Passed at Dover, January 20, 1829.

—o—

OFFICES INCOMPATIBLE.

AN ACT *rendering assessors and collectors incapable of certain other offices.* 1829 (Constitution 53)

Section 1. No assessor during the time, for which he is elected or appointed, and no collector of a county, road, poor, or State tax during the time, for which he is appointed nor until he shall have rendered a full account of the taxes committed to him for collection and discharged himself thereof according to law, shall be elected or appointed commissioner of the Levy Court and Court of Appeal, County Treasurer, Trustee of the Poor, Inspector of a Hundred, Senator or Representative in the General Assembly, Coroner or Sheriff.

Assessor and Collector incapable of certain offices

Passed at Dover, January 23, 1829.

—o—

ORPHANS COURT.

AN ACT *concerning the Orphans Court.* 1829

Section 1. There shall be yearly in each county, two terms of

1 Terms

the Orphans Court, which shall commence on the same days as the terms of the Court of Chancery. Also the Chancellor shall have authority to hold special Orphans Courts, as he shall see occasion. The clerk of said court shall have power to open and adjourn the same, in the Chancellor's absence, from day to day or as the Chancellor shall order.

2 Process

The said court shall have authority to arrest and imprison the body, and to sequester goods and chattels, rights and credits, lands and tenements. It may issue process of citation, subpœna, attachment for contempt and sequestration.

3 Citation, subpœna

Process of citation, subpœna and attachment for contempt may be issued into every county. Upon filing in the office of the clerk a petition to the court process of citation, if prayed for, shall be issued of course. Process of subpœna shall be issued on application to the clerk.

4 return days

The court may appoint return days of process and direct how process shall be made returnable: process issued in vacation, in respect to which there shall be no such appointment or direction, shall be returable on the first day of the next term.

5 Sequestration

A sequestration shall bind goods and chattels, rights and credits, lands and tenements from the time of the service thereof on the same respectively and shall hold the same paramount to any transfers, liens or acts of a subsequent date.

6 Depositions

The said court shall have authority to award commissions for taking depositions of witnesses beyond the reach of process and depositions of witnesses aged, infirm or about to depart from the State, to be read if the attendance of the witnesses cannot be procured.

8 Issues for Jury

The said court shall have authority to direct issues of fact to be tried by a jury at the bar of another court.

8 Testimony written

In cases, in which there is an appeal from the said court, the testimony at the request of either party shall be reduced to writing and signed by the witnesses respectively; and on appeal the orinal depositions thus taken shall be sent to the court having the appellate jurisdiction. Neither party shall be deprived of the benefit of an appeal, because of the testimony not being reduced to writing; but in such case the parties may produce and examine witnesses in the court having appellate jurisdiction.

9 Duty of Clerk, of recording

Sect. 2. The clerk of the Orphans Court shall record in a fair, plain hand, in well bound and convenient books provided by him (the costs of which shall be allowed to him by the Levy Court of the county) all petitions, orders, appointments, returns, certificates, assignments, recognizances, exceptions, decrees and proceedings preferred, made, returned, taken, filed or had to, in or by the said

10 Index

court and shall keep an accurate index to every such book arranged according to the alphabetical order of the surnames, and in which the proper entry or entries of reference to each record

11 Recognizances

shall be made immediately upon the recording. Recognizances shall be recorded in a separate book; and each recognizance shall be recorded within five days after taking it. Every other matter shall be recorded in a reasonable time not exceeding three months

12 Papers not to be recorded without order

from the time, when it becomes proper to record it. A petition, on which no order is made, a return or certificate set aside, inter-

rogatories or depositions, citations or other process shall not be recorded without special order; a note of the issuing, filing or other act shall, unless there be other directions, be sufficient. The court may order the recording of papers. The court shall have the inspection of the records and may make rules concerning the keeping of the same. The books aforesaid shall be public records and shall belong to the office.

13 inspection of court

If any clerk shall neglect to perform well and faithfully any duty incumbent upon him according to this section, he shall be deemed guilty of a misdemeanor and on conviction thereof shall pay to the State a fine of fifty dollars. It shall be the duty of the Orphans Court to report such negligence to the General Assembly.

14 Penalty on clerk for neglect

Sect. 3. If any surety of an executor, administrator or guardian shall believe, that there is danger of his suffering injury from his suretyship, he may prefer to the Orphans Court a petition for relief; and the said court shall have jurisdiction of the case, and shall have authority, if it shall appear that there is danger to the petitioner of suffering injury from the suretyship, to make an order that the executor, administrator or guardian complained against give to the petitioner sufficient counter-security to be approved by the court and to enforce obedience to such order by attachment for contempt or sequestration, as shall be deemed expedient; and in case of refusal or neglect to obey such order, the said court shall have authority to remove the executor, administrator or guardian from office and to order him to pay and deliver all the money, effects and estate in his hands as such executor, administrator or guardian to a receiver by the said court appointed, and to enforce obedience to such order by attachment for contempt or sequestration; but a receiver, before an order of payment and delivery to him is made, shall become bound with sufficient security to the State in a joint and several obligation to be approved with the security by said court, conditioned *to account for all money, effects and estate, which shall come to his hands pursuant to his appointment, and to pay and deliver the same as the said court shall order and to well and faithfully execute the trusts and duties of his office of receiver.*

15 counter-security—by Ex'r, Adm'r or Guardian

16 removal of Ex'r, &c. and receiver appointed

17 bond

Sect. 4. The Orphans Court upon the application of an executor, administrator or guardian may direct money in his hands to be lent at interest for any time not exceeding one year and ten days from the date of such direction upon security to be approved by the said court, and may from time to time direct such loan to be continued on the same security for any time not exceeding one year; and an executor, administrator or guardian faithfully following such direction shall be exempted from any loss arising from the failure of such security. It shall not be necessary, that the security be taken and inspected by the court before the direction; but the direction may be given and the security taken pursuant thereto. If money cannot be lent at interest on good security, the executor, administrator or guardian shall not be charged with interest: but it shall be the duty of the executor, administrator or guardian to represent the case to the Orphans Court, and observe the direction of the said court thereupon.

18 Money loaned under direction of court

Sect. 5. No appeal from any decree or order of the Orphans

19 Limitation of appeal

Court, shall be received in the Supreme Court, unless the petition or assignment of causes of appeal with a certified copy of the record be filed in the Supreme Court or in the office of the clerk thereof within one year after the making of such order or decree: Provided that this limitation in respect to any person under disability of infancy, coverture or incompetency of mind at the time of making the order or decree, shall begin to run from the ceasing of such disability and not from the making of the order or decree.

20 Appeal no stay without security

An appeal shall not be a stay of proceedings in the Orphans' Court, unless the appellant give security to be approved by the said court to prosecute the said appeal with effect and perform the order or decree appealed from if not reversed upon the appeal, and to abide by and fulfil such order or decree as shall upon the appeal be made against the appellant.

21 Guardians appointed

Sect. 6. The Orphans Court shall have authority to appoint guardians to minors; the guardianship to continue of males till their age of twenty-one years, and of females till their age of twenty-one years or marriage. But when a guardian is appointed of a minor under the age of fourteen years, unless such appointment be according to a deed or the last will and testament of the minor's father, if the minor after arriving to the age of fourteen years shall choose for a guardian another person, the court, if there be no just cause to the contrary, shall appoint the person so chosen and the preceding guardianship shall be thereby superseded. The said court shall have authority to remove a guardian for sufficient cause.

22 removed

23 Testamentary guardian

A father may by deed or last will and testament name a guardian for his child, and the person named shall be appointed, unless he refuse or neglect to give security, or there be other sufficient cause against appointing him.

24 Minor choosing

A minor of the age of fourteen years or upwards, may choose a guardian, and the court, if there be no just cause to the contrary, shall appoint the person chosen.

25 Power of court in special cases

When a minor is under the age of fourteen years, or resident out of this State and cannot conveniently appear in court to choose a guardian, or refuses or neglects to choose a person, whom the court can approve or who will give security, the court may appoint a guardian according to its own discretion.

26 Guardian bond

Sect. 7. Every person appointed guardian upon being appointed shall with sufficient surety or sureties become bound to the ward in a penal sum to be determined by the court, by a joint and several obligation to be with the security approved by said court with condition according to the following form:

(27) *The condition of this obligation is such, that if the said —— guardian of —— shall duly render according to law just and true accounts of his guardianship, and if the said ——, his executors or administrators upon the determination or ceasing of the said guardianship shall deliver and pay to the said ——, his executors or administrators all the property belonging to him in the possession of the said —— and all that shall be due to him from the said ——, and if the said —— shall in all things faithfully perform and fulfil his duty as guardian as aforesaid, then this obligation shall be void.*

27 varied

The condition may be adapted to the case of several guardians or of a female guardian or ward by the requisite variation from said form.

See 8th Vol 92.

read "once every two years" 8th Vol 341.

No entry of the appointment of a guardian shall be made until obligation be given and approved; and a note of the giving of the obligation and of the penalty, and of the surety or sureties shall be subjoined to the record of the appointment. The obligation shall be carefully preserved in said court. It shall not be necessary to the validity of the obligation, that there be a certificate of the approving of it or of the security.

28 Bond—before entry of appointment

bond preserved

If it shall appear in any case, that the obligation or the security is insufficient, whether it originally was or has become insufficient, the Orphans Court shall order the guardian to give further security, and in case of neglect or refusal to obey said order shall remove him from office. Further security shall be by obligation with surety or sureties in the same manner and form as original security.

29 Further security

Sect. 8. Upon the appointment of a guardian, if the ward have any lands or tenements, the Orphans Court shall make an order that three judicious freeholders of the said county, impartial toward the parties and named by the said court, view such lands or tenements and estimate the yearly rental value thereof and note the buildings, orchards and improvements, the estimated portion of cleared land and woodland and of meadow or marsh, whether any and what part may be cleared, and whether any and what repairs are necessary to the tenantable condition of the premises, and the probable costs of such repairs, and make return to the said court under their hands or the hands of a majority of them. All the freeholders must view the premises; but a majority may determine any matter. The freeholders before viewing the premises under the order for the purpose of executing it, must be sworn or affirmed to perform their duty faithfully and impartially according to the best of their skill and judgment. It shall be the duty of the guardian to procure such order to be executed within three months from the making of it. If he neglect this duty, or if the freeholders after reasonable request refuse or neglect duly to execute and return such order, it shall be a contempt of the court, which the court may punish by a fine not exceeding thirty dollars.

30 Valuation of ward's lands

31 Neglect to execute—contempt of court

Sect. 9. Every guardian shall render an acccount of his guardianship at the end of one year from the date of his appointment and shall fully account for all the money, effects and property of his ward, that shall have come to his hands, and shall afterwards render accounts of his guardianship from time to time as the Register shall require; but the Register shall not require accounts to be rendered oftener than once ~~a year~~, unless there be special occasion. The Clerk of the Orphans Court shall within twenty days after the appointment of a guardian deliver a memorandum under his hand and seal of office of such appointment and the date thereof, and within twenty days after any valuation is returned, a memorandum of the amount thereof. to the Register of the county: and if the guardian shall fail to render an account at the end of one year from the date of his appointment, it shall be the duty of the Register to issue process of attachment for contempt against him and enforce the performance of his duty in this respect by imprisonment; but the Register may for sufficient cause extend the time not exceeding six months. The Register shall have authori-

32 Accounts of Guardian

33 Cl'k of O. Ct. to certify to Reg'r appointm't, &c.

34 duty of Register

ty to order guardians to render accounts and to enforce obedience to such orders by attachment for contempt and imprisonment.

35 Maintenance & education of ward when may exceed income

The Orphans Court upon a proper case may direct a guardian to expend for the maintenance and education of his ward a specified sum, although such sum may exceed the income of the ward's estate; but without such direction the guardian shall not be allowed in any case for the maintenance and education of the ward more than the clear income of his estate.

36 Powers of Guardian

Sect. 10. A guardian shall have the care of the person of the ward, and the possession and management of the real and personal property of the ward, and shall have authority to receive all debts, rents and things in action due or belonging to the ward, and to sell the personal property of the ward of a perishable nature, and also with the direction of the Orphans Court to sell any other personal property of the ward; and the receipts, discharges and transfers of the guardian made in good faith in the exercise of this authority shall be valid and effectual. Such guardian shall be admitted to sue or defend for his ward. An infant may also sue by his next friend. In no suit at law or in equity shall the parol demur or proceedings be deferred, because of the infancy of a party, plaintiff or defendant.

37 Sue & defend

38 No parol demurrer

39 Order for delivery to ward of his property

The Orphans Court shall have power to order that any property real or personal, that shall come to the possession of a guardian as guardian and shall be in his possession at the determination or ceasing of the guardianship, shall be delivered to the person who was ward, his heirs, executors or administrators, and to enforce obedience to such order by attachment for contempt or sequestration.

40 Guardian not to dispute ward's right

The guardian or his heirs, executors, administrators or assigns shall not dispute the right of the ward to any property that shall have come to his possession as guardian, except such property shall have been recovered from the guardian, or there be a personal action pending on account of it.

41 No Guardian, unless by appointm't except

Sect. 11. No person shall have any right or authority as guardian, unless such person shall have been duly appointed guardian by the Orphans Court, except that a court of law or equity may in an action or suit against an infant admit any person to defend such action or suit as guardian of the said infant.

42 Court may appoint a person to take charge of a minor's property

Sect. 12. If a minor have real or personal property and have no guardian, the Orphans Court shall have authority to appoint some person or persons to take charge of such property; such charge shall be during the pleasure of the court and shall cease on the appointment of a guardian and the court may make such regulations touching the same, as shall be deemed proper under the circumstances; in case of real estate the rent shall be payable into court and shall be directed to be deposited in some bank or otherwise disposed of for the minor's benefit.

43 Rent in such case to be paid into court

Passed at Dover, February 10, 1829.

I.

AN ACT *to incorporate the owners and possessors of a certain tract of meadow, marsh and cripple known by the name of White-clay creek and Red-clay marshes in the county of New-Castle.*

1819
1 White Clay & Red Clay Creek Marshes—N. Castle county

Section 15. If any person shall wickedly or maliciously break down or damage any of the said banks, dams, sluices or flood-gates, or let in the water of any creek, so as to injure the owners or possessors aforesaid, and shall thereof be convicted before the Justices of the Court of General Quarter Sessions of the Peace for the said county of New-Castle, the person so offending shall forfeit and pay treble the amount of the damages assessed by two or more disinterested persons, to be appointed by the said court to value the same; which fine and all other forfeitures arising under this Act shall be added to the common stock of the said company.

Passed at Dover, 5 February, 1819.

II.

AN ACT *in addition to the 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."*

1822
2 Muddy Branch and Simons Creek Marshes—Kent county

Section 18. 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 Gaol 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.

penalty

Passed at Dover, January 25, 1822.

III.

1822
3 Black Bird Creek Marshes—N. Castle county.

AN ACT *to enable the owners and possessors of the marsh, cripple and low grounds, lying upon Black-bird creek in New-Castle county, to bank and drain the same.*

Section 19. 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 laborers 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 Gaol Delivery within New-Castle 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.

Passed at Dover, February 1822.

1824

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 New-Castle county, to bank and drain the same.*

Section 3. 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.

IV.

1823
4 Marsh of Jos. Maul on Slaughter Creek—Sussex

AN ACT *to authorize Joseph Maul, the owner and possessor of marsh and low grounds lying upon Slaughter creek, in Sussex county, to embank and drain the same.*

Section 5. 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 Session of the Peace and Gaol 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.

Passed at Dover, January 30, 1823.

V.

AN ACT *providing for the draining of certain marshes and low grounds in Slaughter neck.*

1823
5 Slaughter Neck Marshes Sussex

[Section 1. "*For the purpose of draining the marshes and low grounds in Ceder creek Hundred, Sussex county, in the lower part of Slaughter neck*" *authorizes the cutting of such ditches to empty into Slaughter creek as should be laid out as in said Act directed.*

[Section 3 gives to the company the name of "The Slaughter Neck Marsh Company."]

Sect. 11. 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, 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.

Sect. 12. 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.

Passed at Dover, February 1, 1823.

VI.

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.*

1823
6 Little Creek Marsh Kent county

Section 9. 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 whosoever 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.

Passed at Dover, February 5, 1823.

VII.

1824
7 Tappahannah Marsh—Kent county

A FURTHER ADDITIONAL SUPPLEMENT *to the Act entitled "An act to authorize the owners and possessors of the marsh and low grounds, commonly called and known by the name of the Tappahannah marsh, situate in the forest of Murderkill Hundred, in Kent county, to cut a ditch or drain through the same.*

[Section 1 gives to the company the name of the "Tappahannah Marsh Company."]

Sec. 9. 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.

Sec. 10. 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.

Passed at Dover January 29, 1824.

VIII.

1826
8 Broadkiln Creek—Canal Sussex county

AN ACT *to improve the navigation of Broadkiln creek, by cutting and making a canal between Cedar Landing and the drawbridge over said creek.*

Sec. 7. If any person or 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.

Passed at Dover, January 27, 1826.

IX.

1826
9 Cow Marsh Kent county

AN ADDITIONAL SUPPLEMENT, *to An Act, entitled "An Act to authorize the owners and possessors of the marsh and low ground commonly called and known by the name of the Cow marsh, situate in the forest of Murderkill Hundred in Kent county, to cut a ditch or drain through the same."*

Sect. 10. 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 Gaol 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 moiety thereof shall go to and be for the use of the State.

Passed at Dover, January 27, 1826.

X.

1826
10 Back Bay to Muddy Creek Canal—Sussex county

A SUPPLEMENT *to the act entitled "An act 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."*

[Section 2 gives to the company the name of "The Prime Hook and Broadkiln Marsh Company."]

Section 10. If any person shall wilfully fill up or obstruct the aforesaid canal when cut and made, or any ditch or ditches to be cut and opened 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, 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. 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.

Passed at Dover, January 28, 1826.

XI.

1827
11 Marsh on St. Augustine Creek & Silver Run—N. Castle county

A FURTHER SUPPLEMENT *to an Act entitled "An Act to enable the owners and possessors of the several tracts of meadow, marsh and cripple on Augustine creek and Silver run, in New-Castle county to make and keep the banks, dams and sluices in repair, and to raise a fund to defray the yearly expenses accruing thereon."*

Sec. 15. If any person or persons shall wilfully cut through, break down, or damage said banks, sluice or sluices, public drains or canals, or shall let in any tide-water to annoy or injure any part or parts of the said tract, he shall forfeit and pay treble damages to be recovered in the name of the treasurer for the time being by suit or action; which damages, when levied and collected, shall be added to the common stock, for the use and benefit of the company.

Passed at Dover, February 6, 1827.

XII.

1827
12 Baucumbrig Marsh—Kent county

AN ACT *to authorize the cutting a ditch or drain from Baucumbrig into Murderkill creek.*

[Section 2 gives to the company the name of "The Baucumbrig marsh company."]

Sec. 6. If any person shall wilfully fill up or obstruct the aforesaid ditch or drain, when cut and made, every such person shall pay to the company treble damages, to be recovered before any Justice of the Peace of Kent county, as debts under fifty dollars are recoverable, and if above that sum, in the Supreme Court or Court of Common Pleas. 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.

Passed at Dover, February 8, 1827.

XIII.

1829
(Chesapeake & Delaware Canal,) page 85

A FURTHER SUPPLEMENT *to an Act entitled "An Act to incorporate a company for the purpose of cutting and making a canal between the Chesapeake bay and bay or river Delaware or the waters thereof."*

13 Rules for the protection of the Canal, &c.

Section 1. The President and Directors of the said company shall have power to enact rules and regulations for the good government of the said canal, its harbors and basins and other appurtenances, and for the general convenience of vessels navigating the same, and to authorize and empower their agents and officers to enforce conformity to all such rules and regulations against any vessels violating the same, or the persons in command or direction thereof; provided such rules and regulations shall in no wise contravene the constitution or laws of this State.

14 Penalty for injuries

Sect. 2. If any person commanding or directing a vessel upon the said canal shall wilfully or negligently obstruct or impede the navigation thereof, or if any person shall wantonly or maliciously injure the locks, bridges, culverts, sluices, banks or other appurtenances of said canal, every person so offending shall be deemed guilty of misdemeanor, and upon conviction thereof, shall forfeit and pay to the State a fine not less than fifteen nor more than fifty dollars.

Passed at Dover, February 11, 1829.

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."* 1822

Section 1. "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. 1 Board of Examiners

Sect. 2. The said medical board of examiners shall appoint a president and secretary of the said board, and shall have power 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. 2 Licenses for practice of medicine or surgery

Sect. 3. "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 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: *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. 3 Powers of medical society in relat'n to board of examiners

Sect. 4. 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. 4 Fees for licenses

Sect. 5. 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: *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 a second certificate shall not be granted to the same person. 5 Certificates of permission to commence practice

Sect. 6. 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 surge- 6 Practice without license, &c. unlawful

ry in some other State shall hereafter practice 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 licence 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 Gaol 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 to the discretion of the court, and be adjudged to pay the costs of prosecution.

Penalty

7 Certain members of medical soc'y

Sect. 7. All the physicians named *(a)* 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.

8 Acceptance of this Act (10)

Section 8. 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 of this Act as part of their charter of incorporation and shall signify such *(b)* acceptance to the Governor by writing under the hands of their president and secretary within three months thereafter, 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.

9 Copy of original Act

Sect. 9. 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.

(a) In said section are named James Tilton, George Monro, John Brinckle, Richard E. Cochran and Arnold Naudain physicians of the County of Newcastle, Joseph B. Harris, William W. Morris, Arthur Johns, John Adams and James P. Loflaňd physicians of the County of Kent; and James Derickson, Joseph Maul, Isaac Robinson, Edward Dingle, jr. and John White physicians of the County of Sussex.

[☞ For note *(b)* see foot of next page.]

Sect. 11. If the said President and Fellows of the Medical Society of Delaware shall not signify *(b)* to the Governor their acceptance of this Act within nine months from the passing thereof, it shall cease; and 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.

10 Evidence of acceptance

Passed at Dover, February 4, 1822.

—o—

PILOTS.

AN ACT *for the relief of distressed and decayed pilots, their widows and children.* 1819

Sect. 1. 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 [one *(a)* hundred tons or more] sailing from, or bound to, any port in the State of Delaware, except ships or other vessels belonging to citizens of this State, shall be obliged to receive a pilot: and it shall be the duty of the master of every such ship or other vessel within thirty-six hours next after the arrival of such ship or other vessel at any port in this State to report to the collector of the port of Wilmington the name of such ship or other vessel, her draught of water and the name of the pilot who shall have conducted her to the port; and where any such ship or other vessel shall be outward bound, the master of such ship or other vessel shall make known to the collector of the port of Wilmington the name of such ship or other vessel, and the pilot who is to conduct her to the capes, and her draught of water at that time: and the collector of the port aforesaid is hereby authorized by the authority aforesaid, or some suitable person to be appointed by him, or in case of his declining to act or appoint as aforesaid, then a suitable person to be appointed by the society for the relief of distressed and decayed pilots their widows and children is hereby authorized to enter every such ship or other vessel in a book to be by him kept for that purpose; and if the master of any ship or other vessel shall neglect to make such report, he shall forfeit and pay the sum of sixty dollars: and if the master of any such ship or other vessel shall refuse or neglect to take a pilot; the master, owner or consignee of such ship or other vessel shall forfeit and pay to the

1 Certain vessels obliged to receive pilots.

(a) 75 tons (8)

2 Duties enjoined on the masters of such vessels.

3 Penalty for neglect thereof:

4 Penalty for not taking a pilot.

(b) It appears by the Journal of the Senate of 1823, page 13, that the Governor communicated to the General Assembly a Resolution of the Medical Society of the State of Delaware at a stated annual meeting of said society on the 14th May 1822, signified to him by an instrument addressed to him under the hand of James Sykes, president, and Richard E Cochran, secretary, dated Dover May 25, 1822, by which resolution said society accepted this Act as part of their charter of incorporation.

collector aforesaid, or the person who may be appointed as aforesaid, a sum equal to the half pilotage of such ship or other vessel to and from the city of Philadelphia to the capes of Delaware, to the use of the society for the relief of distressed and decayed pilots, their widows and children, incorporated by the Legislature of the State of Pennsylvania in the year one thousand seven hundred and eighty-nine, to be recovered as debts of like amount are recoverable by the existing laws of this State: *Provided always*, that where it shall appear to the officer or other person acting as aforesaid, that in case of an inward bound ship or other vessel a pilot did not offer, before she had reached Ready-island, or in case of an outward bound ship or other vessel, that a pilot could not be obtained for twenty-four hours after such ship or other vessel was ready to depart, the penalty aforesaid for not having a pilot shall not be incurred.

5 Proviso.

6 Collector of penalties to give bond, &c

Sect. 2. The collector of the port of Wilmington in the District of Delaware so authorized, or other person appointed as is herein provided, before he enters on the duties of his office under the provisions of this Act, shall give bond with sufficient surety in the penalty of two thousand dollars lawful money of the United States to the Society for the relief of distressed and decayed pilots, their widows and children, conditioned for the faithful discharge of the trust reposed in him and the payment over to the society aforesaid of all such sum and sums of money as may remain in his hands upon settlement of his accounts; and shall settle his accounts with the said society annually, at such time as they shall require: and the said collector or other person so authorized shall receive for the performance of the duties herein enjoined and the trust reposed in him such sum as may be agreed on between him and the said society.

7 Compensation.

Passed at Dover, 5 February, 1819.

1825 A SUPPLEMENT *to an Act entitled "An Act for the relief of distressed and decayed pilots, their widows and children."*

Section 1. 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 Wilmington or other person appointed to receive such pilotage.

8 Vessels of 75 tons.

Passed at Dover, January 31, 1825.

I.

AN ACT *to consolidate and amend the laws for the relief of the Poor.* 1829

Section 1. There shall be Trustees of the poor for the several counties of this State, and their number and residence shall be as follows: For New-Castle county, there shall be two Trustees of the poor in Christiana hundred and one Trustee of the poor in each of the other hundreds in said county: For Kent county, there shall be two Trustees of the poor in Dover hundred, two Trustees of the poor in Murderkill hundred, two Trustees of the poor in Mispillion hundred and one Trustee of the poor in each of the other hundreds in said county: and for Sussex county there shall be one Trustee of the poor in each hundred in said county. 1 Trustees of the poor. for Newcastle Kent. Sussex.

Each Trustee of the poor shall hold his office for the term of three years from the date of his appointment; except that if the office become vacant before the regular expiration of the term thereof, the vacancy shall be filled by an appointment to continue for the residue of said term, by the commissioner or commissioners of the Levy Court of the hundred, in which such vacancy shall happen. 2 Term of office. 3 Vacancy.

No person shall be a Trustee of the poor in a hundred, unless he reside therein, nor unless he be a freeholder in the county wherein such hundred is. If a person being a Trustee of the poor in a hundred shall remove his residence therefrom, his office shall upon such removal become vacant. 4 Qualifications.

Sect. 2. The Trustees of the poor of the several counties now in office shall continue in office for the respective terms, for which they were respectively appointed; that is to say, a Trustee appointed to the full term shall continue in office for three years from the date of his appointment; a Trustee appointed to fill a vacancy shall continue in office for the residue of the original term; and if there be now a vacancy in the office of Trustee of the poor in either county or if the office of any Trustee now in office shall become vacant before the regular expiration of the term thereof, such vacancy shall be filled by an appointment to continue during the residue of the original term; so that the rotation of Trustees heretofore established shall continue. 5 Trustees now in office.

Sect. 3. The Levy Court and Court of Appeal in each county shall have power to appoint the Trustees of the poor for such county and shall every year in February appoint Trustees to succeed those, whose terms of office expire; such appointments may be made at any time during the said month of February; but they shall bear date on the first Tuesday of said month, and the terms thereof shall be computed from said day; the said court at any meeting may fill a vacancy in the office of Trustees of the poor for their county. 6 Appointment of Trustees. (3)

Every person appointed to be a Trustee of the poor shall, before he enters upon the execution of the office, take before a Judge or a Justice of the Peace for his county an oath or affirmation, that he will diligently, faithfully and impartially perform the duties of his office. 7 Oath.

If any person appointed to be a Trustee of the poor shall refuse 8 Penalty

refusing to serve.

or neglect to take upon himself said office and serve therein, he shall be deemed guilty of a misdemeanor and upon conviction thereof shall forfeit and pay to the State a fine not less than thirty nor exceeding sixty dollars; but the Levy Court may in their discretion accept resignations; and a person having served a full term of office shall not without his consent be re-appointed to said office within three years from the expiration of such term.

9 Corporations.

New-Castle.

Kent.

Sussex.

Sect. 4. The Trustees of the poor for New-Castle county and their successors be and hereby are continued and established a corporation by the name of *The Trustees of the poor of New-Castle county*; the Trustees of the poor of Kent county and their successors be and hereby are continued and established a corporation by the name of *The Trustees of the poor of Kent county*; and the Trustees of the poor of Sussex county and their successors be and hereby are continued and established a corporation by the name of *The Trustees of the poor of Sussex county*. The said corporations shall

10 corporate powers.

severally have power and capacity to sue and be sued in courts of law or equity, and to take by devise, bequest, grant, contract or otherwise, and to hold and transfer lands, tenements, hereditaments, goods, chattels, rights and credits; each may have a common seal; and all the franchises incident to a corporation, and all

10 rights.

the property and rights belonging to the aforesaid corporations respectively are hereby confirmed to them respectively; and it is hereby declared that the said corporations were created by an Act of the General Assembly of this State entitled "An Act for the better relief of the poor" passed the twenty-ninth day of January in

11 dates.

the year of our Lord one thousand seven hundred and ninety-one; and they shall be regarded as existing from that date.

12 Limitation of property.

Provided, that neither of the aforesaid corporations shall hold property exceeding in amount twenty thousand dollars or exercise any banking powers.

13 Charge of the poor.

Sect. 5. The aforesaid corporations shall severally have the superintendency of the poor-house and the charge of the poor in their counties respectively and the regulation of all matters relating to the supporting, employing and keeping of the said poor, subject to the law in these particulars; and all the property, which does or shall belong to said corporations respectively shall be held and appropriated by them respectively, in case of the public burden, to the use of the establishment according to law for the support or accommodation of the poor in their respective counties.

14 Meetings of Trustees, when held.

Sect. 6. The Trustees of the poor for each county shall meet at their poor-house four times every year, to wit; in Kent and Sussex counties on the first Monday of January, April, July and October, and in New-Castle county, on the last Wednesday of the said months; and they shall have power of adjournment. A majority of said Trustees shall constitute a board competent to transact business, any number shall be competent to adjourn. They

15 records.

shall keep a register of their transactions. The board of Trustees

16 chairman, clerk, treasurer.

of the poor for each county shall in April every year appoint a Chairman, a Clerk, and a Treasurer; the two first of whom must be Trustees of the poor. They may at any time remove either of said officers and fill any vacancy in either of said offices; and if the chairman or clerk be not present at any meeting, the board may appoint a chairman or clerk for the time being.

Trustees of the Poor for Sussex County to meet four times a year to wit on the first Wednesday of January - April - July and October - 8th. vol. 46 -

The Treasurer before entering upon the execution of his office shall with two or more sufficient sureties become bound to the State of Delaware by a joint and several obligation to be with the sureties therein approved by the board in the penal sum of ten thousand dollars lawful money of the United States of America; with condition according to the following form: 17 Treasurers bond.

The condition of the above written obligation is such, that if the above bound ——— ———, who is Treasurer of the Trustees of the poor of ——— county shall punctually pay all allowances, which shall be made by the board of Trustees of the poor for said county, so far as he shall have in hand money for that purpose, and shall render to the said board a just and true account of all the money, that shall come to his hands or with which he shall be legally chargeable as Treasurer as aforesaid, whenever required, and shall in all things diligently and faithfully execute his office of Treasurer as aforesaid, and perform all the duties thereof, and if the said ——— ——— or his executors or administrators shall faithfully and without delay pay to his successor in office the balance remaining of all money, which shall come to his hands or with which he shall be legally chargeable as Treasurer as aforesaid, after deducting all just credits, and shall also deliver to his successor in office all books, muniments and papers to the said office in any wise belonging, safe and undefaced; then the said obligation shall be void.

And to the said obligation there shall be subjoined a warrant of attorney to confess judgment thereon. If any person appointed to be Treasurer as aforesaid shall not become bound with sureties as before prescribed within such time as the board shall direct, the appointment shall be absolutely void. The said Treasurer shall annually on the first Tuesday of February render his accounts to the Levy Court and Court of Appeal of his county, who shall settle the same. No allowance shall be made to him except of commissions, without a voucher specifying all the items embraced by it. 18 judg't. bond. 19 account. 20 vouchers.

The board of Trustees of the poor for each county shall appoint an overseer of their poor-house, whom they may remove at pleasure, and who, before he takes the place of overseer, shall with two or more sufficient sureties become bound to the corporation by a joint and several obligation to be with the sureties therein approved by the board in the penal sum of one thousand dollars lawful money of the United States of America with condition according to the following form: 21 Overseer. his bond.

The condition of the above written obligation is such, that if the above bound ———, who is overseer of the poor-house in ——— county, shall behave himself well, and shall diligently and faithfully perform the duties incumbent upon him as such overseer, then the said obligation shall be void; and to the said obligation shall be subjoined a warrant of attorney to confess judgment thereon. judgt.

The overseer shall not receive any person into the poor-house (except as hereinafter prescribed) without the written order of two Trustees of the poor for his county; and no such order shall be given without the concurrence of a Trustee residing in the hundred wherein the pauper is resident, unless the office of Trustee in the hundred, wherein the pauper is resident, is vacant at the time, or unless the pauper have no residence in the county; in either of 22 Duties of overseer as to admission into poor house. (Levy Court 129, 131) pages 391, 392

which cases any two Trustees may in their discretion give an order.

as to lists of paupers & accounts.

The overseer shall keep a list of the paupers in the poor-house, the date of admission, by whose order, and the date of discharge. He shall keep an account of all the furniture of the house and of all materials used and provisions consumed therein, and of the produce of the labor of the paupers, and of all expenses and income of the establishment, and shall lay these accounts before the board at their meetings.

in employing & governing paupers.

The overseer shall employ the paupers according to their ability and the regulation of the board of Trustees; and he may enforce obedience to lawful commands and restrain disorderly behavior by such means as may be ordered by the Trustees; provided that corporal punishment shall not be inflicted.

23 Dismissal of paupers.

Any two Trustees of the poor shall have power to dismiss any pauper from the poor-house; and the overseer shall strictly observe every order of dismission.

24 improperly suffering a person to be in poor-house

An overseer permitting any person to be in the poor-house, who ought not to be there, shall be liable to pay to the corporation double the cost of such person's support.

25 Overseers salary.

The salary of the overseer shall not exceed the rate of one hundred and fifty dollars a year; it shall be settled by the board of Trustees.

The board of Trustees of the poor for each county shall have power to appoint other necessary officers and servants, and to make to them just compensation.

26 Rules and by-laws.

The board of Trustees of the poor for each county shall have power to make rules and by-laws for the government of the poor under their charge and their own officers and for regulating their own proceedings; provided, such rules and by-laws be not inconsistent with the constitution or laws of the United States or this State.

27Female negro or mulatto delivered of bastard in poor house.

Sect. 7. The board of Trustees of the poor for each county shall have power to bind any female negro or mulatto, received into their poor-house and delivered of a bastard child there a servant to any person residing in this State for such term not exceeding three years, as shall be necessary to raise a sum sufficient to compensate the corporation for her support. Such binding shall be by indenture between the corporation of the one part and the master or mistress of the other part and under the common seal of the corporation and the hand and seal of the master or mistress; and the master or mistress and servant shall in relation to each other have all the rights and remedies, and be subject to all the regulations and provisions prescribed and contained in the fifth, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, sixteenth and seventeenth sections of the "Act concerning apprentices and servants."

(Apprentices 17, 26, 27, 28, 29, 31—41, 45, 46.)

28 Marriage of pauper—forbidden penalty on overseer and preacher

Sect. 8. No pauper supported in the poor-house shall marry. Any pauper offending against this provision shall be immediately dismissed from the poor-house. If an overseer shall consent to or connive at any such marriage he shall be removed. If any preacher of the gospel shall knowingly solemnize a marriage contrary to this section, he shall be deemed guilty of a misdemeanor and on conviction thereof shall pay to the State a fine not exceeding fifty dollars.

Sect. 9. If any person without the consent of the overseer shall deal with any pauper supported in the poor-house, by buying any thing from or selling any thing to or having any traffic with, such pauper, or furnish to or for any such pauper any spirituous, fermented or expressed liquor; every such person shall be deemed guilty of a misdemeanor and on conviction thereof shall pay to the State a fine not exceeding fifty dollars. 29 Dealing &c with paupers. penalty

Sect. 10. When a person through disease or casualty cannot be safely removed to the poor-house and is in a state of indigence requiring relief from the public, one Trustee of the poor for the county, wherein such person is, may administer to such person's pressing necessities by orders drawn upon the Treasurer of the Trustees of the poor for said county, until the meeting of the board of Trustees of the poor for said county who shall provide for such person's relief, until he or she can be safely removed to the poor house; and if a person not in the poor-house shall die destitute of means to bury him or her, the board of Trustees of the poor for the county may in their discretion make a moderate allowance for the burial expenses of such person; in no other case shall there be a charge upon the public for poor not in the poor house; except that the board of Trustees of the poor for Sussex county may make contracts for supporting paupers, who shall have been at least three months in their poor-house and shall be willing to be supported out of it, when such contracts can be made for two thirds the sum, that according to an average calculation it would cost to support such pauper in the poor-house; but the number of paupers supported under contract shall never exceed one third the number supported in the poor-house. The said board shall keep a fair and regular account of all such contracts; specifying the dates, the persons with whom made, the names and ages of the paupers, the terms of, and all charges under, each contract, and shall on the first Tuesday of February every year lay such account before the Levy Court and Court of Appeal of their county. 30 Persons not in poor house—relief. 31 burial charges. 32 Paupers in Sussex, supported—out poor house. 33 number limited. 34 account laid before Levy Court

Sect. 11. The place of a person's birth shall be the place of his or her legal settlement. The place of settlement of the head of the family shall be the place of the legal settlement of his or her children under the age of twenty-one years. The place of settlement of a husband shall be the place of the legal settlement of his wife or widow. 35 Place of settlement.

Any person shall gain a legal settlement in a county by being duly placed in a public office and executing the same in said county for one whole year, or by paying taxes assessed in said county upon him or her for the support of the poor for two years successively, or by taking a lease of any lands or tenements in said county of the yearly value of fifty dollars and occupying the premises for one whole year and paying the rent, or by becoming seized of a freehold estate in any lands or tenements in said county of the value of one hundred dollars and dwelling upon the same for one whole year, or by serving for one whole year in said county as an apprentice or servant under a lawful binding; and every person imported into this State from a foreign country and bound as a servant or apprentice according to law shall gain a legal settlement in the county, wherein he or she shall serve the first sixty days acquired.

under such binding, and afterwards shall gain a settlement as other persons.

The gaining a legal settlement shall be the relinquishment of any prior settlement.

36 Persons likely to become a charge removed.

Sect. 12. Two Trustees of the poor or one Trustee of the poor and one Justice of the Peace for either of the counties of this State upon their own knowledge or upon information, that a person not having a legal settlement in such county is likely to become a charge upon the Trustees of the poor, shall issue process under their hands and seals directed to any constable for said county, commanding him to bring such person before them; and if the said Trustees or Trustee and Justice upon hearing shall be of opinion, that there is substantial ground to believe that such person will soon become a charge upon the Trustees of the poor, they shall have power to order, that the said person and his or her family (if he or she have a family) be removed to the county or State of his or her legal settlement (naming the said county or State in such order), and thereupon to issue process under their hands and seals directed to any constable for said county, commanding him to remove the said person and his or her family according to said order. But if such person shall offer to the Trustees or the Trustee and Justice sufficient surety to become bound with him or her to the Trustees of the poor for said county, by their corporate name, in the penal sum of three hundred dollars to indemnify the said corporation from all costs for the support or otherwise on occasion of such person for three years, a bond of indemnity of such person and his or her surety or sureties of that effect shall be taken, and the proceedings for removal shall be discontinued: but another like proceeding may be instituted after the expiration of the limited time or in case of the failure of the surety, at any time after such failure.

37 unless security be given.

38 Persons in poor house, not having settlement removed.

If a person not having a legal settlement in a county be received into the poor-house therein, any two of the Trustees of the poor for said county may issue process under their hands and seals directed to any constable for their county, commanding him *to remove such person to the county or State of his or her legal settlement* (naming the said county or State in such process) *and* (if such settlement be in a county of this State) *to deliver him or her to the overseer of the poor-house of said county*: and it shall be the duty of said overseer to receive said person into said poor-house.

39 Improper removal.

If a poor person not having a legal settlement in either county of this State shall be removed from the poor-house in one county to the poor-house in another county by order of the Trustees of the poor, the Trustees of the poor, from whose poor-house such person was removed, shall re-admit the said person into their poor-house and make compensation for his or her support while in the poor-house, to which he or she was so removed.

40 Trustees of one county liable to Trustees of another.

If the Trustees of the poor of either county sustain any costs in the support or for the relief of a poor person having a settlement in another county, they shall have right to demand and receive compensation from the Trustees of the poor of such other county.

(42) A person removed from a county pursuant to this section shall not be sent back to said county by an order of Trustees of the poor or a Trustee of the poor and Justice of the Peace.

The Court of General Quarter Sessions of the Peace and Gaol Delivery shall have jurisdiction in a summary proceeding to decide any controversy between the Trustees of the poor of different counties concerning the place of settlement of any poor person, and to order that such person be admitted into the poor-house in either county, and to decree that the Trustees of the poor for one county pay to the Trustees of the poor for another county any sum of money, which the latter may be entitled to under any provision of this section: provided, that such decree shall not extend to costs sustained more than six months before the application to the court.

41 Court of Q'r. Sess. jurisdiction.

42 Limitation

Sect. 13. When any indigent person through age, disease or other cause shall be unable to support him or herself, the father or mother, grand-father or grand-mother, children or grand-children of such person shall if able provide for his or her support; the order of liability shall be; first, the father or mother; second, the grand-father; third, the grand-mother; fourth, the children; fifth, the grand-children: if the relation prior in order shall not be able, the relation subsequent in order shall be liable; several relations of the same order shall if able contribute equally; in case of neglect or refusal to provide as aforesaid, the Court of General Quarter Sessions of the Peace and Gaol delivery within the county, wherein such indigent person or wherein his or her relations liable reside, shall have power to order such relation or relations to pay or contribute to such indigent person's support a certain sum every month, as shall be deemed reasonable; and the said court shall have power to award execution in like manner and form, as upon a judgment in a court of law, to levy any sum in arrear upon such order; which sum shall be payable to the Treasurer of the Trustees of the poor of the county, wherein the order is made, for the use of such indigent person; and if before such order is made, the Trustees of the poor for either county have sustained any cost in the support or for the relief of such indigent person, the said court shall have power to order the relations, who were liable to provide for such person's support, to make compensation, and to issue execution as aforesaid.

43 Liability of relations.

order of liability.

44 power of Qr. Sessions

Sect. 14. If a husband without sufficient cause separate from his wife, or a father or mother desert his or her children, leaving them without adequate means of support, so that such wife or children shall be received into the poor-house in either county of this State, the board of Trustees of the poor for said county shall have power, without notice to such husband, father or mother, to issue a warrant of sequestration under the hand of the chairman for the time being and the seal of the corporation directed to the sheriff of said county commanding him to sequester and seize into his hands goods and chattels, rights and credits of such husband, father or mother to the amount, which they shall have determined to be requisite for the support of such wife or the support and bringing up of such children, and for want of goods and chattels, rights and credits to said amount, to sequester and seize lands and tenements of the said husband, father or mother of the yearly value to be determined by said board and specified in said warrant with all the rents and profits thereof; and said warrant of sequestration from the time of the service thereof shall be a lien upon the

45 Power of Trustees—in case of desertion of wife or children

46 sequestration

47 lien of sequestration

goods and chattels, rights and credits, lands and tenements, rents and profits seized, which shall be appropriated to the support of such wife or the support and bringing up of said children in preference to all subsequent conveyances, assignments, acquittances, contracts and debts of said husband, father and mother; and the board of Trustees of the poor for said county may make orders for the sale of such goods and chattels and for collecting and receiving such rights and credits, and for receiving the rents and profits of such lands and tenements and for leasing and occupying the same; and with the approbation and authority of the Court of General Quarter Sessions of the Peace and Gaol Delivery within the same county the said board may sell the said lands and tenements and pass all the title and estate of the said husband, father or mother in and to the same; and they shall apply the proceeds to the support of such wife or the support and bringing up of such children, either in or out of the poor house, as they may deem expedient. The seizing of rights and credits upon a warrant of sequestration issued by the board of Trustees of the poor for either county shall vest the legal interest in the Trustees of the poor of said county in their corporate capacity; and the said corporation may in its own name receive, sue for and recover the said rights and credits. The seizing of lands and tenements upon such warrant shall vest in the said corporation the right of possession, in virtue whereof said corporation may lease, occupy or manage said lands and tenements, recover the possession in ejectment and maintain actions of trespass for injuries to the same while in their possession.

48 order to sell goods

49 power to sell lands

50 effect of seizure

51 Appeal

The husband, father or mother, whose property shall be so sequestered may at any time within one year after the issuing of the warrant of sequestration appeal from the board of Trustees of the poor to the Court of General Quarter Sessions of the Peace and Gaol Delivery within the same county; but notwithstanding an appeal the said warrant shall be executed and the lien thereof shall continue subject to the order of said court on the appeal. Upon the appeal the court shall have power to affirm or quash the proceedings or to direct any alterations, modification or amendment thereof; and in a case, in which it was proper to institute proceedings, the same shall not be quashed for errors or defects therein, but the proper modification or amendment shall be directed. The quashing of proceedings on an appeal shall not invalidate the sale of any goods or chattels or the receipt of any rights, credits, rents or profits; and perishable goods may be sold by an order made during the pendency of an appeal; but the court may order restitution of the proceeds or make such other order, as shall be just and equitable.

52 proceedings thereon

53 Desertion of wife or children—& not sufficient property

If a husband without sufficient cause separate from his wife or a father or mother desert his or her children and there be good ground to believe, that such wife or children will become a charge upon the Trustees of the poor or if such wife or children shall be received into the poor-house, and there shall not be property, or rights or credits of such husband, father or mother liable to be seized on a warrant of sequestration sufficient for the support of such wife or children, in either case the Court of General Quarter

Sessions of the Peace and Gaol Delivery within either county shall have power in a summary proceeding to order such husband, father, or mother to provide for his or her wife or children, and for that purpose to pay to the Treasurer of the Trustees of the poor of either county a certain sum every month, not exceeding in any case, for a wife sixteen dollars a month, or for a child twelve dollars a month; and the said court may require such husband, father or mother to become bound with sufficient surety to the State by a judgment bond in a penalty to be determined by the court, for the payment of such sum or sums according to such order, and may enforce compliance with such requirement by imprisonment; and any Justice of the Peace, may, upon oath or affirmation, cause such husband, father or mother to be brought before him, and order him or her to give security in recognizance for his or her appearance at the next Court of General Quarter Sessions of the Peace and Gaol Delivery within the county to be dealt with according to law, and for not departing the court without leave, and may commit him or her in case of neglect or refual to give such security.

54 power of Qr. Sessions

55 power of Justice of the Peace

Sect. 15. Any two Trustees of the poor or a Trustee of the poor and a Justice of the Peace for either county of this State shall have power to order any person, who shall bring or cause to be brought into such county or who shall retain in his or her service or employment in such county any indigent person not having a legal settlement in such county and likely to become a charge upon the Trustees of the poor, to become bound with sufficient surety or sureties to the State by bond in the penal sum of three hundred dollars, to remove such indigent person from said county or to indemnify the Trustees of the poor of said county from all cost for the support or otherwise on occasion of such indigent person, and to enforce obedience to such order by imprisonment, and to issue process under their hands and seals directed to any constable for said county, for causing a person supposed to be liable to such order to be brought before them, and of commitment.

56 Remedy ag't persons bringing in, or retaining non-residents &c.

If any indigent person not having a legal settlement in a county shall be brought into such county by, or shall be retained therein in the service or employment of, a corporation, and shall during such employment or service or within thirty days after the end thereof become a charge upon the Trustees of the poor of such county; the said Trustees of the poor shall have a right to demand and receive from said corporation full compensation for the costs for the support or otherwise on occasion of such indigent person to be recovered, if not exceeding fifty dollars, before any Justice of the Peace proceeding according to the "Act providing for the recovery of small debts" which is extended to this cause of action, and if exceeding that sum, as other demands of the same amount.

57 Liability of corporat'ns

In either county two Trustees of the poor or two members of the Levy Court and Court of Appeal or a Trustee of the poor and a member of said court or a Trustee of the poor and a Justice of the Peace or any two of them jointly shall have authority to grant a license for the landing in their county from any ship or vessel, of any passengers or emigrants from a foreign country upon payment to the Treasurer of the poor of the sum of one dollar for each passenger or person, for whom license is granted. This license

58 Licenses for landing passengers from foreign country

59 One dollar for each person

shall be a sufficient warrant for the landing of the persons named in it and shall exonerate the owner and master of the ship or vessel and every person having charge thereof from all liability on the ground of the landing of the persons named in the license and from all obligation to receive again or remove said persons.

60 Penalty for landing passengers without license

If the owner, captain or master of a vessel having on board emigrants from a foreign country shall suffer any of said emigrants to be landed in either county in this State without a license as aforesaid, he shall forfeit and pay to the State the sum of five hundred dollars to be recovered with costs in an action of debt. It shall be the duty of the officers applied to for such license before granting it to inquire into the condition of the emigrants. The vessel shall be liable for every forfeiture incurred by any emigrant being landed from it; and in a proceeding for such forfeiture, a capias may be issued, upon which the defendant may be held to special bail, or an attachment may be issued, upon which the vessel may be seized and held; but such vessel shall be discharged from the attachment upon sufficient special bail being given for the defendant, to the sheriff before the return of the attachment, or after such return to the action.

61 Duty of officer granting license

62 proceeding for penalty

63 Allowance to constable

Sect. 16. The board of Trustees of the poor for each county shall make a reasonable allowance to any constable for such county for serving process issued pursuant to this Act.

64 Judges, Justices, witnesses not disqualified

Sect. 17. The fact that a person is an inhabitant or taxable in a county shall not disqualify him from sitting as a Judge or Justice of the Peace judicially, or serving as a juror, or being examined as a witness, in a cause or proceeding in which the settlement of a poor person in such county, or the liability of the Trustees of the poor of such county or any person to support such poor person, shall be in question.

65 gen'l issue

In any suit, the defence against which depends upon this Act, this Act with the matter of justification under it may be given in evidence under the general issue.

66 Poor Tax (Levy Ct. 37)

Sect. 18. The Levy Court and Court of Appeal in each county shall annually provide for the Trustees of the poor of such county the money requisite to enable them to support the poor, who shall be a charge upon them, and to defray all necessary expenses, by means of a poor tax laid by said court, the clear proceeds of which when collected shall be payable to the Treasurer of the said Trustees of the poor.

The said court may require the Trustees of the poor to lay before said court a particular account of all their expenditures, with a statement shewing the number of persons supported in the poor house and all others, in respect to whom any expense shall have been incurred.

67 Expenses of poor house published annually

The board of Trustees of the poor shall in March every year cause to be published and distributed in each hundred of their county not less than twenty pamphlets containing an account of all their expenditures, stating the items and specifying the amount of their expenditures for the poor house establishment with the items, the amount expended for the relief of persons not in the poor-house with the items, and the amount of the allowances for burial expenses of persons not in the poor house with the items, with a state-

Refer to 卷 vol. 92.

ment concerning the paupers supported in the poor house, classing them so as to shew the number of white and colored persons, and of the males and females, and different ages of each.

No Trustee of the poor. Treasurer or overseer shall directly or indirectly furnish any article for the poor house; but all purchases shall be made from persons not Trustees; and if any of said officers shall offend against this provision, he shall forfeit and pay the sum of fifty dollars to any person, who will sue for the same. to be recovered before any Justice of the Peace with costs of suit proceeding according to the "Act providing for the recovery of small debts," with the right of appeal as therein provided. And no account for any article furnished by a Trustee, overseer or Treasurer of the poor, shall be allowed. 68 No trustee treasurer or overseer to furnish article for poor house 69 penalty

Passed at Dover, February 12, 1829.

II.

AN ACT *authorizing the "Trustees of the poor of Kent county" to remove from the poor house of Kent county to the hospital in Philadelphia lunatic and insane persons in certain cases.* 1816

Section 1. It shall be lawful for the Trustees of the poor of Kent county, and they are hereby authorized, to cause to be removed from the poor house of Kent county to the hospital in Philadelphia any lunatic or insane person or persons now admitted or received into or confined in, said poor house, or hereafter to be admitted or received into, or confined in, said poor house, and for that purpose to make contracts with the person or persons having the care, management or government of the said hospital or authorized to make contracts for admission into said hospital and to defray all charges and expenses of removing such lunatic or insane person or persons to the said hospital and of keeping, maintaining and supporting him or them in the said hospital; all which charges and expenses so defrayed and paid shall be allowed to the said Trustees of the poor in their settlements with the Levy Court of Kent county. 70 Power of Trustees of Kent county to remove insane persons to hospital in Philadelphia (71)

Sect. 2. *Provided always,* That no order for any removal as aforesaid shall be made except with the concurrence of two thirds of all the Trustees of the poor for Kent county. 71 Two thirds concurring

Passed at Dover, 15 *February* 1816.

—o—

PRACTICE.

AN ACT *concerning bills of exception, cases stated and verdicts.* 1829

Section 1. Upon the trial of every case, on a judgment in which there may be a writ of error, either party, to place upon record any point of law arising in the course of the trial and material to the determination thereupon, may propose an exception 1 Bill of Exceptions

upon such point of law; and the Chief Justice of the court, or if he be not present at the trial, the Justices present shall sign a bill if presented, truly stating such exception with all matters requisite for understanding the same. The bill so signed shall be a part of the record; and the matter of law therein appearing shall be considered on a writ of error. Such exception may be taken to the overruling of a challenge to the admission or rejection of a witness or of any evidence, to the refusal of a demurrer to evidence, to the charge delivered to the jury, to a refusal to charge the jury upon a point of law duly made, or to the decision upon any point of law arising in the course of the trial and material to the determination thereupon, which decision will not otherwise appear by the record.

2 when not allowable

There shall be no exception to the allowance of a challenge nor to any direction respecting the manner of conducting the trial.

3 when proposed

The exception must be proposed when the point is decided; upon its being proposed, either party may insist or the court may require, that the substance of it shall be immediately settled and reduced to writing and signed by the Chief Justice, or in his absence by the other Justices. The bill of exception must be drawn in form and signed during the term in which the exception is proposed, unless the parties otherwise agree with the assent of the court.

4 when signed

5 case stated

Sect. 2. A case stated in any action shall be a part of the record; and upon a writ of error it shall be considered by the court of error.

6 verdict

Sect. 3. *And be it declared and enacted,* That a jury may in any case find a general or a special verdict.

4 papers taken by Jury
5 Binney 238

Sect. 4. Papers read in evidence to the jury although not under seal, except depositions, may be carried from the bar by the jury.

Passed at Dover, February 12, 1829.

—o—

PRISONERS & GAOLS.

I.

1789

AN ACT *empowering and requiring the keepers of the public gaols, in the Delaware State, to receive and safe keep all prisoners committed under the authority of the United States.*

Whereas the Congress of the United States have recommended to the Legislatures of the several States to pass laws making it expressly the duty of the keepers of their gaols to receive and safe keep therein all prisoners committed under the authority of the United States, until they shall be discharged by the due course of the laws thereof, under the like penalties, as in the case of prisoners committed under the authority of such States respectively; the United States to pay for the use and keeping of such gaols at the rate of fifty cents *per* month for each prisoner, that shall under their authority be committed thereto, during the time such

prisoners shall be therein confined; and also to support such of said prisoners as shall be committed for offences:

The sheriffs, gaolers and other keepers of the public gaols in the several counties of this State are hereby authorized, required and commanded to receive and safe keep in the gaols of their respective counties all prisoners, which shall be committed under the authority of the United States, until they shall be discharged by the due course of the laws thereof, under the like pains and penalties, as in the case of prisoners committed to their custody under the laws of this State: *Provided always nevertheless*, That the United States shall pay or cause to be paid for the use and keeping of such gaols at the rate of fifty cents *per* month for each prisoner, that shall under their authority be committed thereto, during the time such prisoners shall be therein confined, and also shall support such of said prisoners, as shall be committed for offences. 1 Prisoners committed by authority U. States

Passed October 24, 1789.

II.

AN ACT *concerning gaols and the treatment of persons under arrest.* 1827

Section 1. The sheriff of each county in this State shall have charge and custody of the gaol in his county and shall safely and securely keep the same either personally or by a keeper, whom he shall appoint and for whose behavior he shall be responsible: but the sheriff shall not directly nor indirectly demand nor receive rent for the occupation of the gaol or any appurtenances thereto, nor any compensation, gift or reward for appointing a person to be keeper of the gaol, nor any portion of the emoluments accruing to the keeper by him appointed. 2 Sheriff's charge of gaol

Sect. 2. The gaol in each county may be used as a work-house; and the keeper of the gaol shall be overseer of the work-house; except that in New-Castle county the overseer shall be appointed as prescribed by law. 3 Work house

Sect. 3. Fuel and bedding for the accommodation of persons confined in gaol shall be furnished at the expense of the county; and this expense shall be defrayed as other demands upon the county. 4 Fuel & bedding for prisoners

Sect. 4. The sheriff or keeper of the gaol supplying persons therein confined with board shall have right to demand and receive for the board of each person so supplied payment at a certain rate for every day's board: which rate shall be the same as is now customary or establish for board in said gaol, or such as shall be established by the Levy Court and Court of Appeal in each county, which rate the said Levy Court and Court of Appeal in each county shall have power to regulate and determine from time to time, as may be deemed proper. The amount so demandable for the board of any person shall be paid by such person, who may be detained in prison till the payment thereof; except persons, whom the court shall order to be discharged without the qualification *upon payment of costs*, or the law requires to be discharged without directing the costs to be first paid; and also except every person, who shall be committed as a witness for want of security to appear and give 5 Board of prisoners

evidence, and every person committed upon charge of a crime or misdemeanor, as to whom a bill shall be returned "ignoramus", or not true or who shall be acquitted upon trial: and the amount so demandable as aforesaid for the board of all such excepted persons and of every other person, who shall not be able to pay the same, shall be a demand upon the county, wherein the gaol in which the board is supplied is situate, and shall be defrayed as other demands upon said county. In every case, in which a court shall order a person to be discharged upon payment of costs, and in every case of the conviction of a person of a crime or misdemeanor, the sum demandable as aforesaid for the board of such person shall be added to and be a part of the costs of the case. But all persons confined in any gaol, except convicts, shall be permitted without restraint or difficulty to procure their food at their own cost, whence they please, and to send for the same, and to have and use any clothes, bedding, or necessaries belonging to them free of all charge and without the same being purloined or detained. A sheriff or other person having the care or keeping of a gaol shall not keep a tavern, ale-house or public house of entertainment, and shall not directy or indirectly sell or dispose of to any person or persons under arrest or confined in gaol any beer, ale, porter, cider, wine, whisky, rum, brandy or other fermented, expressed or spirituous liquor.

6 Spirituous or other liquors not disposed of in gaol, &c.

7 Person arrested not carried to tavern, &c. without consent

8 ease or favor

Sect. 5. A person arrested by virtue of any process whatever shall not without his or her free and declared consent be carried to any tavern, ale-house or other public victualling or drinking house: and a sheriff, under-sheriff, coroner, constable, keeper of a gaol or other officer shall not directly nor indirectly demand or receive from any person arrested or in custody, any reward or gratuity for ease or favor, nor any fee or charge not allowed by law.

9 Commissioners of gaols

Sect. 6. The Levy Court and Court of Appeal in each county at their meeting in March every year shall appoint three substantial and judicious persons of their county to be commissioners of the gaol of said county, to serve for one year to commence on the second Tuesday in April next ensuing their appointment; and if the place of any commissioner become vacant by death, resignation, removal, refusal or otherwise, the said court shall supply the vacancy. Every commissioner before acting shall take an oath or affirmation to perform the duties of his office with fidelity; which oath or affirmation either commissioner shall have authority to administer to another, and it may be administered by a Judge or Justice of the Peace. The said commissioners shall meet at the gaol on the first Tuesday of April, July, October and January, and at other times, if occasion require, and every two of them shall constitute a board. The said board shall inquire into the state and condition of the gaol and work-house: they may direct clothing or bedding to be furnished for any person therein confined, if they shall deem the same necessary for his or her health, and that the same ought to be furnished at public expense; and for defraying the cost thereof they may draw orders upon the County Treasurer, who shall pay the same out of any money in his hands not appropriated to other purposes, and the Levy Court and Court of Appeal shall make provision for such orders: each order shall specify the

10 Their oath

11 Time of meetings, quorum, powers

articles furnished and the cost of each item; also the said board may make ordinances and regulations, and give directions, for the governing and well ordering of the said gaol and work-house, and for the cleanliness of all persons confined therein, and for the employment of the convicts; and these ordinances, regulations and directions, if not repugnant to the constitution or laws of the United States or of this State, shall be obeyed: and the said board may, for reasonable cause by them to be specified, direct the sheriff to remove any keeper of the gaol; and the sheriff shall observe such direction. Each commissioner shall be allowed two dollars for every day's attendance; but the entire allowance to any commissioner in one year shall not exceed ten dollars. This section shall not be in operation in New-Castle county, while the "Act for the better regulation of the gaol and work-house in the county of New-Castle, and for other purposes," shall remain in force.

12 Compensation

13 Restriction as to N. Castle

Sect. 7. If any sheriff, under-sheriff, keeper of a gaol, coroner, constable, or other officer, shall offend against this Act in any particular, every such offender shall be deemed guilty of a misdemeanor and upon conviction thereof shall forfeit and pay to the State a fine not less than twenty dollars nor exceeding two hundred dollars.

14 penalty

Sect. 8. Any sheriff or keeper of a gaol receiving money from any person during his or her confinement, or at the time of his or her discharge from prison, shall give to such person a receipt therefor, specifying the cause for which the payment is made, and if there be several items, each shall be distinctly mentioned in the receipt; and a like receipt shall be given to any person paying money on account of any charges or expenses accruing in a gaol, whether for board or otherwise; and if any sheriff or keeper of a gaol shall not observe and comply with the preceding clause, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall forfeit and pay to the State a fine not less than ten dollars nor exceeding fifty dollars.

15 Receipts for money paid by prisoners

Passed at Dover, February 5, 1827.

III.

AN ACT *for the better regulation of the gaol and work-house in the county of New-Castle and for other purposes.* 1807

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

16 Gaol in N. Castle

Section 1. The Levy Court of New-Castle county shall and they are hereby directed to appoint annually at their meeting in the month of March three of the Trustees of the poor of the county aforesaid or such other persons, as they may appoint, as commissioners of the public gaol and work-house of said county, who shall meet at the Court-House in said town on the first Tuesday of April next and on the first Tuesday of every third month thereafter or oftener, if necessary; and at such meetings the said commissioners

17 Commissioners

18 powers & duties

or a majority of them shall make all such good and wholesome ordinances, rules and by-laws as they shall think proper, for the direction, government and support of the gaol and work-house of said county, and also for the cleanliness and employment of all such persons as may be committed thereto; all which ordinances, rules and by-laws, shall be binding and obligatory on all persons concerned, until they shall be repealed or altered: *Provided always*, That the said ordinances, rules and by-laws be no ways contrary to the laws of the State.

19 Overseer

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

20 His bond

Sect. 3. The overseers of the work-house to be appointed in manner aforesaid shall enter into bond with two or more good and sufficient sureties, to be approved by the Levy Court in the sum of one thousand dollars payable to the said Levy Court, conditioned as follows: to wit, *The condition of the above obligation is such that if the above bounden A. B. as overseer of the work-house of New-Castle county shall well and truly discharge the duty and trust reposed in him as overseer according to the direction and true intent and meaning of an Act of the General Assembly entitled, "An Act for the better regulation of the gaol and work-house in the county of New-Castle, and for other purposes," then the above obligation to be void and of no effect, otherwise to be and remain in full force and virtue in law.*

21 Articles &c for prisoners

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

22 Duty of the overseer

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

23 Prisoners misbehaving

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

24 Accounts

Sect. 7. The overseer of the said work-house shall keep a fair

and regular list of all persons committed to his custody, together with their ages as near as can be ascertained, and the time when committed and discharged, and shall lay a regular and fair account in writing of all materials, necessaries and other things coming into his hands, and of all expenses and charges attending their maintenance and support, and all monies received by him for the sale of the produce of their labor and otherwise, and shall settle his accounts with the Levy Court, at their meeting in the month of March annually, and pay over any money that may be remaining in his hands to the Treasurer of said county.

Sect. 8. Upon complaint made by the said commissioners, it shall and may be lawful for the Levy Court or a majority of them to remove the said overseer and all other officers by them to be appointed in pursuance of this Act, and appoint others to supply the vacancy occasioned by their removal. 25 Overseer removable

Sect. 9. The Levy Court shall at their meeting in the month of March annually settle and pay the said commissioners the sum of two dollars for each and every day's service as commissioners of the said gaol and work-house, by orders drawn on the Treasurer of said county; and shall, in case of a vacancy either by death or inability to act or removal out of the county of either or any of the commissioners, supply such vacancy for the residue of the time said commissioner was appointed for. 25 Compensation to commissioners

Passed at Dover, January 29, 1807.

—o—

PUBLIC DEMANDS AND WITNESSES' FEES.

AN ACT *against the purchase of the fees of witnesses in certain cases, and of certain public demands before allowance.* 1829

Section 1. The clerk of the Supreme Court, the prothonotary of the Court of Common Pleas or the Clerk of the Peace shall not purchase or contract to purchase directly or indirectly the fees of any witness attending in the court, of which he is an officer. Any fees purchased or contracted for against this provision shall be forfeited; and the officer purchasing or contracting to purchase the same directly or indirectly shall be deemed guilty of a misdemeanor and on conviction thereof shall pay to the State double the amount of said fees. 1 Witnesses' fees—purchased by Clerk or Prothon'y penalty

Sect. 2. No person shall directly or indirectly purchase or contract to purchase any demand upon the county before the allowance thereof by the Levy Court and Court of Appeal. If it shall appear to the said court, that any demand presented to them for allowance has been assigned or contracted for, it shall be their duty to reject the same: such demand shall be forfeited. 2 Duty of Levy Court—in case of demand on county—purchased before allowance

Passed at Dover, February 12, 1829.

I.

[1795 AN ACT *to provide for the better regulation of the public offices of the several counties of this State, and for other purposes therein mentioned.*

(Constitution 92) (Courts 105, 107)

Whereas much inconvenience hath been experienced by the good people of this State from not having access at all times to the offices and papers belonging to the several public offices in this State; *And whereas* the safety of the papers and records belonging to, or in the custody of, the respective prothonotaries of the Court of Common Pleas, Clerks of the Supreme Court, Registers for the probate of wills and granting letters of administration, Clerks of the Orphans Court, Clerks of the Peace, Recorders of deeds and Sheriffs in the several counties in this State, is an object of great importance to the citizens thereof:

1 Public Offices

Section 1. The respective prothonotaries of the Court of Common Pleas, Clerks of the Supreme Court, Registers for the probate of wills and granting letters of administration, Clerks of the Orphans Court, Clerks of the Peace, Recorders of deeds, and Sheriffs in the several counties in this State shall, from and after the passing of this Act, keep all records, record books, original papers and every other matter and thing belonging to their respective offices in the town in each county in which the Supreme Court and Court of Common Pleas are usually held; and the said several offices shall at all times (Sundays excepted) be kept open by the respective officers aforesaid for the transaction of business.

places

2 open at all times, except Sundays

3 Penalty

Sect. 2. If any officer as aforesaid shall refuse or neglect to attend at the respective towns aforesaid for the transaction of business belonging his office at all times (Sundays excepted,) he shall for every such offence forfeit the sum of eight dollars to be paid to the State Treasurer for the use of the State, upon conviction by indictment in the Court of General Sessions of the Peace and Gaol Delivery in the county, in which such officer holds his office. *Provided nevertheless*, That it shall be lawful for a deputy of any of the said officers to attend for the performance of such services as are strictly ministerial.

4 deputies

Passed February 7, 1795.

II.

1797 AN ACT *to transfer certain public records into the Register's office of the several counties of this State respectively, and for other purposes.*

Whereas, for the convenience of the public, it is necessary, that certain records of the Orphans Court under the late constitution of this State, should be tranferred to the Register's office of the several counties respectively, as connected with those offices under the present constitution and laws of the State:

(Constitution 80, 81)

5 Records transferred to

Section 1. Immediately after the publication of this Act, it shall be the duty of the clerks of the Orphans Courts in the several

counties of this State and they are hereby required to deliver over into possession of the Register of wills in the respective counties, all administration and testamentary bonds, all accounts of deceased persons' estates settled by the late Orphans Courts, and generally all other papers and records whatsoever in their possession, connected with the said office of Register of wills under the present constitution and laws of this State. Register's office

Sect. 2. *And whereas* it is necessary, that an office should be provided for the safe-keeping of the books and papers appertaining to the Recorder's office in the county of Kent:—The Recorder of deeds for the county of Kent be and he is hereby authorized and empowered to use and occupy as a public office, the lower room in the south-east corner of the State House in the town of Dover. 6 Recorder's office—Kent

III.

AN ACT *to preserve the public buildings and records from destruction by fire.* 1825

Section 1. It shall be the duty of every public officer of this State or 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, 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 the carelessness of any such officer, his deputy or deputies, agent or agents, or from his or their omission to comply with the provisions of this Act, such officer shall for every such offence forfeit his office. 7 Care of fire in public offices 8 penalty for neglect 9 forfeiture

Passed at Dover, February 9, 1825.

—o—

PUBLIC RECOGNIZANCES & BONDS.

I.

AN ACT *requiring sheriffs to give security.* 1793

Section 1. Every sheriff now in commission or hereafter to be commissioned within the several counties of this State, at the next Court of Common Pleas to be held in the respective counties there- 1 Sheriff's recognizances (Bonds, &c 2)

(5) of after the first Tuesday of October annually and within the three first days of the term, shall enter into a recognizance jointly and severally in the same court with three or more good and substantial freeholders of the county to be approved of by the said court, *That is to say*; The sheriff of the county of New Castle and his sureties in the sum of sixteen thousand dollars, and the sheriff of the county of Kent and his sureties in the sum of fourteen thousand dollars and the sheriff of the county of Sussex and his sureties in the sum of twelve thousand dollars, upon condition, *That if he the said sheriff shall and do well and truly serve and execute all writs and process to him directed without delay, and shall from time to time, upon request to him made for that purpose, well and truly pay or cause to be paid to the several suitors and parties interested therein, their lawful agents, factors or assigns and to the several officers all and every sum and sums of money to them respectively belonging, which shall come to his hands or which it shall be his duty to collect and receive, and receive, collect and pay over all public taxes, whatsoever committed to him for collection, and shall and do from time to time and at all times during his continuance in office of sheriff well and faithfully execute the said office, and perform in every thing the duty in him reposed; then the said recognizance to be void, otherwise to be and remain in full force and virtue.*

(Execut'n55)

2 Security neglected—office forfeited

Sect. 2. If any sheriff now in commission, or hereafter to be commissioned, shall neglect or refuse to give such security at the time and in the manner as before directed; in every such case the sheriff so neglecting or refusing shall *ipso facto* forfeit his said office of sheriff; and the Governor for the time being shall, unless the said court shall certify to him within fifteen days after the said first three days, that the said sheriff hath given security at the time and in the manner as before directed, commission some other sufficient person being an inhabitant of the county where such forfeiture shall happen, to supply the place of such as shall so neglect or refuse as aforesaid, who shall act and continue in the office of sheriff, on entering into recognizance with sureties as before required at next Court of Common Pleas after his appointment, until the next General Election, and until the said office shall be duly filled after such election.

3 Governor to appoint, unless certificate &c.

4 Judges neglecting certificate penalty

Sect. 3. If the said court shall neglect or refuse to certify to the Governor within the time limited, that the said sheriff hath given security at the time and in the manner aforesaid, provided he hath so done, the said Judges of the said court shall forfeit and pay to the said sheriff so injured four thousand dollars to be recovered by action of debt, bill or plaint, in the Supreme Court.

Passed June 17, 1793.

1821 A SUPPLEMENT *to the Act, entitled "An Act requiring sheriffs to give security."*

5 Recognizance—in case of appointm't to fill vacancy

Section 1. 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

This act repealed 8th vol. 289.

This act repealed 8th vol 289.

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. 6 certified

Sect. 2. 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. 7 Security neglected—forfeiture of office

Sect. 3. 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. 8 Duty of Chancellor or Judge

Passed at Dover, January 18, 1821.

II.

AN ACT *concerning the recognizances of officers.* 1821

Section 1. 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. 9 Recognizance, lien of lands, &c. of principal (13)

Passed at Dover, January 25, 1821.

III.

AN ACT *requiring certain officers to give security for the faithful performance of their official duties.* 1826

Section 1. 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 10 Official obligations—Coroner, Register, Recorder, Cl'k S. Ct. Prot'y C'lk of Peace Cl'k O. Ct. (15)

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:

condition of bond

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 belonging to said office safe and undefaced, then the said obligation shall be void and of no effect or else shall remain in full force and virtue: except 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 acknowledged by the obligors; and upon its being approved a certificate shall be indorsed thereon and signed by the Judges present according to the following form, viz:

11 Certificate of approval

county ss. In the Court of Common Pleas in said county at the day of 18 this obligation was acknowledged by to be their act and deed, and being inspected was together with the sureties there in approved. Witness our hands the day and year aforesaid.

12 recorded

The obligation of the Recorder of deeds shall be filed in the court wherein it shall be acknowledged, and the prothonotary shall record it in the judgment docket of said court; each of the other obligations executed pursuant to this Act shall immediately 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 every obligation executed and acknowledged and approved pursuant to this Act shall from the time of the acknowledging and approving of the same be a lien upon all the lands, tenements and hereditaments of the officer being the principal obligor therein, within the county wherein such obligation shall be acknowledged and approved; but the same shall not be a lien upon the lands, tenements or hereditaments of the sureties therein.

13 lien of lands, &c. of principal (9)

14 Recorder entering on office to deliver list, &c

Sect. 3. 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 Recorder 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.

15 Non-compliance with sect. 1 penalty

Sect. 4. 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.

Passed January 25, 1826.

—o—

RECORDER OF DEEDS.

AN ACT *for acknowledging and recording deeds.* 15 Geo. II.

Section 1. There shall be an Office of Record in each county of this government, which shall be called and styled *The office for recording of deeds*; and the Recorder shall duly attend the service of the same, and at his own proper costs and charges shall provide good large books of royal or other large paper, well bound and covered, wherein he shall record in a fair and legible hand all deeds and conveyances, which shall be brought to him for that purpose. Office for recording of deeds (Public Offices, 1, 2 6) (Public Recognizances & Bonds 10) (Conveyances)

—o—

RELIGIOUS SOCIETIES.

I.

AN ACT *for keeping a registry in religious societies.* Before Feb. 1708

The registry now kept, or which shall hereafter be kept by any religious society in their respective meeting book or books of any marriage, birth or burial, within this her Majesty's government, shall be held good and authentic, and shall be allowed of upon all occasions whatsoever. 1 Registry

II.

AN ACT *for the enabling religious societies of Protestants within this government to purchase lands for burying-grounds, churches, houses for worship, schools, &c.* 17 Geo. II. (8-26) 27

Whereas sundry religious societies of people within this government professing the protestant religion have at their own respective costs and charges purchased small pieces of land within this government and thereon have erected churches and other houses of religious worship, school-houses, and inclosed part of the same lands for burying-grounds; *And whereas* the said lands were purchased and paid for by the said respective societies in the name or names of persons at that time being of, or professing themselves to be of, the same religious persuasion with the societies who made use of the names of the said persons as Trustees for and in behalf of the said societies; *And whereas* some of the said Trustees, or their heirs having afterwards changed their opinions and joined themselves to other religious societies of a different persuasion from the people by whom the said persons were at first intrusted, and upon pretext of their having the fee-simple of the lands so 2 Difficulties of religious societies in respect to lands, &c.

purchased in their names vested in them have contrary to the true intent and meaning of the first grant or gift attempted (by granting away the said lands, houses of religious worship and burying-grounds) to deprive the society of people in possession of the same, of the right and use of the said houses of worship and burying-grounds, to the great disquiet and uneasiness of many of the good people of this government; and others being intrusted in the like manner may hereafter do the same. For remedy whereof and for the better securing the several religious societies in the quiet and peaceable possession of their churches, houses of worship, school-houses, alms-houses, and burying-grounds within this government;—

3 Effect of grants intended for their benefit

Sect. 2. All gifts, grants or bargains and sales made of lands or tenements within this government to any person or persons in trust for societies of protestant churches, houses of religious worship, schools, alms-houses, and for burying-grounds, or for any of them shall be and are hereby ratified and confirmed to the person or persons, to whom the same were sold, given, or granted, their heirs and assigns in trust and not otherwise, but for the use *(a)* of the same religious societies, for whom they were at first so sold, given, granted or purchased, according to the true intent and meaning of such gifts, grants, or bargains and sales: and every sale, gift, grant or devise of any such Trustee or Trustees or any person or persons, in whose name or names the said lands for erecting churches, houses of religious worship, schools, alms-houses, or burying-grounds within this government were purchased, taken, or accepted, or the heirs or assigns of such Trustees shall be and are hereby declared to be for the sole use, benefit and behoof of the said respective societies, who have been in the peaceable possession of the same for the space of seven years next before the first day of April, in the year of our Lord one thousand seven hundred and forty-four, or for whose use the same were at first given, granted or devised and no other.

a (16, 18)

4 Religious societies may take, &c.

Sect. 3. It shall and may be lawful to and for any religious societies of Protestants within this government to purchase, *(b)* take and receive by gift, grant or otherwise, for burying-grounds, erecting churches, houses of religious worship, schools, and alms-houses, for any estate whatsoever, and to hold the same for the uses aforesaid, of the lord of the fee by the accustomed rents.

b (14, 15, 17,) 27

5 only for the uses herein mentioned

Sect. 4. *Provided always,* That nothing in this Act contained shall be deemed, taken or construed to enable any of the said religious societies of people or any person or persons whatsoever in trust for them or to their use, to purchase, take, or receive any lands or tenements by gift, grant or otherwise, for or towards the maintenance or support of the said churches, houses of worship, schools, or alms-houses, or the people belonging to the same, or for any other use or purpose, save for the uses in this Act before mentioned.

6 Saving rights of others

Sect. 5. *Provided also,* That this Act nor any thing therein contained shall be deemed or construed to impeach the just right or title, which any person or persons may have to any of the lands or tenements herein before mentioned, so that they prosecute such their right or claim within the space of three years next after the publication of this Act.

III.

AN ACT *to enable all the religious denominations in this State to appoint Trustees, who shall be a body corporate, for the purpose of taking care of the temporalities of their respective congregations.* 1787

Whereas petitions have been presented from sundry religious societies or congregations for Acts of incorporation for the better transacting the temporal concerns of said societies or congregations; and this General Assembly considering it their duty to countenance and encourage virtue and religion by every means in their power, and in the most expedient manner, desire that it may be enacted: 7 Incorporating

Section 1. Each and every religious society or congregation of Christians of whatever sect, order or denomination, which now are or hereafter may be in this State entitled to protection in the free exercise of their religion by the constitution and laws of this State, shall and are hereby authorized and empowered respectively to meet and assemble together at the usual place of meeting for public worship at any time hereafter by them to be agreed upon, giving at least ten days notice of the time and purpose of meeting by advertisements set up in public views at or near such place of meeting, and being so met and assembled shall or may by a plurality of voices of those met being of that society or congregation elect or chuse any number of their said society or congregation not exceeding seven nor less than three, to be Trustees of the same; which said Trustees and their successors in office are hereby constituted a body politic and corporate in deed, fact, name and in law, to all intents and purposes in this Act herein after set down and expressed, for ever by whatever name they, the said Trustees chosen and elected as aforesaid, shall take and assume in the manner herein after directed, and by that name they shall have perpetual succession. 8 Trustees elected 9 Notice of meeting 10 incorporated

Sect. 2. The Trustees elected and chosen as aforesaid by any religious society or congregation, upon taking upon themselves any name and certifying the same under their hands and seals and causing such certificate to be recorded in the office of the Recorder of deeds of the county, in which such society or congregation shall usually assemble for public worship, such Trustees and their successors in office forever shall be known and distinguished in law in all cases whatsoever by the name they shall have so taken and recorded as aforesaid as fully to all intents and purposes, as though they were herein particularly named; and by such name they are hereby respectively constituted and shall forever thereafter be authorized in law to purchase, take, hold, receive, and enjoy any messuages, lands, tenements, rents and other hereditaments and real estate in fee-simple or otherwise, and also goods and chattels, sum and sums of money and personal estate whatsoever, to and for the use of their respective societies or congregations. 11 Name 12 recorded 13 capacity to take, &c.

Sect. 3. *Provided always nevertheless*, That all gifts, grants, bargains, sales and conveyances of and for any messuages, lands, tenements, rents and other hereditaments, corporal or incorporal whatsoever, and of and for any sum or sums of money, goods, 14 Gifts, Grants, &c to requisites (15)

chattels, stocks in any public funds, securities for money or any other personal estate to be laid out or disposed of in the purchase of any lands, tenements, rents or other hereditaments, shall from and after the passing of this Act, be made by deed indented, sealed and delivered in the presence of two or more credible witnesses twelve calendar months at least next before the death of the vendor, donor, grantor or bargainor, and be recorded in the office for recording of deeds for the proper county within one year next after the execution thereof, and the same to take effect for the use intended immediately from the making thereof, and be without any power of revocation, reservation, trust, condition, limitation, clause or agreement whatsoever for the benefit of the vendor or bargainor, donor or grantor, or of any person or persons claiming under him; otherwise such gifts, grants, bargains, sales and conveyances made in any other manner shall be void.

15 Bona Fide purchases

Sect. 4. *Provided*, That nothing herein before mentioned, relating to the sealing and delivering of any deed or deeds twelve calendar months at least before the death of the grantor, shall extend to any purchase of any estate or interest in any lands, tenements or hereditaments to be made really and *bona fide* for a full and valuable consideration actually paid at or before the making of such conveyance, without fraud or collusion.

16 Grants, &c before Oct 20 1744

Sect. 5. All lands, tenements, hereditaments, and real estate *bona fide* given, granted, conveyed or transferred by any last will in writing, deed of gift, bargain and sale, or other lawful conveyance to any religious society or congregation or to any person or persons in trust for them and to their use before the twentieth day of October, in the year of our Lord one thousand seven hundred and forty-four, the said congregation or any person in trust for them or expressly for their use having hitherto continued in the peaceable and quiet possession of the same hereditaments and real estate, and for the recovery whereof no action or actions hath or have been brought by any person or persons against any such religious societies or congregations or their Trustees, shall be and hereby are declared to be to and for the use of the same according to the purport and effect, true intent and meaning of such last will, deed of gift or bargain and sale or other lawful conveyance, and to and for no other use, intent or purpose whatsoever.

17 Limitation of rent or interest

Sect. 6. *Provided always nevertheless*, That the yearly rents and profits of the whole real estate to be held or enjoyed by any one of the said religious societies or congregations or by any other person or persons for their use shall not exceed or amount to more than one hundred pounds lawful money of this State; and that the yearly interest, value or income of the personal estate of such religious societies or congregations as aforesaid shall not exceed or amount to more than two hundred pounds lawful money as aforesaid.

18 Estates at date hereof vested in Trustees when elected

Sect. 7. All the estate, right, title, interest, use, possession, property, claim and demand whatsoever of the said societies or congregations respectively or any person or persons whatsoever in trust for them or for their use, as well in equity as in law, at the time of passing this present Act, of, in and to any lands, tenements, hereditaments, goods, chattels, effects, sum and sums of

money or other personal estate shall be and become vested in the said Trustees, to be chosen according to the direction of this Act in trust nevertheless and to and for the use of their societies or congregations respectively.

Sect. 8. The said Trustees of each respective society or congregation, which shall be chosen as aforesaid and their successors, by the name to be taken and recorded as aforesaid, shall and may give, grant and demise, assign, sell and otherwise dispose of all or any of their messuages, houses, lands, tenements, rents, possessions and other hereditaments and real estate and all other goods, chattels and other things aforesaid, as to them shall seem meet, for the use and benefit of the society or congregation to which they shall respectively belong: And also the said Trustees of each respective society or congregation, which shall be chosen as aforesaid by the name to be taken and recorded as aforesaid forever thereafter shall be able in law 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; and also, the said Trustees of each respective society or congregation to be chosen as aforesaid for the time being and their successors shall and may forever hereafter 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 and concerning the said corporation; and also the said respective Trustees and their successors forever hereafter may, as often as they shall judge expedient, break, change and new-make the same or any other their common seal. 19 Power & capacity of Trustees 20 common seal

Sect. 9. For perpetuating a line of succession in the Trustees of each respective society or congregation as aforesaid, it shall and may be lawful for the members of the said respective societies or congregations from time to time to meet and assemble at any time they may think proper, giving notice of such meeting as herein before directed for electing the first Trustees, and then and there at such meeting and meetings to elect other Trustees in the place and stead of those or either or any of those before elected, in case they shall see cause for removing any of the said Trustees, (provided such removal shall not be in less than one year after their appointment) and also to fill up vacancies of their Trustees occassioned by death, resignation or removal. 21 Trustees perpetuated (9)

Sect. 10. It shall and may be lawful for the Trustees elected and chosen for each respective society or congregation as aforesaid and their successors from time to time, as they may find it necessary or expedient, to choose a chairman being one of their members, who shall keep in custody the common seal of their corporation and all the books, charters, deeds and writings in any way relating to the said corporation, and shall have power at all times hereafter, as occasion may require, to call a meeting of the said Trustees for the execution of all or any of the powers hereby given them; and in case of sickness, absence or death of the chairman, all the powers by this Act invested in the chairman shall be and remain in the eldest Trustee upon record, until the recovery or return of the chairman, or until a new chairman shall be chosen in manner aforesaid. 22 Chairman, his powers (25)

23 Majority may act

Sect. 11. All and every act and acts, order and orders of a majority af the Trustees of any society or congregation chosen as aforesaid, but not of a less number, consented and agreed to at such meeting of the said Trustees as aforesaid shall be and the same is and are hereby ratified, made good, valid and effectual to all intents and purposes, as if the whole number of the Trustees had consented and agreed thereto.

24 Minutes of proceedings of Trustees

25 records, seal, &c delivered over by Chairman to successor

Sect. 12. All the proceedings of the Trustees of each society elected and appointed as herein-before directed, shall from time to time be fairly entered in a book or books to be kept for that purpose by the chairman of the Trustees for the time being, of each respective society; which book or books together with the common seal of the corporation, to which they belong, and all charters, deeds, securities and writings whatsoever and also all monies in hand belonging or in any wise appertaining to the said corporation shall be delivered over by the former chairman to the chairman of the Trustees of such corporation newly elected for the time being, as such chairman shall from time to time be successively chosen, to be regularly filed and safely kept by each chairman for the mutual benefit of the society, to which he may respectively belong: unto which books and muniments any member of said society shall have free access at all reasonable times upon application to the chairman keeping the same.

26 free access to records,&c.

Societies less than fifteen families not within this Act

Sect. 13. *Provided always*, That nothing in this Act contained shall be construed to authorize any religious society in this State to elect Trustees, become incorporate, or be in any wise entitled to the benefit of this Act, unless such society shall consist at the time of such their election of Trustees for the purposes herein-before mentioned of at least fifteen families statedly assembling at one place of worship, being supporters of the gospel in said society or congregation.

27 Repeal

Sect. 14. So much of an Act, intituled, *An Act for enabling religious societies of Protestants within this government to purchase lands for burying-grounds, churches, houses for worship, schools, and so forth*, passed in the seventeenth year of the reign of George the Second, as by this present Act is altered or amended, is hereby repealed, made null and void.

Passed February 3, 1787.

—o—

RETAILERS.

1821

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

1 Retailers within this Act

Section 1. Every person, who shall deal in the selling of any goods, wares or merchandise, 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 merchandise within the meaning of this Act.

Sect. 2. Every person within this State, who shall on the first day of June next be a retail dealer in goods, wares or merchandise except as before excepted, shall before the said day, and every person, who after the said day 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 merchandise 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, and shall be renewed annually: and if any person within this State shall after the said first day of June next deal in the selling of merchandise 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 merchandise as aforesaid by retail at more than one place at the same time; and any person, who by color of such license shall sell any goods, wares and merchandise 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.

2 Licenses for Retailers

3 License to continue 1 year (11, 13)

4 dealing without license

penalty

5 one license authorizes dealing at one place only

Sect. 3. The Secretary of State for the time being shall cause to be printed in proper form a license for retailing goods, wares and merchandise as aforesaid, which shall be sealed with the seal of his office, signed by the Governor, 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: 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.

6 Licenses prepared by Secretary of State

7 distributed by Clerk of Peace (13)

moneys paid over

8 Clerk of Peace neglecting to pay over

penalty (Fees 66)

Sect. 6. 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 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 is hereby directed within one month after 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 Auditor of accounts.

9 Settlement with Cl'k of the Peace

receipt to Auditor

10 Secretary to pay to St. Treasurer

receipt to Auditor

Passed at Dover, January 31, 1821.

1822 **A SUPPLEMENT** *to the Act laying duties on licences to retailers of foreign goods, wares and merchandise.*

11 Certificate of stock at original prices, filed by retailers with Cl'k of Peace

Section. 2. 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.

12 affidavits

13 Licenses, & tax, & persons excepted

Sect. 3. 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 merchandise as mentioned in the certificate to be filed as aforesaid.

(7, 8)

14 Duty stated in the license

Sect. 4. 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.

15 Collectors to deliver to Cl'k of Peace list of wholesale & retail dealers

Sect. 5. 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 to prepare and prosecute indictments against all, who appear not to have obtained a license, and who ought to have obtained the same.

16 duty of Attorney Gen'l

17 Appropriation

Sect. 6. 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.

Passed at Dover, February 7, 1822.

I.

AN ACT *concerning Roads and Bridges.* 1829

Section 1. All public roads or common highways within this State, except such whereof the width has been or shall be specially prescribed by Act of the General Assembly, shall be in Newcastle county of the width of forty feet, thirty feet whereof shall be grubbed and cleared; but this provision shall not authorize any person to alter a public road heretofore laid out thirty feet. In Kent and Sussex counties, all public roads and common highways shall be of the width of thirty feet, twenty feet whereof shall be grubbed and cleared.

1 Public Roads width in N. Castle

Kent Sussex

And all public roads or common highways within this State without exception shall be maintained in good repair, and shall be made and kept passable and safe over swampy, miry, or marshy ground by sufficient causeways of the width of at least fifteen feet and over creeks and deep water by sufficient bridges of the width of at least twelve feet with a substantial railing or fence on every bridge on each side near the edge thereof at least three feet and one half high; but this section shall not be construed to require the building of a bridge upon any public road now open and in use in a place, where a bridge is not now maintained or deemed requisite.

2 Repair

3 causeways (11)

4 bridges

Sect. 2. The charges of repairing, constructing and maintaining every public bridge crossing the dividing line between two counties shall be borne by the said counties in equal portions.

5 Costs of bridges between counties

And the charges of repairing and keeping in good order all public roads or common highways within the several counties of this State and of repairing, constructing and maintaining bridges on such roads, shall be borne as follows, that is to say;

6 Costs of public roads and bridges (34–36)

In Kent County all such charges shall be borne by the county:

7 in Kent

In Sussex county all such charges shall be borne by the several hundreds of said county respectively, and raised by a road tax laid by the Levy Court and Court of Appeal of said county, to wit; each hundred shall bear the charges arising from all such roads and bridges within its limits; and if any road be upon the dividing line of two hundreds, or if any bridge cross such line, the charges arising from such road or bridge shall be borne by both hundreds in equal portions:

8 Sussex

(85–101)

But the charges of repairing and maintaining the bridge over Broadkill creek upon the road from the Three Runs to Lewis, and the bridge of Broad creek between the saw mill formerly of George Mitchel and the landing late of Isaac Cooper, and the causeways to said bridges respectively appertaining, and all other bridges, that have heretofore been commonly supported at the expense of Sussex county, shall be borne by said county:

except certain bridges

In Newcastle county, all such charges on account of public roads shall be borne by the several hundreds of the said county respectively, and raised by a road tax laid according to the existing law by the commissioners of the roads in each hundred, to wit; each hundred shall bear the charges of all the public roads within its limits; and if a road be upon the dividing line of two hundreds, the charges on account thereof shall be borne by both hundreds in equal portions:

9 N. Castle

of public bridges, New Castle

But the charges of repairing, constructing and maintaining all bridges in the public roads in said county shall be borne by the said county; provided that no bridge shall be constructed, where a bridge has not heretofore been maintained, unless a majority of all the commissioners of the Levy Court and Court of Appeal of said county license the constructing of such bridge and the Court of General Quarter Sessions of the Peace and Gaol Delivery within said county approve said license; which license being so approved shall be recorded in said court. A bridge built contrary to this proviso shall not be a county charge: but without such license a bridge may be constructed and maintained at the expense of the hundred in which it is, or if it cross the dividing line of two hundreds, at the equal charge of both of them.

power of Levy Court

10 Extent of this section

This section shall comprehend all public roads or common highways, as well those hereafter to be laid out and opened, as those now open, and all public bridges in such roads; but it shall not extend nor apply to any bridge being the property of any person or corporation.

11 causeways

Causeways appertaining to bridges shall be deemed to be part of the bridges, to which they appertain, and other causeways shall be deemed to be part of the road, in which they are, and the charges on account of such causeways shall be borne accordingly; except that in case of causeways appertaining to the same bridge but being in different counties, each county shall bear the charges of making and maintaining the causeway within its limits: and no hundred shall be held to make or maintain a causeway in another hundred.

12. Owners of mills, &c. to maintain bridges, &c. in certain cases

Sect. 3. Whenever the building of any mill, factory or other works using water power, or the making of any race or artificial water course or dam has injured or shall injure any public road, it shall be the duty of the owner or owners for the time being of such mill, factory or works, race or dam to repair and forever to keep repaired the part of the road so injured; and it shall be the duty of every owner and also of every tenant of any mill, factory or works, for the operation, use or benefit whereof there is or shall be any race or artificial water course through any public road or common highway in either county of this State, or a dam, over which any such road does pass, or shall pass, or a pond raised so as to make a bridge over a stream in a public road necessary where there would otherwise be no need of one, to make and maintain a safe and substantial bridge over every such race, water course or stream, and a safe and sufficient way over every such dam with a safe and substantial bridge over any flood-gates, or water through or round such dam; every such bridge and way shall be at least twelve feet wide with a sufficient fence or railing on every such bridge and way on each side near the edge thereof at least three feet and one half high; but the preceding provisions of this section shall not apply to any public road or common high way, which shall be laid out over any dam, race or pond, that shall have been lawfully made, cut or raised for the use of any mill, factory or works before the laying out of said road, or to any bridge requisite upon such road; and whenever any public road passes near to any such mill, factory, or other works, then in order to guard against the danger of horses or other beasts going in said road be-

ing frightened by any wheel of such mill, factory, or works, it shall be the duty of every owner and also of every tenant of such mill, factory or works to keep constantly covered and concealed by means of a sufficient blind so placed as not in any manner to obstruct said road, every such wheel that would otherwise be exposed to be seen from said road; and it shall be the duty of every owner and also of every tenant of any lands or premises, for the special benefit or improvement whereof a ditch or drain not authorized by Act of the General Assembly has been or shall be cut through any public road laid out before the cutting of such ditch or drain, to make and maintain a safe and substantial bridge over such ditch or drain; and if any owner or tenant of any mill, factory or other works, race or dam as aforesaid or of any land or premises as aforesaid shall neglect to fulfil any duty incumbent upon him or her according to the form and effect of this section in any particular, every such owner or tenant shall pay to every person injured through such neglect double damages on occasion of such injury with double costs of suit to be recovered in an action of trespass on the case; and also every such owner if at the time of such neglect in the actual occupation of such mill or other tenements and every such tenant, for every such neglect shall be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay to the State a fine not less than ten nor exceeding fifty dollars; and also in case of such neglect it shall be the duty of the overseer of roads, within whose limits the neglect shall be, immediately on receiving information of such neglect to cause any work or repairs to be done requisite to make any way or bridge so neglected,—safe and sufficient, or to cover and conceal any wheel as hereinbefore directed, or to remedy fully the matter complained of; and the overseer causing such work on repairs to be done shall be entitled to demand and receive double the expenses thereof from the owner or tenant guilty of such neglect; the amount of such double expenses shall be a debt due to such overseer and shall be recoverable if not exceeding fifty dollars before any Justice of the Peace for the county, wherein the work or repairs were done, proceeding according to the "Act providing for the recovery of small debts," the provisions whereof are hereby extended to such debt; but if such amount exceed fifty dollars, it shall be recoverable in the Supreme Court or the Court of Common Pleas; it shall be no objection to a suit for such debt, that there are other owners or other tenants not joined therein. If any overseer of the roads, shall refuse or neglect to perform the duty above enjoined, he shall be deemed guilty of a misdemeanor, and upon conviction thereof he shall forfeit and pay to the State a fine not less than fifteen dollars nor exceeding fifty dollars.

13 to keep wheel covered, &c.

14 Owner or ten't to keep bridge over ditch, in certain cases

15 Neglect of owner or ten't penalty (19)

16 duty of overseer—

who shall recover

17 double expenses

18 Penalty on overseer for neglect

A tenant may deduct from his rent the expenses arising from his performance of any duty incumbent upon him according to this section, unless it shall have been otherwise agreed.

19 Tenant's expenses, out of rent

Sect. 4. There shall be allowed to every overseer of the roads for each day's service a sum not exceeding one dollar to be settled according to the number of laborers employed each day and other circumstances, in Kent and Sussex counties by the Levy Court and Court of Appeal, and in New-Castle county by the

20 Fees of overseers

commissioners of roads in the hundred in which the overseer is appointed.

20 Jurisdict'n to lay out change or vacate roads

Sect. 5. The Court of General Quarter Sessions of the Peace and Gaol delivery within each county of this State shall have jurisdiction to lay out, change or vacate public roads or common highways; but this power to change or vacate shall not extend to any road or highway which has been or which shall be laid out under any Act of the General Assembly specially directing or authorizing the laying out of such road or highway. The manner of exercising the jurisdiction shall be as follows:

21 proceedings

22 petition

Whenever five or more freeholders of either county of this State shall prefer to the Court of General Quarter Sessions of the Peace and Gaol Delivery within such county a petition for a new public road in said county to lead from and to certain points or places, or for changing the course of a public road in said county, or for vacating any public road or part of a public road in said county, the said court shall by order thereupon appoint five judicious and impartial freeholders of the said county to view the premises and determine concerning the same and make return under their hands or the hands of a majority of them to said court on the first day of the next term after the making or renewing of such order, authorizing them to employ, if necessary, a skilful and impartial surveyor to be nominated by them or a majority of them, and directing them as herein after prescribed, that is to say; in an order made upon a petition for a new public road the direction shall be, that if the freeholders or a majority of them shall determine, that there is need for a new public road as mentioned in the petition, then they shall lay out such public road as shall be most proper, having respect to the nature of the ground, the shortness of the distance, and all circumstances of public or private convenience or detriment, and shall cause a draught of said road to be made, representing the courses and distances thereof, with notes of the most remarkable places and of the wood land, clear land and improvements by or through which the same passes, and shall assess the damages of every the owners or holders of said lands, and improvements on occasion of the said road, taking into consideration all the circumstances of benefit or injury which will accrue to each owner or holder therefrom, and shall make a computation of the cost of opening and making said road and making the bridges and causeways therein, setting down the several items of said cost, and if a road be laid out, shall in their return set forth among their proceedings a description of the said road and their determination, that there is need of the same for public convenience, and shall annex to their return the aforementioned draught: in an order made upon a petition for changing the course of a public road, the direction shall be, that if the freeholders or a majority of them shall determine that the change or changes mentioned in the petition or any change of like effect ought to be made, then they shall lay out such public road or roads, as shall produce such change or changes in the best manner, having respect to the nature of the ground, the shortness of the distance and all circumstances of public or private convenience or detriment; and shall cause a draught of the said road or roads to be made, representing the courses and

23 appointm't of freeholders

24 directions in case of new road

changing a road

distances thereof, with notes of the most remarkable places and the wood land, clear land and improvements through or by which the same passes, and also representing so much of the original road as is affected by the change, that the original road and the road as changed may be compared, and shall assess the damages of every the owners or holders of the said lands or improvements on occasion of the said road or roads, taking into consideration all circumstances of benefit or injury that will accrue to each owner or holder therefrom. and shall make a computation of the costs of opening and making every such road and of making the bridges and causeways therein, setting down the several items of said costs, and shall determine whether after any road by them laid out shall be opened and made, any part and what part of the original road shall be vacated, and what person or persons may inclose the same, and if any change be made, shall in their return set forth among their proceedings a description of the road or roads laid out and of the part of the original road to be vacated, if any, and their determination that the change ought to be made, and shall annex to their return the aforementioned draughts: in an order made upon a petition for vacating a public road or any part thereof, the direction shall be, that if the freeholders or a majority of them determine that said road or any part thereof is unnecessary and ought to be vacated, then they shall further determine what person or persons may inclose the same or any part thereof, and what portion of the cost each of said persons ought to pay, and shall in their return set forth among their proceedings a description of the road to be vacated, and their determination that the same is unnecessary and ought to be vacated, and shall annex to their return any draught which they may have directed to be made.

vacating a road

The return upon one order shall not be conclusive, either for laying out, changing or vacating a public road; but the court shall have power to make orders of review and thereby appoint other five judicious and impartial freeholders of the same county to review the premises and determine concerning the same and make return under their hands or the hands of a majority of them to the said court on the first day of the next term after the making or renewing of such order, granting to them all the authority which was conferred by the original order and requiring them to observe the directions of said order in all things and do therein what according to their judgment or the judgment of a majority of them ought to have been done pursuant to said directions, and instructing them that if they or a majority of them approve the proceedings upon the original order or upon any prior order of review or any part thereof, they may adopt the same as part of their return.

25 Order of review (27)

An order of review shall be made upon the application of any person interested in or affected by the laying out, changing or vacating of a road pursuant to an order as aforesaid. If the entire proceedings upon the original order or all except the computation of costs be adopted by the freeholders appointed by an order of review or a majority of them, such proceedings shall be confirmed by the court; in any other case a second order of review shall be

26 how granted & when second order

made upon application of any person interested or affected as aforesaid. But an application for an order of review shall not be received after the expiration of six days from the making of the return to the preceding order, whether original or of review; and more than two orders of review shall not be granted upon application; but if the court shall, for illegality or other cause set aside the return to any order, such order shall be vacated, and another order shall be made in the place thereof, and the court for their own information may make further orders of review:

27 within what time application

If an order of review be not applied for in due time, the court shall confirm the proceedings upon the original order. If a second order of review, in a case proper for such order, be not applied for in due time, the court shall confirm the proceedings upon the original order or the proceedings upon the order of review; and after the return to a second order of review, the court shall confirm the proceedings upon one of the orders, unless they shall find it necessary for their information to make a further order of review. If the proceedings upon any order, whether original or of review, be adopted by the freeholders appointed by any other order or a majority of them, such proceedings shall be confirmed by the court; in any other case the court shall confirm the proceedings, which in their opinion will best fulfil the true intent of the original order and the directions therein.

28 Confirmation

If due diligence be not used for executing and returning an order of review, the effect shall be the same, as if it had not been applied for.

29 Want of diligence

The effect of confirmation by the court of proceedings upon an order as aforesaid shall be—*in case any road or roads be laid out by said proceedings*, to establish such road as a public road or common highway—*in case damages be assessed by said proceedings*, to settle such damages—*in case any change ought according to such proceedings to be made in a public road*, to establish such change—*or in case any road or part of a road ought according to said proceedings to be vacated*, to vacate such road or part of it,—according to the form and effect of said proceedings: and the proceedings being confirmed shall be recorded.

30 Effect of confirmation

But notwithstanding such confirmation, no public road, hereafter to be laid out, shall be opened and no right to use said road shall exist, until the said road is approved by the Levy Court and Court of Appeal of the county wherein it is laid out.

31 Approbation of Levy Court

And if any such road hereafter to be laid out shall pass through an inclosure, which at the time of the confirmation of the proceedings shall be in actual cultivation, the said road shall not be opened through said inclosure until the expiration of the usual time for taking off the crop, which was growing, sown or planted at the time of said confirmation.

32 Crops taken, before road opened

The freeholders appointed by an order as aforesaid, whether original or of review, and the surveyor employed by them before examining the premises for the purpose of executing the order shall be sworn or affirmed, that is to say, the freeholders to perform the duties incumbent upon them according to the order—and the surveyor to perform the service for which he is employed—faithfully and impartially according to the best of their skill and judg-

33 Oath of freeholders & surveyor

ment respectively; which oath or affirmation may be taken before the Chancellor or any Judge of this State or any Justice of the Peace for either county of this State, or a burgess of the borough of Wilmington; and either of said freeholders named in an order shall have authority to administer said oath or affirmation to any other of said freeholders or to the surveyor employed by them.

The acts of a majority of the freeholders shall be as valid, as if concurred in by all of them.

34 Costs—damages of laying out or changing roads

The costs of proceedings for laying out or for changing a public road and the damages settled on occasion of such road shall be allowed by the Levy Court and Court of Appeal of the county, wherein the road is, and shall be a charge on said county; but in New-Castle county such damages shall not be allowed, until it shall be certified by the commissioners of roads in the hundred, wherein the damages are sustained, that the road has been opened.

35 of vacating roads

The cost of proceedings for vacating a public road shall be paid by the petitioners, unless the road shall be vacated, and in that case by the persons entitled to inclose it, they respectively paying the portions determined by the freeholders whose return shall be confirmed; and the determination of the freeholders, that any person may inclose the road vacated or any part of it, shall have no effect, and such person shall not inclose any part of said road until payment of his or her portion of said costs; but upon such payment the right of such person shall become absolute according to such determination.

36 of opening & making (6-10)

The charges for opening and making public roads in either county and for constructing bridges thereon and for causeways shall be borne in the same manner as prescribed in respect to the charges for repairing public roads and constructing and maintaining bridges thereon in the same county according to the second and third sections of this Act.

37 Bridge between counties or hundreds repaired (Levy Ct. 85)

Sect. 6. Whenever a bridge crosses the dividing line of two hundreds or two counties, the overseer of roads, within whose limits is the road leading to and immediately connected with such bridge, shall have within his limits and under his charge the part of said bridge lying in his hundred; unless the said bridge shall have been otherwise assigned according to law. The Levy Court and Court of Appeal shall have power to assign any bridge or part of a bridge, that is maintained at the expense of their county to the charge of any overseer, whom they may appoint.

38 Suffering roads or bridges to be obstructed or out of repair

Sect. 7. If any overseer of roads in any hundred of Kent or Sussex county or the commissioners of roads in any hundred of New-Castle county shall wilfully suffer any public road or common highway or public bridge within their proper limits respectively to be encroached upon or obstructed, or to be unsafe or in bad condition for want of repairs, or shall refuse or neglect beyond a reasonable time to open and make any new public road or common highway duly laid out and approved within their proper limits respectively, or to make and construct thereon such causeways and bridges as may be requisite, or if any overseer of a public bridge shall wilfully suffer the same to be obstructed, or to be unsafe or in bad condition for want of repairs, or if any overseer of roads in any hundred in New-Castle county shall refuse or neglect to ob-

penalty on overseer or commissioners

ment respectively; which oath or affirmation may be taken before the Chancellor or any Judge of this State or any Justice of the Peace for either county of this State, or a burgess of the borough of Wilmington; and either of said freeholders named in an order shall have authority to administer said oath or affirmation to any other of said freeholders or to the surveyor employed by them.

The acts of a majority of the freeholders shall be as valid, as if concurred in by all of them.

34 Costs—damages of laying out or changing roads

The costs of proceedings for laying out or for changing a public road and the damages settled on occasion of such road shall be allowed by the Levy Court and Court of Appeal of the county, wherein the road is, and shall be a charge on said county; but in New-Castle county such damages shall not be allowed, until it shall be certified by the commissioners of roads in the hundred, wherein the damages are sustained, that the road has been opened.

35 of vacating roads

The cost of proceedings for vacating a public road shall be paid by the petitioners, unless the road shall be vacated, and in that case by the persons entitled to inclose it, they respectively paying the portions determined by the freeholders whose return shall be confirmed; and the determination of the freeholders, that any person may inclose the road vacated or any part of it, shall have no effect, and such person shall not inclose any part of said road until payment of his or her portion of said costs; but upon such payment the right of such person shall become absolute according to such determination.

36 of opening & making (6-10)

The charges for opening and making public roads in either county and for constructing bridges thereon and for causeways shall be borne in the same manner as prescribed in respect to the charges for repairing public roads and constructing and maintaining bridges thereon in the same county according to the second and third sections of this Act.

37 Bridge between counties or hundreds repaired (Levy Ct. 85)

Sect. 6. Whenever a bridge crosses the dividing line of two hundreds or two counties, the overseer of roads, within whose limits is the road leading to and immediately connected with such bridge, shall have within his limits and under his charge the part of said bridge lying in his hundred; unless the said bridge shall have been otherwise assigned according to law. The Levy Court and Court of Appeal shall have power to assign any bridge or part of a bridge, that is maintained at the expense of their county to the charge of any overseer, whom they may appoint.

38 Suffering roads or bridges to be obstructed or out of repair

Sect. 7. If any overseer of roads in any hundred of Kent or Sussex county or the commissioners of roads in any hundred of New-Castle county shall wilfully suffer any public road or common highway or public bridge within their proper limits respectively to be encroached upon or obstructed, or to be unsafe or in bad condition for want of repairs, or shall refuse or neglect beyond a reasonable time to open and make any new public road or common highway duly laid out and approved within their proper limits respectively, or to make and construct thereon such causeways and bridges as may be requisite, or if any overseer of a public bridge shall wilfully suffer the same to be obstructed, or to be unsafe or in bad condition for want of repairs, or if any overseer of roads in any hundred in New-Castle county shall refuse or neglect to ob-

penalty on overseer or commissioners

serve and execute any direction or instruction which the commissioners of roads in such hundreds or a majority of them shall lawfully deliver or give to him touching the duties of his office; every such overseer or commissioner shall be deemed guilty of a misdemeanor and upon conviction thereof shall forfeit and pay to the State a fine not less than fifteen dollars nor exceeding fifty dollars:

39 exception

provided, that no person shall be guilty of a misdemeanor for refusing or neglecting to construct or maintain a bridge, unless public funds for that purpose shall be placed or be within his power.

40 Obstructing or injuring road or bridge penalty

(Vacant Lands, 36)

Sect. 8. If any person or persons shall encroach upon or obstruct any public road, or shall wilfully obstruct, break or damage any public bridge, or shall commit any nuisance in any public road or common highway; 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 fifteen nor exceeding fifty dollars; and in case of a continuing nuisance, it shall be a part of the judgment, that the defendant or defendants shall abate the nuisance within a time to be limited in said judgment; and upon failure to observe and fulfil said judgment in this particular, a writ of execution shall be issued, directed to the sheriff or in case of legal exception to him, to the coroner of the county commanding him to abate the said nuisance; and there shall be allowed by the court, for executing said writ, to the officer a sum not exceeding the rate of four dollars a day besides all expenses incurred; and the defendant or defendants shall pay the costs and expenses allowed; and the court shall have power to compel said payment by attachment for contempt and imprisonment; and further, every defendant refusing or neglecting to abate a nuisance according to the form and effect of a judgment as aforesaid shall be deemed guilty of a misdemeanor and on conviction thereof shall forfeit and pay to the State a fine not less than fifty nor exceeding two hundred dollars.

41 abatement of nuisances

42 Fee

43 Powers of overseers to open ditches (49)

to take materials (45)

44 obstructing them

45 appraisement (47)

Sect. 9. Every overseer of roads in this State shall have right and power to enter upon any lands adjacent to any public road within his limits, and cause to be dug or scoured and kept open any ditch that he may deem necessary to drain the water from such road, and also to enter upon any land commodiously situated and cause sand, gravel and stones to be dug and carried away, and timber and trees standing to be cut down and carried away, for the purpose of making, constructing or repairing any public road or common highway within his limits or any bridge or causeway on such road or highway as he shall deem expedient; and any owner or holder of such land or other person who shall molest or hinder any such overseer in the exercise of such right or power or shall obstruct any ditch dug or opened as aforesaid, shall be deemed guilty of a misdemeanor and upon conviction thereof shall forfeit and pay to the State a fine not less than fifteen nor exceeding fifty dollars; but the overseer shall first take any timber or trees in the lines of the road within his limits, that may be suitable for his purpose, and in exercising the right and power as aforesaid, he shall do as little damage, as may be, to the owner or holder of the land; and before taking sand, gravel or stones or cutting down trees,

the overseer shall cause the same to be fairly appraised by two judicious and impartial freeholders of the county, whom he shall appoint and to whom he shall administer an oath or affirmation, according to the following form: "*You do solemnly swear (or affirm,) that the appraisement, which you shall make pursuant to your appointment, shall be impartial and just according to the best of your skill and judgment: So help you God (or so you solemnly affirm.)*

If the freeholders so appointed cannot agree upon an appraisement, they shall choose a third freeholder of the same county, who shall be sworn or affirmed as aforesaid before the overseer, and the three or any two of them shall make the appraisement and shall make two certificates, first setting down the materials appraised, and then proceeding according to the following form, viz;——— *county and —— hundred, ss. We the subscribers, freeholders of said county being duly appointed for this purpose and having been sworn or affirmed according to law, do appraise the materials abovementioned to be taken by A. B. an overseer of roads in said hundred, on the lands of C. D. for public use, to the value of ——— Witness our hands the —— day of ——, 18—.* No certificate of the oath or affirmation more than shown by the preceding form need be made; and if all the freeholders be sworn or be affirmed, the certificate shall conform to the fact by omitting either the word "*sworn*" or the word "*affirmed.*" If trees be appraised the freeholders shall mark the same and indorse the number on the certificate. The overseer shall give at least two days written notice to the owner or guardian if residing in the county, and if not, then to the 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 before removal of the materials; but if not so demanded, the overseer shall deliver one of said certificates to the collector having the collection of the road tax in his hundred, to whom it (if paid by him) shall be a good voucher, and who (if it be not paid) shall deliver it in New-Castle county to the commissioners of the roads in his hundred, and in Kent or Sussex county to the Levy Court and Court of Appeal, and provision shall be made for payment thereof when demanded; the other certificate the overseer shall keep. Every overseer, to whom the Levy Court and Court of Appeal shall assign the charge of a bridge, shall have the same right and power for obtaining materials for constructing or repairing it, as is by this section given to an overseer of roads as aforesaid, and shall exercise the said right and power in the same manner. In an action against an overseer for any thing done pursuant to this section, he may give this Act and the special matter in evidence on the general issue: and his own oath or affirmation shall be received as competent evidence to prove the notice required by this section.

46 certificate

47 notice of appraisement

48 appraised value paid

49 overseers of bridges, same powers

This section shall not be construed to preclude an overseer from obtaining materials by purchase or agreement.

Sect. 10. The Court of General Quarter Sessions of the Peace and Gaol Delivery within each county of this State shall have jurisdiction to lay out, change or vacate private roads within such county: and the manner of exercising this jurisdiction shall be the

50 Private roads

same, as hereinbefore prescribed in respect to the jurisdiction for laying out, changing or vacating public roads or common highways, except that an order may be made upon the petition of any one person, and shall be adapted to the case by varying from the order and directions therein, hereinbefore prescribed in respect to a public road in substituting the terms "*private road*" for the terms "public road" and in omitting the terms "*public convenience*" and the direction for a computation of costs, and in any other particulars necessary to conform it to such variances.

51 width

All private roads shall be of the width of twenty-five feet, whereof eighteen feet at least shall be cleared and grubbed, and causeways and bridges in such roads shall be of the same width as in public roads.

52 overseers

Upon the application of persons interested in a private road, an overseer thereof may be appointed in Kent and Sussex counties respectively by the Levy Court and Court of Appeal, and in New-Castle county by the commissioners of the roads in the hundred. Such overseer shall hold his office for one year and shall have right and power to enter upon lands adjacent to such road, and to dig, scour and keep open any ditch necessary to drain the water from said road. If the owner of said adjacent land or any other person shall molest such overseer in the exercise of this power, or shall obstruct any such ditch, or if any person or persons shall commit any nuisance in such road or wilfully damage any bridge therein, every such owner or person shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay to the State a fine not less than ten nor exceeding fifty dollars, (one half of which shall be applied to the repairing or otherwise for the benefit of said road,) and shall reimburse to any person, who shall remove such obstruction or nuisance or make the necessary repairs, the full expenses incurred therein, to be recovered with costs of suit before a Justice of the Peace proceeding according to the "Act providing for the recovery of small debts," all the provisions whereof are extended to such demand.

53 penalty for nuisances in private roads

54 costs & damages

The costs of all proceedings for laying out, changing or vacating any private road and the damages settled on occasion of such road shall be paid by the petitioners, before any such road shall be confirmed. If a person entitled to damages will not receive the same or shall be absent, or if there be other sufficient cause, the court may order the damages or any part thereof to be deposited in any bank in this State in the name of the court, and such deposit shall be payment thereof. The sum so deposited shall be payable upon the order of the court.

In confirming a private road, the court shall in express terms declare it to be a private road and order it to be recorded as a private road.

A private road need not be approved by the Levy Court; but the regulation in respect to opening a public road through an inclosure in cultivation shall apply to a private road.

(32)

The public shall be at no charge on occasion of a private road; but the charges of opening and repairing every private road and of constructing and maintaining bridges therein shall be borne by the persons interested and raised by voluntary contribution.

8th Vol. 169. Ryan.
Term of Commissioner extended - election biennially

Sect. 11. The width of the roads mentioned in the second section of the "Act for the better regulation of the King's roads in the counties of Kent and Sussex," or such and so much of them as remain, is and shall be forty feet, whereof thirty feet at least shall be cleared and grubbed. 55 Width of certain roads in Kent and Sussex

Passed at Dover, February 10, 1829.

II.

AN ACT *altering the mode of repairing and supporting the roads and bridges in the several hundreds of the county of New-Castle.* 1803

Whereas the present mode of repairing the roads in the county of New-Castle is found not only to be ineffectual but highly oppressive to the people of the several hundreds, for remedy whereof,—

Section 1. The following persons be and they are hereby appointed commissioners of the roads in the several hundreds in the county aforesaid; 56 Commissioners

[Three persons are named for each hundred.]

Sect. 2. The people of the several hundreds in the county aforesaid, who are entitled to vote for assessor and inspector, shall on the fifteenth day of September next, when they choose assessor and inspector, choose one good and substantial freeholder to supply the place of the person first mentioned in this Act as commissioner of the roads in the respective hundreds, and on the fifteenth day of September then next ensuing one good and suitable freeholder to supply the place of the person named secondly in this Act as commissioner of the roads in their respective hundreds, and on the fifteenth day of September thereafter ensuing one other good and suitable freeholder to supply the place of the person last named in this Act as commissioner of their respective hundreds, and annually thereafter one good and suitable freeholder to supply the place of the person in each hundred, who shall have acted as commissioner of roads for and during the space of three years. And whenever a vacancy or vacancies may happen in any of the hundreds aforesaid, then the surviving commissioner or commissioners, as the case may be, shall within twenty days, after such vacancy or vacancies may happen, appoint one or more suitable freeholder or freeholders to supply such vacancy or vacancies. 57 Election of commissioners (73) 58 vacancies

Sect. 3. The said commissioners of the roads or a majority of them in each hundred respectively shall meet at some convenient place in their hundred, by them to be agreed on, in the month of April in every year and then and there ascertain, as soon as may be, the sum or sums of money necessary for building, supporting and repairing the bridges, causeways and roads in their hundreds respectively, that are not supported at the common expense of the county; and the sums so ascertained, the said commissioners of the roads shall make out and calculate the rate per centum on the duplicates of their respective hundreds, which shall have been approved by the Levy Court in the month of March in the same year. 59 Meetings of commissioners (5—9) 60 road tax (84) (78)

Sect. 4. The commissioners of roads in the respective hundreds at their first or some subsequent meeting shall appoint some fit 61 Collector [74]

62 his bond

person within their hundred to be collector of the road-tax to be laid as aforesaid, who shall give bond and security for the faithful performance of his duty in the name of the said commissioners and their successors in double the sum ascertained as sufficient to repair and support the bridges and roads in the said hundreds for one year; and the said collector shall discharge himself of all monies which shall be in his hands in virtue of this Act by orders drawn on him by the said commissioners or any two of them in favor of the overseer to be appointed as is herein after directed, or any other person or persons.

[75]

63 on removal, &c. books, &c. delivered to—

[75]

And on the death, resignation or removal out of the hundred or from office of any collector appointed under this Act, the books and papers relative to his office shall be delivered over whole and undefaced to his successor, or in case no successor is appointed, to the commissioners of his hundred or one of them, together with the balance of money in his hands, if any.

64 Commissioners—directions to overseers (76—77)

Sect. 5. The commissioners of the roads in the several hundreds respectively shall before the first day of April in each and every year view and examine the roads in their respective hundreds and shall deliver to the several overseers thereof directions in writing describing the manner how, and the time when, the roads and bridges in their several districts (that are not to be supported by the county) shall be repaired and amended.

65 Overseers to settle with commiss'rs (81—83)

Sect. 7. The overseers respectively shall once in every six months render an account to and settle with the commissioners of the roads for the several hundreds respectively or any two of them of and for all their services, payments and expenditures for the use of the said hundred: and for the sums, which shall appear to be due to the said overseers respectively upon such settlement and for all other monies necessary for the purposes of this Act, the said hundred commissioners or any two of them are hereby empowered and directed to draw orders on the collector of their respective hundreds, which said orders with proper receipts thereupon shall be sufficient vouchers for the collectors of the several hundreds to obtain credits therefor upon the settlement of his or their accounts.

66 Allowance to commiss'rs

Sect. 8. Each of the said commissioners of the roads in the several hundreds aforesaid shall be allowed and shall receive for every day's attendance in the discharge of the duties required by this Act, the sum of one dollar and twenty-five cents and no more.

66 Proceedings of commissioners recorded

[78]

Sect. 10. The said commissioners of the roads in the several hundreds aforesaid shall keep fair records of their proceedings, to be entered in a book or books to be provided for that purpose, which they shall lay before the Levy Court yearly and every year on the first Tuesday of February.

67 Borrowing money

Sect. 12. The said commissioners of the roads in the several hundreds aforesaid, be and they are hereby authorized and empowered to anticipate the road tax for their respective hundreds, should it appear necessary and expedient so to do, by borrowing such sum or sums of money as they may think proper and necessary for the present year, *provided* that no more than legal interest be given for the same, in order that no inconvenience may result from delaying the repairs aforesaid, until the money arising from the road tax may come into their power.

Sect. 14. The said commissioners of the roads in the hundreds aforesaid shall provide at the expense of the respective hundreds all fit tools and implements, that may be necessary for the repairs of the roads and bridges aforesaid in their hundreds respectively; which tools and instruments so to be provided shall be delivered to the overseers aforesaid upon their giving to the said commissioners such security for their safe keeping and delivery to their successors or the commissioners, as shall be by the said commissioners approved of. 68 Commissioners to provide implements to be delivered to overseer on security

Sect. 15. The commissioners of the roads in the respective hundreds aforesaid are hereby authorized and empowered to let or farm out the several roads in their respective hundreds or any part or parts thereof for any term not exceeding two years, should they conceive it proper and expedient so to do. 69 Farming roads (70)

Sect. 16. Whenever the commissioners of the roads shall think proper to let or farm out any part or parts of the roads in their respective hundreds, such agreement shall be made under hand and seal of the said commissioners and the person or persons so taking or farming the said roads, under such penalties and restrictions, as shall insure a due and faithful performance of the duties enjoined by this Act. 70 Agreem't to farm

Sect. 17. Each of the commissioners of roads herein appointed or hereafter to be chosen shall, before he enters upon his duty, take the following oath or affirmation, which shall be administered by a Judge or Justice of the peace to wit: 71 oath of commissioners

I, A. B. do swear, (or solemnly, sincerely and truly declare and affirm,) *that as a commissioner of the roads for the hundred of I will to the best of my skill and judgment execute the duties of a commissioner of the roads as aforesaid according to the directions and meaning of this Act.*

Sect. 18. If any commissioner or overseer to be appointed in conformity with this Act shall neglect or refuse to take upon himself the duties enjoined herein, then and in every such case such commissioners or overseer shall forfeit and pay to the commissioners serving in pursuance hereof the sum of twenty dollars to be recovered before any Justice of the Peace in the same manner, as other debts under twelve pounds are recoverable, and to be applied to the support of the roads and bridges in the respective hundreds of the county aforesaid. 72 Penalty on commissioner or overseer refusing to act (38—16)

Sect. 19. Any person or persons who are now or shall hereafter be appointed commissioners of the Levy Court shall be and he is hereby declared ineligible as a commissioner of the roads in any of the hundreds aforesaid for and during his continuance in the said office. 73 Levy Ct. commissioner ineligible

Passed at Dover, January 28th, 1803.

A SUPPLEMENT *to an Act, entitled, "An Act altering the mode of repairing and supporting the roads and bridges in the several hundreds of the county of New-Castle."* 1804

Section 5. In the month of April annually, the collector of the road-tax of the preceding year in every hundred of the county aforesaid shall appear at a place to be appointed by the commis- 74 Collectors to settle with commiss'ers

sioners of the respective hundreds with his books and vouchers, and shall lay before them a statement of his accounts, which shall be adjusted by the said commissioners, who shall allow him for his trouble for collecting and paying over the said tax a sufficient compensation not less than five nor more than ten per centum, on the net sum collected or accounted for.

75 Balance in his hands (62, 63)

Sect. 7. Whatever balance has been or may hereafter be found due upon settlement with any collector of the road taxes in the county aforesaid shall forthwith be paid over by the collector, who owes the same, to his successor in office; and if any collector neglects or refuses to pay over whatever sum or sums may remain in his hands as aforesaid, the commissioners of the roads in the hundred, for which he was appointed, shall cause a suit to be instituted against such delinquent collector in any court of record for the county aforesaid in the name of the said commissioners and their successors for the recovery of all and every sum or sums of money so refused or neglected to be paid over.

76 Overseers appointed

Sect. 8. The commissioners of the roads in the respective hundreds or any two of them shall hereafter in every year on or before the first day of April, appoint one or more fit person or persons in the several hundreds to be overseer or overseers of the public highways, roads and bridges in the several parts thereof for the ensuing year, by certificate under the hands and seals of said commissioners or any two of them; and the said overseer or overseers so to be appointed shall upon receiving such instructions, as the commissioners of the roads for the respective hundreds shall think proper to give them in writing for the repair and support of the roads and bridges, proceed to execute the duties required of them, and to employ laborers and workmen to repair and mend the public roads and bridges within the limits of their appointments respectively in the manner by the said commissioners directed. *Passed at Dover, January* 24, 1804.

77 powers & duties (64) (43—49) (38—16)

1820 **A SUPPLEMENT** *to the Act entitled "An act altering the mode of repairing and supporting the roads and bridges in the several hundreds of the county of Newcastle."*

78 Accounts of commiss'rs [81]

Section 1. 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 net proceeds of said tax, a list of the orders drawn by the said commissioners, the names of the persons in whose favor they were drawn, on what account they were drawn, and for what amount: two of which statements 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 New-Castle 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

79 posted—sent to Auditor—Clerk of Peace & published

80 duty of Att'y General

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 New-Castle 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.

81 neglect of commissioners penalty

Sect. 2. 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 such 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.

82 Accounts of overseers (65—83)

neglect penalty

Sect. 3. No person being an overseer of roads in the said county shall be allowed or paid for work or labor done upon the public roads or bridges of the hundred, in which he shall act as overseer, by his own servants, laborers or teams in any one year more than ten dollars exclusive of his allowance as overseer aforesaid except as hereinafter excepted: nor shall any other person be employed to do any work or labor 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, laborers 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.

83 Limitation of allowance to overseer for work done by him or any person

Passed at Dover, February 6, 1826.

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

1826

It shall be lawful for the commissioners of roads in and for the hundred of New-Castle or a majority of them from time to time to draw the dividends now due, or which may grow due, on the stock of the New-Castle turnpike company or the stock of the New-Castle and Frenchtown 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 New-Castle turnpike company.

84 Dividends on stock in N. Castle Turnpike Co.

Passed at Dover, 11 February, 1826.

III.

1825 **AN ACT** *concerning the discharging of road taxes, in Sussex county, by work or materials.*

85 Road Taxes in Sussex payable in work, materials, &c. (89-92)

Section 1. To the end that every person liable to pay a road tax in Sussex county may have opportunity to discharge such tax by work and labor done or caused to be done, or by necessary materials provided for repairing or constructing roads or bridges; each overseer of roads in the several hundreds of the said county shall appoint the days and places for working upon the roads within his district or limits, and shall select from those liable to pay road taxes within his district or limits certain persons to work or to provide workmen or laborers or teams on every day so appointed, and shall at least two days before each day appointed give notice in writing to each person selected for that day; which notice shall require such person to work or to provide a workman or laborer upon the roads on the day appointed, and shall specify the hour and place of meeting on such day to begin work: and if any person shall be allowed or required to provide more than one workman or laborer or a team, the notice shall specify the number of workmen or laborers 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 labor 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 workman or laborer 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 labor 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 laborer 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 furnish the same, for such materials to be furnished in

86 Overseer to require work

87 certificate for work done

88 deduction for unfaithful work

89 every person to have an opportunity (92)

90 neglecting to work as required

91 persons not residing in overseer's limits

92 materials for repairs, by whom to be furnished

In the construction of this act see 8th Vol 303 - repealing all inconsistent.

discharge of such taxes, and shall give to each person furnishing materials in pursuance of such call a certificate under his hand, specifying the mateirals 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 labor. And every certificate, which shall be given by any overseer in pursuance of this Act, shall avail and be received 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 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 limits, 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 Appeal in Sussex county, when assigning to the overseers 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 respectively; which lists shall duly set forth the name of 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*

93 neglect to furnish them

94 certificates in payment of road taxes

95 not to exceed road tax

96 Levy Ct. to make lists of persons liable to pay road taxes in every district and the am't of such tax

97 overseer's account

on oath

work and labor 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.

98 Oath of office of overseers

Sect. 2. 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 solemnly swear* (or *affirm,*) *that in requiring work and labor upon the roads or materials for repairing or constructing roads or bridges, I will conduct myself with fairness and impartiality, without favor or prejudice to any person; that I will not give a certificate for work and labor or materials, except the same shall have been faithfully and truly 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.*)

99 Fraudulent certificate penalty

Sect. 3. 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.

100 Levy Ct. to make rules for overseers

Sect. 4. 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 and laborers that maybe 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.

101 Road taxes paid in money

Sect. 5. 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 labor or materials according to certificates duly granted, shall be payable in money and collected and levied by the collector.

Passed at Dover, January 28, 1825.

3 Sec. repealed 8th Vol. 303

AN ACT *more effectually to prevent the profanation of the Lord's day commonly called Sunday.* 1795

Whereas the penalties, which have heretofore been inflicted upon those who profane the Lord's day commonly called Sunday, have been found insufficient to deter many persons from such immorality; therefore, Profaning Sabbath by—

Section 1. If any person or persons within this State after the passing of this Act shall do or perform any worldly employment, labor or business whatsoever upon the Lord's day commonly called Sunday (works of necessity and charity only excepted) and be duly convicted thereof by his or her own confession or the testimony of one or more credible witnesses before any one Justice of the Peace, or by the view of such Justice, such person or persons so offending, for every such offence, shall forfeit the sum of four dollars; and upon refusal or inability to pay the said fine and the legal costs, he or she shall be imprisoned in the public gaol of the county, where the offence shall be committed, for any space of time not exceeding twenty-four hours. 1 worldly employment, &c

Sect. 2. If any carrier, pedler, wagoner or any driver of a travelling stage, wagon or coachee, carter, butcher or drover, with his horse, pack, wagon, stage, coachee, cart or drove, shall travel or drive upon the Lord's day, or if any person or persons within this State shall expose any goods, wares or merchandises to sale on the said day, and shall thereof be duly convicted in manner aforesaid; the person or persons so offending shall, for every such offence, forfeit and pay the sum of eight dollars, shall be stopped and detained with his horse, pack, stage, coachee, wagon, cart or drove until the succeeding day, and upon refusal or inability to pay the said fine and legal costs, shall be imprisoned in the public gaol of the county, where the offence shall be committed, for any space of time not exceeding two days. 2 pedlers, stage drivers, drovers, &c. travelling

Sect. 3. If any person shall be duly convicted in manner aforesaid of fishing, fowling, horse-racing, cock-fighting or hunting of game upon the said day, the person so offending, for every such offence, shall forfeit and pay the sum of four dollars, and upon refusal or inability to pay the said fine and the legal costs, shall be imprisoned in the public gaol of the county, in which the offence shall be committed, for any space of time not exceeding twenty-four hours. 3 fishing, fowling, horse-racing, &c.

Sect. 4. If any number of persons shall assemble to game, play, or dance on the said day, and shall then engage or assist in such game, play, or dance, every person so offending, being duly convicted in manner aforesaid, shall forfeit the sum of four dollars, and upon refusal or inability to pay the same and the legal costs, shall be imprisoned in the public gaol of the county, where such offence shall be committed, for any space of time not exceeding twenty-four hours. 4 gaming or dancing

Sect. 5. All the fines and forfeitures and the legal costs thereon, mentioned in this Act, shall be levied by distress and sale of the offender's goods and chattels respectively by warrant under the hand and seal of such Justice, before whom the conviction shall be made, the same shall be applied to the use of the poor of the coun- 5 how fines recovered and applied

ty, where the offence shall be committed; any law, usage, or custom to the contrary in any wise notwithstanding.

Passed, February 6, 1795.

—o—

SALARIES.

1793 AN ACT *for ascertaining the salaries of the Governor, the Chancellor, the Judges, and the Secretary, and for making allowances to the members of the General Assembly, and for other purposes.*

1 Salaries—of Governor Chancellor a $1000 [6] Judges & Secret'y

Section. 1. There shall be allowed to the Governor the annual salary of one thousand three hundred and thirty-three dollars and one third of a dollar, to the Chancellor the annual salary of [eight hundred *(a)*] dollars, to the Chief Justice of the Supreme Court and to the Chief Justice of the Court of Common Pleas the annual salary of one thousand dollars each, to each of the other Justices of the Supreme Court and the Court of Common Pleas, five hundred dollars, to the Secretary the annual salary of four hundred dollars.

2 Quarterly payments

Sect. 2. The above salaries shall be paid at the treasury of this State, in quarterly payments.

3 Orders of Speakers (General Assembly-5)

Sect. 3. The allowances to the members of the General Assembly, the door-keepers, and all contingent expenses necessary for the accommodation of the two houses, shall be paid at the treasury of this State, on warrants drawn by the Speakers of each house respectively.

4 No fees, &c to Governor, Chancellor or Judges

Exception

Sect. 4. No fees, perquisites or daily expenses or travelling charges shall be paid or allowed to the Governor, from and after the passing of this Act; nor to the Chancellor and Judges from and after the first day of October next, other than the salaries aforesaid; except such fees, as shall be allowed to the Chancellor and Judges for services done out of court; any law to the contrary notwithstanding.

Passed, February 2, 1793.

1798 AN ACT *for allowing a compensation to the Attorney General.*

5 Att'y. Gen'l

The Attorney General shall receive for his services, exclusively and independently of the fees arising upon all criminal prosecutions, the sum of three hundred and fifty dollars annually to be paid at the treasury of this State; any law, usage or custom to the contrary in any wise notwithstanding.

Passed, January 24, 1798.

1806 AN ACT *to increase the salary of the Chancellor, [and the daily allowance of grand and petit jurors, and for other purposes.]*

6 Chancellor

Section 1. That in lieu of the salary heretofore allowed by law, the annual sum of one thousand dollars be and hereby is granted

Sec. 1. amended 8th vol. 91.

to the Chancellor, which shall commence from the twenty-first day of March next, and be paid quarterly at the treasury of this State.

Passed at Dover, February 1, 1806.

—o—

SATISFACTION OF JUDGMENTS AND RECOGNIZANCES.

AN ACT *directing the entry of satisfaction of judgments, decrees and recognizances and of payments on executions.* 1829

Section 1. Whenever a person, to whom a sum is due by judgment or decree or by a recognizance taken in the Orphans Court, receives satisfaction of the sum so due, it shall be the duty of such person to cause such satisfaction to beentered upon the record of such judgment, decree or recognizance, within sixty days after satisfaction received: and in case of default, the person against whom the judgment or decree is, and each of them, if there be several, or each of the recognizors in such recognizance, or the executors or administrators of such person or recognizor shall have an action of trespass on the case against the person making default or his executors or administrators and shall recover damages, which shall not be less than ten nor more than fifty dollars, unless it shall be alleged in the declaration and proved, that special damages have been sustained to a greater value.

1 Entry of satisfaction (4)

within 60days

2 penalty for neglect

Such satisfaction shall be entered by the clerk or prothonotary upon the application of the party or his attorney, who must sign the entry.

3 How entered

This section shall not extend to a judgment of a Justice of the Peace, unless a transcript be entered in the Common Pleas, when satisfaction shall be entered there: and when a sum due by judgment is received from the sheriff or other officer on execution the case shall not be within this section.

4 Justices judgments—& judgments satisfied on execution

Sect. 2. Whenever the sheriff or other officer to whom an execution is directed, levies or receives the sum due thereon or any part thereof or obtains a settlement of the execution, he shall return the fact, with the sum and date of each payment if the execution be not fully satisfied. Such return shall be under the hand of the sheriff or other officer, and it shall be indorsed on the execution; or if the receipt or settlement be after the execution is returned, it shall be delivered to the clerk or prothonotary, in whose office the execution is, within thirty days after the receipt or settlement; and he shall annex the same to the execution. Every such return shall be entered on the docket of the execution; and when a judgment is thus satisfied the clerk or prothonotary shall note it on the record of such judgment. If any sheriff, clerk, prothonotary or other officer shall make default herein, the party against whom the execution is, or each of them, if there be several, shall have an action of trespass on the case against him, and shall recover damages, which shall not be less than ten nor exceeding

5 Execution satisfied, or part paid-fact to be returned

6 receipt after return—certified to Clerk

7 entered

8 penalty on sheriff or Cl'k for neglect

fifty dollars, unless it is alleged in the declaration and proved, that special damages have been sustained to a greater value.

This section shall not extend to an execution issued by a Justice of the Peace.

Passed at Dover, February 7, 1829.

—o—

SCHOOLS.

I.

1821 AN ACT *for the encouragement and support of schools in this State.*

1 Sunday Schools (6) Section 1. Every school or 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

2 allowance (4) of the county, in which such school may be established, in such manner, as shall be hereinafter directed.

3 return of scholars Sect. 2. 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 neighborhood, the said commissioners are hereby authorized and directed to draw an order on the County Treasurer annually for a sum of money not

4 sum for each 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

5 limit 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,

6 qualificat'n unless such school shall have continued three months in each year, which fact must be stated and certified in the manner above mentioned.

Passed at Dover, 3 *February,* 1821.

II.

1829 AN ACT *for the establishment of free schools.*

7 School districts Section 1. It shall be the duty of the Levy Court and Court of Appeal in each county to cause their county to be divided into convenient school-districts. In making this division it shall be a

8 rule of division (State Treasurer, &c. 11) general regulation, to form each district so that the most remote parts shall be two miles or about that distance from the center; but this form and extent may be varied from, to bound a district by clearly defined lines or to accommodate other districts; and a district comprehending a town or part of a town may be of such dimensions, as shall be deemed just, having respect to the population.

To effect this division, the said court in each county shall, at their meeting in March next appoint five commissioners, and they or a majority of them acting together shall divide the county as aforesaid. If a vacancy happen in the place of a commissioner, any Judge of the Supreme Court or Court of Common Pleas of the proper county shall fill it upon application of the remaining commissioner or commissioners. And each and every of the commissioners appointed as aforesaid shall be sworn or affirmed to perform his duty with fidelity; which oath or affirmation may be administered by any Judge or Justice of the Peace of their respective counties.

9 Commissioners, appointed

10 their oath

The commissioners in each county at the time of dividing the county into districts shall ascertain the number of schools in operation, the number of scholars taught therein and the several sums paid to the teachers, and shall form an estimate of the number of children in each district between the ages of five years and twenty-one years, and shall make return thereof with their doings under this Act to the clerk of the peace of their county, who shall also make return thereof to the Trustee of the school fund to be by him laid before the General Assembly in January next.

11 duties

12 duty of Cl'k of Peace Trustee of School fund

The commissioners of each county shall meet at the Court House of their county on the first Monday of August next, before which time they must complete the duty assigned them. They shall form a board; they may adjourn from day to day; a majority shall be a quorum, but a less number may adjourn. This board shall have authority to review the proceedings of the commissioners, to supply any deficiency, and to alter or form the bounds of any district. The said board shall cause a return to be drawn, describing all the districts and mentioning a convenient place in each for the meeting of the school-voters; and the said return shall be signed by the commissioners or a majority of them and delivered to the Clerk of the peace of their county; and he shall cause to be posted in one of the most public and suitable places in each district, an extract certified under his hand from said return, of the description of said district.

13 Commissioners to meet & form board

14 return

15 duty of Cl'k of Peace

The court aforesaid in each county shall meet at the Court House of their county on the last Monday of August next and shall examine the return aforesaid and shall hear any objections, that may be made; and the said court, two thirds of the members present concurring, may make any corrections or alterations of the said return, which they shall consider proper for the more convenient and just division of the county into school districts. They may supply any deficiency by proper insertions, which shall be deemed a correction of the return. The school districts, as the same shall stand upon the said return as corrected or altered by the said court, shall be permanent. The said court shall give to each district a designation by number and shall appoint a place in each for the meeting of the school-voters; which number shall be inserted in the return immediately preceding the description of the district, to which it belongs, and the place of meeting shall also be inserted in the return immediately following said description, and shall be connected with the description by such words as to be intelligible, which insertions shall be deemed corrections

16 Levy Ct. to correct return

17 transcript of corrected return

by the said court. The said court shall cause a fair transcript to be made of said return as corrected and altered, and said transcript shall be examined in the presence of said court and attested by the clerk of the peace under his hand and seal of office. The said clerk shall enter the said transcript at large upon the minutes of the said court; the entry shall be deemed a record, and an office copy shall be evidence. He shall cause a copy of said transcript to be inserted in each of the newspapers printed in this State for two weeks in succession; the first insertion to be within ten days after the attestation of the transcript. He shall also certify under his hand and seal of office to the "Trustee of the fund for establishing schools in the State of Delaware" the number of school districts, and the part of the county, in which each number is situated, and it shall be the duty of the said Trustee to lay a copy of the returns of the several clerks of the peace in this State before the General Assembly at their session in January next.

recorded

& published

18 duty of Cl'k of Peace & Trustee of School fund

19 Levy Ct. may alter School districts

The court aforesaid in each county, two thirds of all the members concurring, may upon application make from time to time alterations of school-districts, when such alterations shall appear expedient; due regard being had to the conveniencies and inconveniencies to result therefrom. But notice of the intended application to said court and of the time and place of making it and of the alterations desired, shall be given by advertisements posted in four or more of the most public places in each district, that will be affected by the alterations, twenty days before the application is made, or the court shall not receive it.

The proceedings of the said court touching any of the premises shall not be drawn in question elsewhere.

20 Annual meeting of School voters

Sect. 2. The school voters in each school-district shall hold a stated meeting every year on the second Monday of October at one of the clock in the afternoon, (the first meeting to be on the second Monday of October next at said hour,) at the place appointed by the court aforesaid for such meeting, until there shall be a school house built or procured for the district, and then at such school house. Every person residing within a district and having right to vote for representatives in the General Assembly shall be a school-voter of said district. Any number of school-voters assembled at a stated meeting may proceed with business; and their proceedings shall have the same force, as if all the school-voters of the district were present. At every stated meeting the school-voters present shall appoint a chairman and secretary of the meeting, and shall thereupon elect by ballot, by a majority of votes from the school-voters of the district, a clerk and two commissioners of the district, and shall resolve, by a majority of votes, what sum shall be raised by subscription or by voluntary contribution in the said district, for building, procuring or maintaining a school house, or for the support of a free school in the said district. A stated meeting after appointing a chairman and secretary may adjourn, and the proceedings at the adjourned meeting shall be of the same nature and force, as if had at the original meeting.

21 who are School voters

22 chairman & secretary

23 officers elected

24 meeting may adjourn

Notice of the stated meeting in October next shall be given by advertisements signed by the Clerk of the Peace, posted in five or more of the most public and suitable places in each district, men-

tioning the day, hour and place of meeting in such district, at least five days before the day of meeting. It shall be the duty of the clerk of the peace for each county to prepare advertisements and cause the same to be posted accordingly. It shall be the duty of the clerk of the district for the time being to give notice of any subsequent stated meeting by advertisements under his hand, of the day, hour and place thereof, posted in five or more of the most public and suitable places of the district at least five days before the day of meeting. If there be no clerk of the district, the commissioners of the district or one of them shall perform the same service. The proceedings of a stated meeting shall not be void or irregular, although no notice of such meeting be given; but if any clerk of the peace or any clerk or commissioner of a district shall fail to perform truly and faithfully the duty herein enjoined upon him, he shall forfeit and pay to the school district wherein such failure happens the sum of ten dollars.

25 Notice of meeting by Cl'k or commissioner of district

26 penalty for neglect to give notice

Occasional meetings of the school-voters of a district may be called by the clerk and commissioners or any two of them, by advertisements of the business, and of the day, hour and place of the meeting posted in five or more of the most public places of the district at least five days before the day of meeting. No occasional meeting shall be held except at the school-house, or if there be none, at the place appointed as herein before provided for the meeting of the school-voters. Any number of the school-voters met pursuant to such call may appoint a chairman and secretary, and transact any business mentioned in the advertisements; except, that a resolution to raise money in the district shall not be passed at any occasional meeting unless a majority of the school-voters of the district be present; and if such resolution be proposed at an occasional meeting, the chairman and secretary shall ascertain the number of school-voters present; and a note of said number shall be made among the minutes of the proceedings and shall be conclusive, unless it can be proved fraudulent. No business not mentioned in the advertisements calling an occasional meeting shall be transacted at such meeting; and at every occasional meeting the chairman and secretary shall inquire respecting the advertisements thereof; and a note shall be made among the minutes of the proceedings of the places, in which, and of the time, when advertisements of the meeting were posted, and of the business mentioned in the advertisements; and such note shall be conclusive, unless it can be proved fraudulent.

27 occasional meetings

28 place of

29 business

Two certificates of the proceedings of every meeting of school-voters shall be made and signed by the chairman and secretary: one shall be delivered to the clerk of the district, the other to the clerk of the peace of the county to be preserved among the papers of the court aforesaid. If a chairman or secretary of an occasional meeting of school-voters shall wilfully make or certify a false note of the number of school-voters present at such meeting, or respecting the advertisements of such meeting, he shall be deemed guilty of a misdemeanor and on conviction shall forfeit and pay to the State a fine not less than twenty nor exceeding one hundred dollars.

30 Proceedings of meeting certified

31 false certificate

If any person not being a school-voter of a district shall vote at a stated or occasional meeting of the school-voters of such district,

32 Penalty for illegal voting

he shall be deemed guilty of a misdemeanor, and on conviction shall pay to the State a fine of fifteen dollars.

33 Districts not organized in time—how meeting called afterward

If in any district on the second Monday of October next, or in any subsequent year, there shall not be a meeting of the school-voters, or the officers mentioned herein shall not be elected, or a resolution to raise money in such district shall not be passed, the said district shall not thereby lose the power to proceed under this Act; but meetings, adjourned, occasional or stated, may be held in said district according to this Act; and if there be no clerk or commissioner of a district to give notice of a stated meeting in any year, such notice shall be given by the clerk of the peace for the county upon application of five or more of the school-voters of such district; and the said clerk is required upon such application to give notice of the stated meeting in the same manner, as hereinbefore prescribed with respect to the stated meeting in October next, and he shall incur the like penalty for failure.

34 School committee

(41)

sworn

Sect. 3. The clerk and commissioners of each district elected as aforesaid shall be the school-committee of the district, and shall continue in office until the next stated meeting after their election and until successors to them are duly elected. Each member of the school-committee shall be sworn or affirmed to perform his duty with fidelity, which oath or affirmation each member may administer to the other. Their powers and duties shall be:

35 powers & duties

school house, &c.

1. To determine the site, lease or purchase the necessary ground, and build or procure a suitable school-house, for the district. The school-house shall be as near the center of the district, as circumstances shall admit. When a school-house is built or procured for a distrit, this power shall not extend to the removal of it, or the building or procuring of another, while it remains. But the school-voters of any district may at any stated meeting of the said district authorize the clerk and commissioners thereof to remove the school-house, and if necessity require, to build or procure another.

2. To maintain the school-house when built or procured, and see that it is kept in good repair and uninjured, and to cause action to be brought for any injury, if expedient; to provide proper furniture for the school-house; and supply necessary fuel.

teachers

36 qualifications of teachers

3. To provide a school for the district for such periods, as the funds in their power will enable them, and employ teachers and make all necessary arrangements. They shall employ as a teacher no person, whom they shall not have just grounds to believe to be of good moral character and well qualified to teach reading, writing, arithmetic and english grammar and such other branches of knowledge as the committee may deem necessary to be taught in their district. They may employ a female teacher (in respect to whom the qualification of reading and writing may be sufficient) in the summer months or other parts of the year, when small children can attend school and others are engaged in the common occupations of the country. They may dismiss a teacher.

37 female teachers

38 applicat'n of money

4. To receive and collect all money appropriated for the district or to be raised in it according to the resolution of a meeting of the school-voters and to apply the same justly.

39 Collector (40)

5. To appoint a collector of the district and take from him se-

he shall be deemed guilty of a misdemeanor, and on conviction shall pay to the State a fine of fifteen dollars.

33 Districts not organized in time—how meeting called afterward.

If in any district on the second Monday of October next, or in any subsequent year, there shall not be a meeting of the school-voters, or the officers mentioned herein shall not be elected, or a resolution to raise money in such district shall not be passed, the said district shall not thereby lose the power to proceed under this Act; but meetings, adjourned, occasional or stated, may be held in said district according to this Act; and if there be no clerk or commissioner of a district to give notice of a stated meeting in any year, such notice shall be given by the clerk of the peace for the county upon application of five or more of the school-voters of such district; and the said clerk is required upon such application to give notice of the stated meeting in the same manner, as hereinbefore prescribed with respect to the stated meeting in October next, and he shall incur the like penalty for failure.

34 School committee (41) sworn.

Sect. 3. The clerk and commissioners of each district elected as aforesaid shall be the school-committee of the district, and shall continue in office until the next stated meeting after their election and until successors to them are duly elected. Each member of the school-committee shall be sworn or affirmed to perform his duty with fidelity, which oath or affirmation each member may administer to the other. Their powers and duties shall be:

35 powers & duties school house, &c.

1. To determine the site, lease or purchase the necessary ground, and build or procure a suitable school-house, for the district. The school-house shall be as near the center of the district, as circumstances shall admit. When a school-house is built or procured for a distrit, this power shall not extend to the removal of it, or the building or procuring of another, while it remains. But the school-voters of any district may at any stated meeting of the said district authorize the clerk and commissioners thereof to remove the school-house, and if necessity require, to build or procure another.

2. To maintain the school-house when built or procured, and see that it is kept in good repair and uninjured, and to cause action to be brought for any injury, if expedient; to provide proper furniture for the school-house; and supply necessary fuel.

teachers

3. To provide a school for the district for such periods, as the funds in their power will enable them, and employ teachers and make all necessary arrangements. They shall employ as a teacher no person, whom they shall not have just grounds to believe to be of good moral character and well qualified to teach reading, writing, arithmetic and english grammar and such other branches of knowledge as the committee may deem necessary to be taught in their district. They may employ a female teacher (in respect to whom the qualification of reading and writing may be sufficient) in the summer months or other parts of the year, when small children can attend school and others are engaged in the common occupations of the country. They may dismiss a teacher.

36 qualifications of teachers

37 female teachers

38 applicat'n of money

4. To receive and collect all money appropriated for the district or to be raised in it according to the resolution of a meeting of the school-voters and to apply the same justly.

39 Collector (40)

5. To appoint a collector of the district and take from him se-

For the construction of Sec 4. see 8th Vol. 21.
See also 8th Vol 171.

curity for the faithful performance of his duties; they shall have power to fill a vacancy in said office. It shall be the duty of the collector to collect and receive the money so as aforesaid resolved to be raised in the district and on or before the first Monday of January in each and every year to pay to the school-committee the amount of money, which may have come into his hands, for the use of said district, deducting five per centum on the sum collected.

6. To do all acts requisite for effecting the premises. general powers

The bond of the collector may be according to this form: 40 Collector's bond

Know all men by these presents, That we——— ——— are firmly bound jointly and severally to school district No. —— in ——county in the sum of ——— to be paid to the said school-district. Sealed with our seals. Dated the ——— day of——— 18——

The condition of the above written obligation is such, That if the said ——— who is collector of the school-district aforesaid, shall well and faithfully execute said office and perform all his duties as such collector, then the said obligation shall be void.

The acts of a majority of the school-committee shall be as effectual, as if done by them all. 41 Majority

The clerk of the district shall keep a record book of the district, in which he shall enter the bounds and description of the district to be taken from the transcript in the court aforesaid, a copy of the certificate of the proceedings of every meeting of the school-voters of a district, and the proceedings of the school-committee, and the names of the scholars attending the school, a list of whom shall be furnished by the teachers. The said book shall be evidence. He shall keep all the papers belonging to the district or to the school-committee. 42 Cl'k of district, his duty

Sect. 4. The clear income of "The fund for establishing schools in the State of Delaware" hereafter to accrue shall be and the same hereby is apportioned and appropriated among the school districts in the several counties as follows, that is to say; all the dividends or profits, that shall hereafter be declared or accrue upon stock in the Farmers' Bank of the State of Delaware, upon stock in the Bank of Delaware, upon stock in the Bank of the United States, or upon any other stock, property or securities belonging to said fund (commissions and necessary expenses being deducted) together with the clear sum arising from fees for marriage and tavern licenses received in the several counties shall be divided into three equal parts, and one of the said parts shall be divided among the school districts in such county, to each an equal share. The Trustee of the said fund, as the said clear income shall accrue, shall apportion it among the school-districts; keeping an account with each and entering its portion to its credit: such accounts with the school-district in each county, to be opened, as soon as the clerk of the peace certifies the districts to the Trustee; the clear sum arising from fees for marriage and tavern licenses is considered in this direction, as part of said clear income. 43 Income of School fund divided among districts (44) 44 Mode of distribution 45 Trustee of said fund—his duty

When the school voters of a district have in regular meeting resolved, that a sum shall be raised in said district for building, procuring or maintaining a school-house or for the support of a free

school, and the school-committee of the district have received an equal sum for the benefit of the district; the said committee or a majority of them may draw an order on the Trustee of the fund aforesaid for a sum equal to the sum so resolved to be raised. There shall accompany this order as vouchers, a copy verified under the hand and seal of the clerk of the peace of the certificate in his office of the proceedings of said meeting, and also a certificate under the hands of the said committee or a majority of them. that they have received for the benefit of the district a sum equal to that resolved to be raised as aforesaid. Such order accompanied by such vouchers shall be accepted and paid by the said Trustee, if a sufficient sum stand to the credit of the district; if a sufficient sum do not stand to the credit of the district, when the order is presented, the sum in hand shall be paid, and any money that shall be placed to the credit of the district during the year of the account shall be applicable to the balance. A greater sum than that, which the school voters have resolved shall be raised in the district, shall not be paid on such order. The year of the accounts with the school districts shall commence on the fourth day of July; and at the end of every year so commencing, the accounts of all the districts shall be closed; an order shall not be drawn or presented in a subsequent year on the ground of a sum standing to the credit of a school-district or raised in such district the preceding year; but any sum or balance remaining to the credit of a school-district in either county at the end of the year shall be carried to the portion of the income of the aforesaid fund divisible among the school-districts in the same county the next year, and shall increase the amount to be divided among said districts. A school-district can be entitled to no more than shall be placed to its credit in the account duly kept as aforesaid. The said Trustees shall certify the substance of each order and the sum paid thereon to the Auditor.

46 Orders by school committee
47 Necessary vouchers
48 sum
49 accounts
50 Orders.&c certified to Auditor

The Auditor shall settle the accounts of the school-committees, who have drawn money as aforesaid. For this purpose every such school-committee shall appear with their accounts and vouchers before him, when he shall attend in their county to settle the account of the County Treasurer and others, whereof he shall give like notice, as is required in respect to others. He may compel them by attachment to appear and exhibit their accounts and vouchers. In the settlement it shall be shown how long a school was kept in the district and the number of scholars; and this shall be stated with an abstract of every such account in the Auditor's report to the General Assembly. If upon settlement it shall appear that in any district there has not been received or raised and appropriated in good faith, beside the sum drawn by the school committee of the said district from the Trustee of the fund aforesaid, a sum equal thereto for the purpose of building, procuring or maintaining a school-house or procuring ground therefor or of supporting a free school in said district, or if the school-committee of any district fail to appear before the Auditor and exhibit their accounts and vouchers for settlement, the Auditor shall immediately certify the fact to the Trustee of the fund aforesaid; and such district shall forfeit its right to any portion of the fund aforesaid for the ensuing year, and the division of said income for said en-

51 Accounts of School committees settled by Auditor (56)
52 his duty herein (55)
53 forfeiture by a district

suing year shall be in the same manner, as if said district did not exist. If such forfeiture shall occur through the default of the school-committee, the said committee shall pay to the district a sum equal to that lost by the forfeiture. If it appears on settlement, that the school-committee have misapplied, or that they do not account for the money received by them, the Auditor shall make known the fact by letter addressed to the chairman and secretary of the last stated meeting, or if they do not continue in the district or be of the committee, to two other inhabitants of the district.

54 liability of school committee

55 Auditor's duty

The school-committee shall, at the next stated meeting after their election, lay before the meeting a just account of their receipts and expenditures and a report of all their proceedings. The meeting may appoint persons to settle said account. The said committee shall pay to their successors in office all money due from them; and if they neglect to do so for ten days, they shall forfeit and pay the rate of twenty-five per cent on the sum due to be recovered with the said sum as damages for the detention thereof.

56 Account of school committee in meeting of school voters.

If any person shall make a fraudulent certificate for the purpose of drawing money from the Trustee of the fund aforesaid, such person shall be deemed guilty of a misdemeanor, and on conviction pay to the State double the sum drawn or attempted to be drawn by means of said certificate.

57 Penalty for fraudulent certificate to draw money from the school fund

Sect. 5. A school supported in a district pursuant to this Act shall commence on the first Monday of November next and on the first Monday of November in each and every year thereafter, and shall be continued for such a period as the funds of the district will allow; and during the continuance of the said school it shall be free to all the white children of said district; but the school-committee may make regulations for the government of the school and by these may provide for the expulsion of a scholar for obstinate misbehaviour.

58 when schools opened, &c.

59 free

Sect. 6. The school-committee shall receive no emolument, unless the same be voted at the end of their year in the stated meeting of the school-voters, except for attendance before the Auditor. The allowance to each shall be for attendance before the Auditor one dollar a day and mileage at the rate of three cents a mile going and returning to be allowed in their account.

60 allowance to school committee

Sect. 7. Each school district shall be a corporation by the name of *School-district No.* —— *in* —— *county;* the number of the district and name of the county being inserted in the blanks respectively. Said corporation by said name may take and hold ground for a school-house, a school-house and the appurtenances and furniture, and may take and hold by devise, bequest or donations, real and personal estate not exceeding, in clear annual income, one thousand dollars for the use of the free school in said district, and may alien the same, may take bond from the collector and his sureties, may prosecute any action for an injury done to the ground, school-house, appurtenances or furniture, and in such action shall recover double damages and costs, and also any action upon the bond aforesaid and action for the aforesaid penalty of ten dollars, or for a cause of action against the school-committee. A school-district shall not possess any other corporate power or fran-

61 School districts incorporated

62 corporate powers

chise. The said corporation may bring any of the actions aforesaid before a Justice of the Peace, if the sum demanded for debt or for damages do not exceed fifty dollars; and he shall proceed thereupon according to the "Act providing for the recovery of small debts," and there shall be an appeal according to said Act.

(Justices of Peace IX.) page 330

63 Superintendent

Sect. 8. The Governor in the present year and yearly hereafter before the first Monday of March shall appoint a superintendent of free schools in each county. It shall be the duty of the superintendent to correspond with all persons concerned in executing this Act, and to aid in all matters connected with its execution, to supply school-districts with proper forms and advise with them in respect to their proceedings, to see that notice of the division into districts is given, to collect information, and to report to the General Assembly the state of the districts and such matters, as he shall deem proper to be communicated for their consideration. He shall receive no emolument; but postage and travelling charges and the expenses incurred in procuring and distributing proper forms to the school-districts as aforesaid shall be allowed and paid to him out of the income of the fund aforesaid, by the Trustee.

64 Pay of commissioners

65 Pay of Cl'k of Peace

Sect. 9. The commissioners appointed by the court aforesaid shall each be allowed for every day's service one dollar to be paid by the county. And the clerk of the peace shall receive a reasonable compensation for his services to be allowed by the Levy Court of his county.

66 gen'l issue

Sect. 10. This Act and any matter of justification under it may be given in evidence under the general issue.

Passed at Dover, February 12, 1829.

—o—

SEALS OF OFFICE.

1786

AN ACT *for devising and establishing seals to be made use of by divers officers in the respective counties of this State.*

1 Seals of office (3, 5) (Courts 47) (Secretary of State 7, 5, 6)

Section 2. The respective officers within this State, to whom any fee is allowed for affixing the seal of their said office to any writing, (the Great Seal of the State excepted) shall within four months after the publication of this Act procure a seal of silver, steel or copper to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the Delaware State or parts of the same, or such other device instead thereof, as the Justices of the court, of which they are clerks or officers shall order and direct and a motto or inscription to describe the office to which such seal belongs; which said seals shall be thenceforth taken, adjudged and deemed the seals of the said offices respectively, and may and shall be made use of and affixed to all writings and copies, to which a seal of office ought to be affixed.

2 delivered to & costs reimbursed by successors

Sect. 3. The said officers, their executors or administrators shall deliver the said seals to their successors in the said offices respectively from time to time whole and undefaced (common wear

chise. The said corporation may bring any of the actions aforesaid before a Justice of the Peace, if the sum demanded for debt or for damages do not exceed fifty dollars; and he shall proceed thereupon according to the "Act providing for the recovery of small debts," and there shall be an appeal according to said Act.

(Justices of Peace IX.) page 330

63 Superintendent

Sect. 8. The Governor in the present year and yearly hereafter before the first Monday of March shall appoint a superintendent of free schools in each county. It shall be the duty of the superintendent to correspond with all persons concerned in executing this Act, and to aid in all matters connected with its execution, to supply school-districts with proper forms and advise with them in respect to their proceedings, to see that notice of the division into districts is given, to collect information, and to report to the General Assembly the state of the districts and such matters, as he shall deem proper to be communicated for their consideration. He shall receive no emolument; but postage and travelling charges and the expenses incurred in procuring and distributing proper forms to the school-districts as aforesaid shall be allowed and paid to him out of the income of the fund aforesaid, by the Trustee.

64 Pay of commissioners

65 Pay of Cl'k of Peace

Sect. 9. The commissioners appointed by the court aforesaid shall each be allowed for every day's service one dollar to be paid by the county. And the clerk of the peace shall receive a reasonable compensation for his services to be allowed by the Levy Court of his county.

66 gen'l issue

Sect. 10. This Act and any matter of justification under it may be given in evidence under the general issue.

Passed at Dover, February 12, 1829.

SEALS OF OFFICE.

1786

AN ACT *for devising and establishing seals to be made use of by divers officers in the respective counties of this State.*

1 Seals of office (3, 5) (Courts 47) (Secretary of State 7, 5, 6)

Section 2. The respective officers within this State, to whom any fee is allowed for affixing the seal of their said office to any writing, (the Great Seal of the State excepted) shall within four months after the publication of this Act procure a seal of silver, steel or copper to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the Delaware State or parts of the same, or such other device instead thereof, as the Justices of the court, of which they are clerks or officers shall order and direct and a motto or inscription to describe the office to which such seal belongs; which said seals shall be thenceforth taken, adjudged and deemed the seals of the said offices respectively, and may and shall be made use of and affixed to all writings and copies, to which a seal of office ought to be affixed.

2 delivered to & costs reimbursed by successors

Sect. 3. The said officers, their executors or administrators shall deliver the said seals to their successors in the said offices respectively from time to time whole and undefaced (common wear

excepted) under the penalty of twenty pounds to be recovered by the person, who shall hereafter be lawfully appointed to hold the said office, by an action of debt, wherein no essoign, protection or wager of law or more than one imparlance shall be allowed; and the successor or successors in the said offices shall upon the delivery of the said seals in manner aforesaid reimburse and pay to the former officer, his executors or administrators the sum the said seals originally cost.

Passed February 2, 1786.

AN ACT *for devising and establishing a seal to be used by the clerk of the High Court of Errors and Appeals.* 1808

Section 1. The Clerk of the High Court of Errors and Appeals shall within four months after the publication of this Act procure a seal of silver, steel or copper to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the State of Delaware, or such other device instead thereof, as the Chancellor of this State shall order and direct and a motto or inscription to describe the office to which such seal belongs; which seal shall be thenceforth taken, adjudged and deemed the seal of the said court, and may and shall be made use of and affixed to all writings and copies to which a seal of office ought to be affixed. 3 Of High Ct. of Errors and Appeals

Sect. 2. The said clerk of the High Court of Errors and Appeals, his executors or administrators shall deliver the said seal to his successor in the said office from time to time whole and undefaced (common wear excepted) under the penalty of sixty dollars to be recovered by the person who shall hereafter be lawfully appointed to hold the said office, by action of debt, wherein not more than one imparlance shall be allowed; and the successor or successors in the said office shall upon the delivery of the said seal in manner aforesaid re-imburse and pay to the former officer, his executors or administrators the sum the said seal originally cost; which said original cost shall be by order of the Chancellor entered among the records of said court at the next term. 4 delivered to & costs reimbursed by successors

Passed at Dover, January 26, 1808.

AN ACT *for devising and establishing a seal to be used by the Auditor of accounts of this State, and for other purposes.* 1810

The Auditor of accounts of this State shall within four months after the publication of this Act procure a seal of silver, steel or copper to be made of the diameter of one inch at the least, and cause the same to be engraven with the arms of the State of Delaware, or such other device instead thereof, as he may direct, and a motto or inscription to describe the office to which such seal belongs; which seal shall be thenceforth taken, adjudged and deemed the seal of the office of the Auditor of accounts of this State, and may and shall be made use of and affixed to all writings and copies to which a seal of office may or ought to be affixed. 5 Auditor's office (Auditor of accounts 42)

Passed January 29, 1810.

I.

1793 AN ACT *to enjoin certain duties to be performed by the Secretary of State, and for other purposes.*

1 Books, &c. of his office open to committees

Section 7. The books, papers and accounts of the Secretary shall be open to the inspection and examinations of committees of the Senate or House of Representatives; and he shall furnish any such committee with copies or extracts therefrom, as may from time to time be required.

2 His bond

Sect. 8. The Secretary shall give bond to the Governor for the use of the State, for the due and faithful discharge and performance of the several trusts to him committed, himself in the sum of two thousand dollars and two sufficient sureties in the sum of one thousand dollars each; which bonds shall be duly recorded in the Recorder's Office in the county where the Governor shall reside; and copies thereof shall be admitted as evidence, as copies of other public records in the same office are.

3 Great Seal (5)

Sect. 9. The seal heretofore used as the Great Seal shall be and is hereby declared to be the Great Seal of the State.

4 Secretary to keep said Seal

Sect. 10. The Secretary shall keep the said seal, and shall make out and record, and shall affix the said seal to all commissions, to instruments to which the Governor's signature is by law required, and to certificates for the authentication of instruments to be sent out of the State; provided that the said seal shall not be affixed to any commissions or any instruments to which the Governor's signature is by law required, before the same shall have been signed by the Governor.

5 New Great Seal

Sect. 11. The Secretary shall cause a Great Seal to be made of such device, as the Governor shall approve, which shall hereafter be used for the same purpose for which the said seal herein first mentioned is directed to be used; and when such new Great Seal shall be made, the seal first mentioned as aforesaid shall be broken and be no longer used as a seal.

6 Seal of office

Sect. 12. The Secretary shall cause a seal of office to be made of such device as the Governor shall approve; and all copies of records and papers in the said office authenticated under the said seal shall be evidence equally with the original records or papers.

7 Other public seals (Seals of office 1)

Sect. 13. The Clerks of the Supreme Court, Prothonotaries, Registers, Recorders and Clerks of the Orphans Court shall, if their present seals of office be in the opinion of the Governor not conformable to the late change of the constitution of this State, forthwith cause seals of their respective offices to be made of devices, as shall by the Governor be approved.

8 Powers vested in the Governor

Sect. 14. All the powers formerly vested in the President alone or in the President and Privy Council jointly under the late constitution and by the laws of this State, not provided for by the constitution, shall from and after the passing of this Act be vested in the Governor; but all licenses of marriage, and other licenses shall be countersigned by the Secretary and sealed with the seal of his office.

9 marriage licenses

Passed February 2, 1793.

II.

AN ACT *concerning the keeping of the papers belonging to the Executive department and the Acts of the General Assembly, and the printing and disposal of the laws and journals.* 1829

Section 1. The Secretary of State shall have the keeping of all records and public papers belonging to the Executive department, and all Acts and public resolutions of the General Assembly; and he shall carefully preserve the same. Whenever an Act or public resolution of the General Assembly is duly enrolled and signed, it shall be immediately delivered by the Speaker of the House, in which it originated, to the Secretary of State, who shall cause to be accurately printed (he collating the proof sheets with the original rolls) eight hundred copies of all the Acts and resolutions of a public nature passed at a session of the General Assembly with succinct marginal notes to the several sections and with his certificate subjoined of the accuracy of the edition and his collating the same and with an index, as soon after the end of the session, as it can with diligence be effected.

10 Records of executive department, and Acts of Assembly

11 Printing of Acts of Assembly, &c.

Such copies, after the revised edition is printed, shall correspond in form, size and type, as nearly as may be, with said edition. The Secretary of State shall contract for the printing; and the same being done to his acceptance, he shall certify the sum due therefor according to contract, stating the pages, the price and all items of charge. The Governor shall have power to draw an order upon the State Treasurer for the amount.

The Secretary of State shall dispose of said copies as follows: He shall deliver one to the Governor, nine to the Senate, and twenty-one to the House of Representatives. He shall transmit one hundred and sixty to the prothonotary for each county, one to the President of the United States, one to the Head of each department of the General Government, two to the Library of Congress, and three to the Executive of each State and each Territory of the United States; one shall be for the use of the Secretary's office, and the residue shall be retained in said office. Each edition of copies shall be paged in succession, until a volume be completed. When the pages exceed six hundred, the Secretary of State shall cause the copies retained as aforesaid to be bound in volumes with an index to each volume. The volume shall be disposed of, as the General Assembly shall direct.

12 Distribution (15)

13 binding in volumes

The Governor shall attend to the interchange of the laws between this State and the several States and Territories of the United States, and shall correspond with the Executive of any State or Territory, as may be expedient, and take all proper measures to effect this interchange. He shall have authority to transmit copies of all the laws of this State to any State or Territory, which has not received the same; and copies are made subject to his order for that purpose.

14 Interchange with other States

Of the copies transmitted to the prothonotary for each county, each of the public officers of this State residing in said county including the grand jurors attending the Court of General Quarter Sessions of the Peace and Gaol Delivery shall be entitled to re-

15 Laws sent to Protho'y how disposed of

ceive one; the copy so received by the clerk, prothonotary or register of a court shall belong to his court and be safely kept by him and delivered to his successor in office, for the use of said court; the copies received by the Register, Recorder and sheriff shall belong to their respective offices, and shall be delivered to their successors in office; one copy shall be delivered to the clerk of the district court of the United States in this district, for the use of said court; the residue of said copies shall be sold for twenty-five cents each by the prothonotary, who shall in December render to the Secretary of State an account of the sales and pay to him the money received.

16 Journals of Senate & H. of Rep.

Sect. 2. The journal of the Senate and the journal of the House of Representatives with the report of the finances and an index to each journal shall be printed in octavo, with long primer type, so as to contain at least forty-five lines on a page with the yeas and nays in line in compact form. Three hundred copies of each shall be printed. The clerk of each House immediately after each session shall advertise during three weeks, in two newspapers published in this State, for proposals for printing his journal; and he shall accept the lowest and most advantageous proposals. When the printing is completed, if approved, the clerk shall certify the sum due according to contract, stating the pages, price and all the items of charge. The Governor shall have power to draw an order on the State Treasurer for the amount, provided such order shall not exceed for the journal of the Senate one hundred and fifty dollars, and for the journal of the House of Representatives with the report of the finances two hundred and fifty dollars. If the certificate exceed the order, it may be laid before the General Assembly for allowance of the excess.

17 Clerks to advertise for proposals for printing, &c.

18 certificate and order

19 limitation of sum

20 distribut'n

Each clerk shall thus distribute the copies of his journal, to wit; three copies to the Secretary of State, to belong to his office, nine copies to the Senate, twenty-one copies to the House of Representatives, and eighty-nine copies to the prothonotary for each county, who shall deliver one to each member of the General Assembly for his county, one to each of the Judges residing in his county, and the residue to such citizens, as shall apply for the same, each receiving one.

21 copies in Secretary's office, bound

The copies of the journals in the office of the Secretary of State shall be bound in volumes, whenever he shall consider they will make volumes of suitable size.

Passed at Dover, January 27, 1829.

III.

1821

A SUPPLEMENT *to an Act entitled "An Act enjoining certain duties on the Secretary of State, and other officers therein mentioned."*

22 Report to State Treas. of fines remitted

Section 1. The Secretary of State is hereby required and directed, annually by the first Monday of December in each and every year hereafter, to report to the State Treasurer the fines and forfeitures which the Governor may have remitted during such year.

Passed at Dover, 29 Jan. 1821.

A FURTHER SUPPLEMENT *to the Act, entitled, An Act for the better regulation of servants and slaves within this government.* 1760

Whereas the children of white women by negro or mulatto fathers, and the descendants of such children and negroes, entitled to their freedom, are frequently held and detained as servants or as slaves by persons pretending to be their masters and mistresses, when they ought not by the laws of this government to be so held, and detained and frequently are sold as slaves by such pretended masters or mistresses to persons, who reside in other governments, with a fraudulent design to prevent their procuring proof of their being entitled to their freedom; and whereas the laws of this government are defective in not prescribing any mode for settling and determining in a short and summary manner the claim or right of any persons pretending to be entitled to their liberty;

Section 2. The Justices of the respective County Courts of Common Pleas within this government, upon any petition to them to be preferred by any person or his or her parent or friend, setting forth that such person is kept, held or detained as a servant or slave by his or her pretended master or mistress, masters or mistresses, and that such person apprehends, that he or she is entitled to his or her freedom, shall issue a summons against such master or mistress, masters or mistresses, commanding him, her or them to come before the said Justices at a certain day therein to be appointed, to answer the said complaint, and to issue subpœnas to the sheriff of the county directed, for summoning and bringing any person or persons before them at the said day to give evidence in and upon the matters in such petition contained, under such pains and penalties, as by the rules and practice of the said court in other cases are usually appointed: and after hearing the proofs and allegations of the parties in a summary way, it shall and may be lawful to and for the said Justices, if they are satisfied that the person, so petitioning or on whose behalf such petition shall be presented, is entitled to his or her freedom, to discharge such person from the service of his or her pretended master or mistress, masters or mistresses, and to adjudge and decree, that such person is and shall be free and at liberty, and shall and may enjoy all the benefits and advantages that a free negro or free mulatto may or can do within this government: And if the pretended master or mistress, masters or mistresses of any person so petitioning, being summoned as aforesaid, shall not appear, it shall and may be lawful for the said Justices to proceed as aforesaid in his, her or their absence, on hearing the proofs and allegations on the part of the said petitioner only.

1 Petition for freedom

2 Judgment Appeal (Negroes, &c 11) (Negroes, &c. 3)

Sect. 3. After the judgment or decree given in any such case as aforesaid, the Justices of the court, that gives the same, shall thereupon grant an execution directed to the sheriff of the county, commanding him to take the person so discharged from the custody of his or her pretended master or mistress, and to set such person at liberty; and in case such person shall be concealed or detained by such pretended master or mistress, so that the sheriff cannot find such person, in order to set him or her at liberty, then

3 Execution

upon return being made thereof to the said Justices and proof thereof made, to their satisfaction, they shall immediately issue a precept to the said sheriff, commanding him to attach and seize such pretended master or mistress and him or her in safe and close custody keep, until the person, so discharged by the court, and concealed or detained as aforesaid, shall be produced in the said court by such pretended master or mistress; And in case the said sheriff shall not keep such pretended master or mistress in safe and close custody as aforesaid, such sheriff for such default shall be liable to pay one hundred pounds lawful money of this government to the party aggrieved to be recovered by him or her, in an action of debt to be brought by the said party against the said sheriff, his executors or administrators in any court of record within this government; in which action or in any other action or proceeding, this law shall be construed, deemed, taken and allowed as and for a public Act of Assembly, though the same be not pleaded; and the Justices of the said court shall accordingly take notice thereof as such.

4 Action for false imprisonment

Sect. 4. Any person so freed and discharged shall and may thereupon bring and maintain an action of trespass and false imprisonment or any other action in the law, that may be proper in such case, against such pretended master or mistress for unlawfully holding and detaining such person as aforesaid before or after his or her discharge, and the judgment or decree, by which such person shall be discharged as aforesaid, shall be admitted and allowed in every court of record within this government as good proof and sufficient evidence, that such person is entitled to his or her liberty.

5 Costs

Sect. 7. All costs accruing or to accrue for or by reason of any action or proceeding by virtue of this law, shall be paid and defrayed by the master or mistress of any person applying or suing as aforesaid, to be levied of the goods and chattels of such master or mistress on an execution to be issued against him or her, to the sheriff of the said county directed, by the Justices, who give any decree or judgment as aforesaid; and in case such master or mistress has not goods and chattels sufficient to pay the said costs, then the person of such master or mistress shall be taken in execution by the said sheriff, and he or she shall remain in the said sheriff's custody, until the same be paid.

Passed October—1760.

—o—

SHERIFF.

I.

1827

AN ACT *concerning the office of sheriff.*

(Constit. 91) (Public bonds & recognizances 1, 7)

Section 1. No person, who shall have served as under sheriff for one continued year, or who shall have served as under sheriff several times amounting in the whole to one year during the term of office of any sheriff, shall be appointed or chosen to the office of

sheriff in the county, in which he shall have so served as under sheriff, within the space of three years after the termination of his service as under sheriff. (Prisoners & Gaol 2) 1 Under-Sheriff ineligible

Sect. 2. If any person, being candidate for the office of sheriff, or any person or persons for or on behalf of a candidate for the said office shall attempt to promote the election of such candidate, or to influence any elector in giving his vote concerning the said office, by giving or promising to any person or persons, either by themselves or others in their behalf, or for their use, directly or indirectly any wages, gratuity, strong drink of any kind, treats, entertainments, gift or reward, every person so offending shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the State a fine not exceeding the sum of one hundred dollars. 2 Promoting election by bribery, treating, &c. (Gen'l Election 84) penalty

Passed at Dover, January 23, 1827.

II.

AN ACT *to regulate the courts in this State.* 1793

Section 11. The sheriff of Kent county for the time being shall be attendant on the High Court of Errors and Appeals during the sitting thereof, and be the officer for the purpose of executing the orders and process of the said court, and in case of neglect or refusal so to do, shall be liable to the like pain, penalty, or forfeiture, as he is in the Court of Chancery, Supreme Court or Court of Common Pleas. Sheriff of Kent to attend H. C. of Errors & App. (Fees 34, 35)

Passed June 14, 1793.

SLAVES.

I.

AN ACT *for granting power to the courts to grant licenses respecting slaves in certain cases.* 1829 (Servants & Slaves)

Section 1. The Supreme Court or Court of Common Pleas shall have power to grant licenses to the owner or owners of any negro or mulatto slave, to export the same to the State of Maryland or to bring the same into this State therefrom upon such conditions as may be deemed proper, and whenever in the opinion of the court, the facts and circumstances set forth in the petition therefor will justify granting such licenses; and every license granted as aforesaid shall be issued by the clerk or prothonotary under his hand and seal of office; and if any negro or mulatto slave shall be exported or brought into this State pursuant to a license issued as aforesaid, such negro or mulatto slave shall not thereby be entitled to his or her freedom. 1 Licenses to export or import to, and from Maryland (Crimes, &c. 146)

Sect. 2. For every negro or mulatto slave to be brought into this State as aforesaid, the owner or owners thereof shall before granting a license therefor pay to the clerk or prothonotary the 2 Tax $10 for slave imported

$5 for slave exported

$1 to clerk

sum of ten dollars for the use of the fund for establishing schools in this State, and for every such negro or mulatto slave to be exported as aforesaid, the sum of five dollars, for the use aforesaid, and to the said clerk or prothonotary one dollar for issuing said license.

Passed at Dover, February 4, 1829.

II.

1822

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

3 Farms divided by State line (Crimes, &c. 146)

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, of right may cause his or her slave to labor 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.

Passed at Dover, 4 February, 1822.

—o—

STATE ASSESSMENT.

1816

AN ACT *authorizing and directing a general assessment of the real and personal property of this State.*

1 Gen'l Assessment [Levy Court 98—117] page 386 [3]

Section 1. All the real and personal property within this State liable to assessment and valuation according to the provisions of the Act of Assembly entitled "An Act for the valuation of real and personal property within this State" passed on the ninth day of February, one thousand seven hundred and ninety-six, and the several supplements thereto shall be assessed and valued by William Cooch of New-Castle county esquire, Andrew Barratt of Kent county esquire, and William Wolfe of Sussex county esquire, or by a majority of them acting together.

2 Manner of assessment

Sect. 2. The said William Cooch, Andrew Barratt and William Wolfe commissioners appointed for the purpose aforesaid or a majority of them shall make the assessment and valuation aforesaid on the principles and according to the provisions of the aforesaid Act of Assembly of the ninth of February, one thousand seven hundred and ninety-six and the several supplements thereto, so far as the same are not varied or departed from by any of the provisions of this Act; *Provided nevertheless,* That every freeman above the age of twenty-one years, whether he has or has not property assessed to him, shall be rated a personal tax for a capital not less than one hundred dollars nor exceeding five thousand dollars at the discretion of the said commissioners.

3 personal tax

4 Oath

Sect. 4. The said commissioners, before they enter upon the duties assigned them by this Act, shall severally taken an oath or affirmation before some Judge of this State, that they will diligently, faithfully and impartially to the best of their skill and judgment

execute the duties assigned them by this Act, and that they will spare no person for favor, affection or partiality, or grieve any one for hatred or ill-will, but that they will do equal right and justice according to the best of their knowledge in every case, in which they act as commissioners aforesaid.

Sect. 5. If any vacancy or vacancies should happen in consequence of the death, refusal or inability to serve of any or either of the commissioners aforesaid, then and in such case the Governor shall immediately thereafter appoint for the proper county a good and discreet freeholder or freeholders to supply such vacancy or vacancies; and the person or persons thus appointed shall have the same powers and authorities and proceed in the same manner, as if he or they were particularly named in this Act. And whenever any vacancy shall happen in the said board of commissioners, the same shall be supplied by the Governor in manner aforesaid; and every commissioner thus appointed by the Governor shall have the same powers, as if he had been named in this Act as such. 5 Vacancies

Sect. 7. As soon as the board of assessors shall have finished and completed their assessments in New-Castle county, they shall proceed to make out or cause to be made out lists in alphabetical order of all the taxables in each hundred together with the amount of the assessment of each person distinctly stated in a book to be had for that purpose, and shall have the same hung up at the places, where the hundred elections for the several hundreds are respectively directed to be held by law; and the same proceedings shall be had as aforesaid in each of the counties of this State, as the same may be severally assessed according to the provisions of this Act. 6 Lists hung up

Sect. 8. That Caleb Kirk for the county of New-Castle, John Raymond for the county of Kent, and Nathan Vickars for the county of Sussex be and they are hereby appointed and constituted a board of appeals, whose duty it shall be to meet for the county of New-Castle at the Court House in the said county at any time which shall not be less than twenty days after the list of taxables and amount of assessments shall have been hung up and exhibited in the several hundreds as aforesaid, due public notice of which meeting shall by the said board of appeals be given; when and where so met, they or a majority of them so met shall continue for a period not less than ten days, and during that time shall hear and determine upon all and every appeal made by any person or persons, who may consider him, her or themselves aggrieved by any assessment, which shall have been made in pursuance of this Act, and shall have power generally to arrange the several valuations and assessments, so that no person or persons may be unequally assessed or overrated in the assessment of his, her or their real or personal property within said county, and shall in like manner for the counties of Kent and Sussex meet and continue at the Court Houses of said counties respectively for the same time and purposes aforesaid, and shall in like manner give notice of such meetings, and shall in like manner hear, determine and arrange as hereinbefore prescribed and directed. 7 Board of appeals 8 meeting 9 in Newcastle 10 powers & duties 11 Kent and Sussex

Sect. 9. Each member of the aforesaid board of appeals re- 12 Oath

spectively shall before entering upon the duties assigned them by this Act take the same oath to be administered in like manner, as directed to be taken and administered to the assessors herein before appointed; and the said board of appeals shall have the same power to appoint clerks, obtain information touching the value of real and personal property within the respective counties of this State; and any vacancies happening in the board of appeals shall be filled up and supplied as is directed by the fifth section of this Act for supplying vacancies in the board of assessors.

13 vacancies

14 Copy of assessment delivered to board of appeals

Sect. 10. The board of assessors herein before appointed shall, as soon as they shall have finished and completed the valuation and assessment of each of the counties of this State respectively, in addition to the copy of their assessments and valuation hung up and exhibited in the hundreds respectively, as before directed, make out or cause to be made out one other fair copy of their said assessments and valuations, and deliver the same to the board of appeals before the sitting of the board in each county respectively, retaining the original lists in their own possession.

15 Meeting of assessors & board of appeals

16 powers & duties

Sect. 11. When and as soon as the aforesaid board of assessors and the said board of appeals shall have finished and completed their valuation and equalization of the real and personal property within the several counties of this State, they shall assemble together in the town of Dover, and as a joint board when so assembled or a majority of them when assembled shall proceed to compare their respective proceedings had in pursuance of this Act, and may or a majority of them together agreeing make such alterations in their assessments, valuations and equalizations as they or a majority of them may upon a full and fair examination deem right and proper; and a fair copy of such valuation when so as aforesaid adjusted, equalized, settled and determined shall be laid before the General Assembly at their next session thereafter.

Passed at Dover, February, 1816.

1817 AN ACT *making provision for the support of government for the year of our Lord one thousand eight hundred and seventeen.*

17 State taxes of 1816-1817, &c to be adjusted between the counties

Sect. 3. If after any general assessment or valuation of the real and personal property within this State to be made in pursuance of the provisions of an Act of the General Assembly of this State, entitled, "An 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, it shall appear, that the several sums assessed, levied and raised on the respective counties and paid into the Treasury of this State according to the provisions of an Act, entitled "An Act making provision for the support of government for the year one thousand eight hundred and sixteen" and according to the provisions of this Act have been unequally assessed, levied and apportioned to and upon the counties respectively, all and every such unequal assessment, levy and apportionment made in manner aforesaid shall be regulated, adjusted and settled, agree-

spectively shall before entering upon the duties assigned them by this Act take the same oath to be administered in like manner, as directed to be taken and administered to the assessors herein before appointed; and the said board of appeals shall have the same power to appoint clerks, obtain information touching the value of real and personal property within the respective counties of this State; and any vacancies happening in the board of appeals shall be filled up and supplied as is directed by the fifth section of this Act for supplying vacancies in the board of assessors.

13 vacancies

14 Copy of assessment delivered to board of appeals

Sect. 10. The board of assessors herein before appointed shall, as soon as they shall have finished and completed the valuation and assessment of each of the counties of this State respectively, in addition to the copy of their assessments and valuation hung up and exhibited in the hundreds respectively, as before directed, make out or cause to be made out one other fair copy of their said assessments and valuations, and deliver the same to the board of appeals before the sitting of the board in each county respectively, retaining the original lists in their own possession.

15 Meeting of assessors & board of appeals

16 powers & duties

Sect. 11. When and as soon as the aforesaid board of assessors and the said board of appeals shall have finished and completed their valuation and equalization of the real and personal property within the several counties of this State, they shall assemble together in the town of Dover, and as a joint board when so assembled or a majority of them when assembled shall proceed to compare their respective proceedings had in pursuance of this Act, and may or a majority of them together agreeing make such alterations in their assessments, valuations and equalizations as they or a majority of them may upon a full and fair examination deem right and proper; and a fair copy of such valuation when so as aforesaid adjusted, equalized, settled and determined shall be laid before the General Assembly at their next session thereafter.

Passed at Dover, February, 1816.

1817 AN ACT *making provision for the support of government for the year of our Lord one thousand eight hundred and seventeen.*

17 State taxes of 1816-1817, &c to be adjusted between the counties

Sect. 3. If after any general assessment or valuation of the real and personal property within this State to be made in pursuance of the provisions of an Act of the General Assembly of this State, entitled, "An 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, it shall appear, that the several sums assessed, levied and raised on the respective counties and paid into the Treasury of this State according to the provisions of an Act, entitled "An Act making provision for the support of government for the year one thousand eight hundred and sixteen" and according to the provisions of this Act have been unequally assessed, levied and apportioned to and upon the counties respectively, all and every such unequal assessment, levy and apportionment made in manner aforesaid shall be regulated, adjusted and settled, agree-

ably to the valuation and assessment made by the commissioners appointed for the purpose of making a general assessment of the real and personal property throughout this State; and if upon such regulation, adjustment and settlement, it shall appear, that either of the counties of this State has paid into the Treasury of this State more or less than a fair and just proportion of the State taxes for the year eighteen hundred and sixteen and this present year and every succeeding year until the general assessment shall be completed, the same shall be repaid or refunded to the county or counties overpaying, and charged, assessed, levied on and paid by every such county, as shall have been underrated or paid less than its due proportion, according to the general assessment and valuation to be made by the commissioners aforesaid.

Passed at Dover, February 6, 1817.

—o—

STATE TREASURER AND TRUSTEE OF THE SCHOOL FUND.

I.

AN ACT *requiring the State Treasurer to give security for the faithful performance of his official duties.* 1827

Section 1. The State Treasurer before entering upon the execution of his office, shall with two or more sufficient sureties become bound to the State of Delaware by a joint and several obligation to be together with the sureties therein approved by the Governor in the penal sum of thirty thousand dollars lawful money of the United States of America, with condition according to the following form; (Cons. 41,90) 1 Bond (2, 6)

"*The condition of the above written obligation is such, that if the above named* ——— ———, *who is* State Treasurer *for the State of Delaware and the* Trustee of the Fund for establishing Schools in the State of Delaware, *shall well and truly account for all money which shall come to his hands as such State Treasurer, or as the Trustee of the fund for establishing schools in the State of Delaware, or with which he, as such Treasurer or Trustee, shall be legally chargeable, either for the default of any collector or collectors whom he shall appoint, or otherwise, howsoever, and shall and do well and diligently execute his office of State Treasurer as aforesaid, and duly and faithfully fulfil and perform all the trusts and duties to the said office appertaining, and also all the duties incumbent upon him as the Trustee of the fund for establishing schools in the State of Delaware; and if the said* ——— ———, *or his executors or administrators shall and do, faithfully and without delay, pay to his successor in office the just balances remaining of all the money which shall come to his hands as State Treasurer as aforesaid, or as the Trustee of the fund for establishing schools in the State of Delaware, or with which he, as such Treasurer or*

Trustee, shall be legally chargeable, after deducting all payments by him made according to law, and all allowances made to him by law, and all legal fees, and shall also deliver to his successor in office all books, securities, muniments and papers to the said office in any wise belonging, safe and undefaced, then the said obligation shall be void, otherwise the same shall remain in full force:

2 Judgment bond

to which obligation there shall be subjoined a warrant of attorney to confess judgment thereon.

3 Secretary of State to record

4 file copy for Auditor

& certify approval

And the said obligation shall be recorded by the Secretary of State in the register of the official acts and proceedings of the Governor and shall be kept on file in his office: and a copy of the said obligation, certified by the Secretary of State under his hand and seal of office, shall be immediately transmitted to the Auditor of accounts, and said copy or said record or a copy thereof, in case of the loss of the original obligation, shall be competent evidence: and the Secretary of State shall also immediately certify the approval of said obligation to the General Assembly, if in session at the time.

The said obligation shall be proceeded upon by the direction of the General Assembly, the Governor or the Auditor of accounts.

6 Unless bond given in 7 days, office forfeited

Sect. 2. If any person who shall be appointed State Treasurer, shall not within seven days next ensuing the day, on which he shall be so appointed, become bound with sureties as directed and prescribed in the preceding section, the appointment shall be absolutely void, and another person shall be appointed.

7 vacancy

Sect. 3. If the office of State Treasurer shall become vacant after the adjournment without day of the Senate and House of Representatives, either by the death, removal out of the State, resignation or inability of the State Treasurer, or by the failure of the State Treasurer to become bound with sureties as directed and prescribed by this Act, or by the omission of the Legislature to appoint pursuant to the third section of the eighth article of the constitution of this State, the Governor shall have power to fill the vacancy by appointing a State Treasurer; and every State Treasurer so appointed shall be within the provisions and intent of the first and second sections of this Act.

(Cons. 90)

Passed at Dover, January 29, 1827.

1810

AN ACT *respecting the State Treasurer.*

7 Committee to examine his accounts

The Legislature of this State shall annually hereafter, at their session in January appoint a committee to consist of three members from the House of Representatives and two members from the Senate, to examine into the accounts of the State Treasurer, and to count the cash on hand, and make report thereof to the General Assembly. *Passed at Dover, February 2, 1810.*

1819

8 Pay'ts to—in specie, &c.

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 directed to receive nothing in payment of taxes other than gold or silver coin or the notes of banks paying for their notes gold or silver on demand.

Adopted at Dover, 8, February, 1819.

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. 9 Deposits in Farmers Bank

Resolved further, That all monies belonging to the fund for establishing schools 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.

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. 1824 10 Trustee of Delaware College Fund

II.

AN ACT *to create a fund sufficient to establish schools in this State.* 1796

Section 1. The money paid into the State Treasury on account of marriage and tavern licenses between the passing of this Act and the first day of January in the year of our Lord one thousand eight hundred and six *(a)* shall be and is hereby appropriated as part of a fund hereafter to be applied under the direction of the Legislature for establishing schools in this State. 11 Fund for establishing Schools (Fees 154—Slaves 2—Schools 11) *a* [17-18]

Sect. 2. The money so as aforesaid appropriated and all other money and estate hereafter given or appropriated for the said purpose, shall be distinguished and known by the name of *The fund for establishing schools in the State of Delaware.* 12 Name

Sect. 3. The State Treasurer for the time being, who in all matters relative to the said fund shall be stiled *The Trustee of the fund for establishing schools in the State of Delaware*, shall be and 13 State Treasurer Trustee

is hereby empowered, authorized and required to take care of the said fund, to receive, apply for and recover, by suit or action in his name as Trustee of the said fund any gift, donation or bequest, which any person or persons disposed to promote the establishment of seminaries of learning may think proper to make; and for the application of every such gift, donation or bequest to the purpose of establishing schools as aforesaid the public faith of this State is hereby most solemnly pledged; and the said Trustee is hereby further empowered to execute a lease for a term not exceeding three years to any responsible person of any real estate, which by virtue of any gift, donation or bequest may hereafter form part of the said fund, to sue, prosecute and recover for any breach of contract or covenant, to distrain for rent in arrear, and to do every other act and deed in his name as aforesaid for the benefit of the said estate and fund, which the former owner of the said estate might have legally done, excepting the sale thereof.

14 public faith pledged

15 powers of Trustee

16 Account of fund—for Gen'l Assembly

Sect. 5. The State Treasurer for the time being is hereby required to produce to, and make a settlement with, the General Assembly of this State, at their first session every year, of his account as Trustee of the fund for establishing schools in the State of Delaware, and once in every year either during or immediately after the first session of the Legislature to procure to be published in one of the newspapers of this State a particular account of the said fund, mentioning therein the names of the persons who have made any gift, donation or bequest towards the said fund, specifying the time when the same was received, and the amount or value thereof.

17 published annually with names of donors

18 For what schools [Schools 7, 36]

Sect. 7. The said fund shall be applied to the establishment of schools in the several hundreds or districts of the respective counties of this State, for the purpose of instructing the children of the inhabitants thereof in the english language, arithmetic and such other branches of knowledge as are most useful and necessary in completing a good english education; and the same shall not be applied to the erecting or supporting any academy, college or university in this State.

Passed February 9, 1796.

17 continued

[This Act was continued, by Act of February 1, 1806, for seven years from the first day of January in that year, and by Act of January 27, 1813, until the first day of January, eighteen hundred and twenty; and see next Act.]

1822

AN ACT *to revive and continue in force the Act entitled, "An Act to create a fund sufficient to establish schools in this State and for other purposes."*

18 Continued without limitation

Section 1. 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.

19 Moneys since 1 Jan. 1820 [22]

Sect. 2. All the monies, which have been received by the State Treasurer since the first day of January in the year eighteen hun-

dred 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 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. 20 proviso for salaries of Chancellor & Judges [21]

Sect. 3. 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. 21 reimbursement

Passed at Dover, 8 *February*, 1822.

Resolved 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 authorized and required to vest any unappropriated money belonging to that fund, now in his hands, in loans authorized by the government of the United States, or in stocks of the United States, or stock of the bank of the United States, upon the best terms he can obtain: and that the said Trustee, from time to time hereafter, as often as any money may come into his hands belonging to the said fund and not otherwise appropriated, shall vest the same in loans authorized by the government of the United States, or in stocks of the United States, or in stock of the bank of the United States; which investments shall, as often as made, be by the said Trustee reported to the Auditor of accounts, and by the Auditor annually submitted to the General Assembly. 1827 22 investm't of money of School Fund [Schools—43, 45] 23 duty of Auditor

Adopted at Dover, February 7, 1827.

A SUPPLEMENT *to the Act entitled An act to create a fund sufficient to establish schools in this State.* 1797

[By sections 1 and 2, the Trustee of the fund for establishing schools was required to appropriate certain money to the purpose of subscribing for shares of stock of the Bank of Delaware, provided by the Act of incorporation for the use of the State, the subscription to be in the name of *The Trustee of the fund for establishing schools in the State of Delaware*, who in that capacity should be entitled to give as many votes as the number of shares would entitle an original stockholder or stockholders to, and demand and receive the dividends on said shares as often as they became due and apply the same according to the said Act, to which this is a supplement. 24 Stock in Bank of Delaware—for School Fund

By section 5, the State Treasurer was required with certain money to subscribe in the name of the State for shares of the said 25 for State

Bank, as part of the fifty shares, which the State was entitled to subscribe agreeably to the Act of incorporation: the State Treasurer for the time being, on the part of this State to give as many votes as the shares subscribed should entitle the State to as a stockholder; said shares so subscribed not to be deemed a part of the fund for establishing schools in this State.]

Passed January 24, 1797.

1800 AN ACT *respecting the funds of this State.*

26 Appropriation of dividends

Section 2. The dividends, which shall hereafter be made on the shares of the Bank of Delaware belonging to the State, which have been subscribed agreeably to the fifth section of the Act of Assembly entitled "A *supplement* to an Act, entitled an Act to create a fund to establish schools in this State" shall be and is hereby appropriated to the payment of the salaries to become due to the Governor, the Chancellor, the Judges of the Supreme Court, and the Judges of the Court of Common Pleas.

Passed at Dover, January 25, 1800.

1823 AN ACT *authorizing a subscription to the stock of the Chesapeake and Delaware canal.*

27 Stock—Ches. & Del. Canal

[By section 1, it is required, that as soon as books should 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 should subscribe, for the benefit and on behalf of said fund, to the amount of five thousand dollars in stock of said company; and by section 2, the said Trustee was required annually and within the period of each and every year for the term of five years, taking date from the first subscription authorized by said first section to make a further subscription of five thousand dollars to the stock of said company in like manner and for the benefit and on behalf of said fund.

Sect. 4. All stock obtained by virtue of this Act shall be placed to the credit of the fund for establishing schools in this State; and all interest and dividends shall be placed to the credit of said fund.

Sect. 5. The said Trustee 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 stock belonging to the fund aforesaid, either himself or by proxy, &c.] *Passed at Dover, February 5, 1823.*

STRAYS.

1829 AN ACT *concerning strays.*

1 Notice of Strays (7)

Section 1. Any person taking up a stray shall immediately send notice thereof to the owner if known, or if the owner be not known, shall within five days set up in four or more of the most public places within six miles from the place of taking up said stray advertise-

Amended by inserting instead of "one year" "six months"
passim - 8th Vol. 246

ments under his hand, describing the stray by its color and apparent age and size and natural and artificial marks, and mentioning the time and place of taking up the same and the place, where the same is. If the owner or his agent shall not appear and shew his right in thirty days after giving such notice or setting up such advertisements, the person having possession of the stray shall make a statement under his hand containing the same as the advertisements, and shall file the same with the Justice of the Peace for the county residing nearest to the place of the taking up, who shall appoint two judicious freeholders to be appraisers of such stray, and administer to them an oath or affirmation to appraise the same faithfully and impartially, and they shall certify to him their appraisement under their hands. The Justice shall indorse upon the statement the appointment of the appraisers, and that they were sworn or affirmed, which shall be a sufficient record thereof; and the Justice within five days after the appraisement shall cause advertisements under his hand, containing the substance of said statement to be set up at the Court House door of the county and in five or more other of the most public and suitable places of the county, and when the appraised value exceeds fifteen dollars, shall procure such advertisements to be inserted for three weeks successively in one or more of the newspapers printed in this State; the expenses shall be paid by the person having posssession of the stray.

2 If no owner appear in 30 days—proceedings (4) Duty of Just. of the Peace

If the owner or his agent shall within ~~one year~~ after appraisement appear and shew his right, he shall have the stray upon paying all proper charges, and in case the stray were taken trespassing, the damages of such trespass; such charges and damages may be assessed, if the owner or agent and person having possession of the stray cannot agree, by the Justice with whom the statement is filed, or before the filing of the statement, by the Justice of the Peace for the county residing nearest to the place of taking up; but if the sum claimed exceed six dollars, the Justice upon the application of either party shall appoint three judicious and impartial freeholders to assess such charges or damages, and administer to them an oath or affirmation to determine the matter in controversy faithfully and impartially according to the best of their skill and judgment, and they or two of them agreeing shall certify their award under their hands which shall be conclusive.

3 Owner appearing—

If no owner or agent appear and shew right as aforesaid within one year from the date of the appraisement, the Justice, with whom the statement is filed, shall have power to make an order for the sale of the stray; and it shall be sold by a constable for the county by public vendue at some town or village, and the constable shall give the same notice of said sale, as is required to be given of the sale of goods on execution; the Justice making the order shall assess the charges and also the damages if any, and the same shall be paid out of the price, and the balance thereof shall be paid to the County Treasurer for the use of the county.

4 No owner appearing—duty of Just.

(Just. of the Peace 85) 339 page

If a Justice of the Peace, with whom a statement is filed or any proceeding had under this Act, shall die, resign, remove or cease to be in office, any further proceeding, that may be requisite, may be had before the Justice, with whom the records of such former

5 In case of death of Just.

Justice shall be deposited or the Justice residing nearest to the place of the taking up.

6 Strays used — Any person having the possession of a stray, if the same be a beast of burden, may moderately use the same. The stray, if faithfully taken care of, shall be at the risk of the owner.

7 under 12 months old — A beast not twelve months old, unless following its dam being a stray, shall not be deemed a stray.

8 Fees — Sect. 2. The fees under this Act shall be—

Justice — Of the Justice—	$ cts.
For filing statement and advertising	0 50
For order of sale	12½
Constable — Of the constable selling—	
For advertising	33
Commissions on sale, on a dollar	02.
Freeholders — Of the freeholders—each	25

Passed at Dover, January 20, 1829.

—o—

SWINE RESTRAINED FROM RUNNING AT LARGE.

20 Geo. II. AN ACT *to prevent swine running at large without rings and yokes, in certain parts of New-Castle county, within this government.*

1 In N. Castle county (16–19) (39–5) — Section 2. No swine shall be allowed to run at large (unless sufficiently ringed to prevent them from rooting, and yoked to prevent them from creeping or breaking through fences) on any of the improved lands, meadows or marshes of the inhabitants in the county aforesaid (Pencader and Appoquinimink hundreds (a) only excepted). And if any swine shall be found at large and trespassing upon the improved lands, meadows or marshes of any inhabitant within the above mentioned limits, not as aforesaid sufficiently ringed and yoked (except upon the lands, meadows, or marshes of the owner or owners of the said swine,) it shall and may be lawful for any person being a freeholder, or possessing some tenement or farm within the said limits of the yearly value of forty shillings to take up or kill any such swine found upon his or their improved lands or farms, and shall immediately give notice to the owner or owners thereof—who shall be obliged to make good all damages done by such trespassing swine according to the valuation of two creditable men of the vicinage to be appointed and qualified by the next Justice of the Peace of the same county for that purpose; but in case the owner or owners of such swine should neglect or refuse to pay the damages valued as aforesaid, then it shall and may be lawful for any Justice of the Peace of the county aforesaid, who is hereby required upon complaint made to him by the person or persons so trespassed upon in any manner aforesaid, to grant a warrant under his hand and seal, in order to recover the valuation of such damages as aforesaid, to be

a [38]

2 remedy

[1]

3 damages

levied by distress and sale of the offender's goods and chattels, together with costs accrued thereon,—or if the owner or owners of said trespassing swine be not known, shall inform the next Justice of the Peace of the same county, whereupon the said Justice shall cause the same immediately to be appraised by two creditable men as aforesaid upon their oaths or affirmations, and sold to the highest bidder, and after deduction of charges and damages, the residue of the money arising by such sale, shall be paid to the said Justice for the use of such owner or owners if within six months next after such sale he or she shall claim the same, and (to the satisfaction of such Justice) prove his or her right thereto; and the said Justice shall cause an advertisement to be set up in some public place of the neighborhood, setting forth the number and marks of all such swine and the time of their being so taken up or killed as aforesaid. But in case no such owner shall within the said six months appear, and make out such his or her right as aforesaid, then the said residue shall by the said Justice be paid for the use of the poor to the overseer or overseers in the hundred, where the trespass is committed, and the said owner shall forever after be foreclosed and debarred from any title or claim thereto.

4 owner unknown

5 notice

Sect. 3. No person or persons inhabiting within the limits aforesaid (except as before excepted) shall be allowed or permitted to drive or carry any swine out of the limits aforesaid, which were raised or bred therein, with intent that the said swine may run at large without rings and yokes in any other parts of the said county of New-Castle, under the penalty in this Act before provided against swine running at large within the said limits, to be disposed of in manner aforesaid, unless the person or persons so driving or carrying any such swine, shall at the time of his or their doing thereof, be owner or owners or possessor or possessors of land near the place whereunto such swine shall be so driven or carried, and whereupon he or they shall have a tenant or tenants, servant or servants, slave or slaves, residing or inhabiting.

6 Persons within the limits not to carry their swine to run at large out of the same, &c. [7]

7 unless he have land, &c

Passed October 31, 1746.

II.

AN ACT *to restrain persons from suffering swine to go at large within certain limits.* 1829

Section 1. No swine shall be suffered to go at large within any limits, to which this Act shall be extended; and any swine found going at large within any such limits may be taken and impounded in any place within said limits respectively, by any free white person of the age of twenty-one years or upwards residing within said limits, who shall within twenty-four hours after such impounding give notice thereof by a written notice delivered to the owner or left at his usual place of abode, or if the owner be unknown or have no known place of abode within three miles of the place of taking, by advertisements posted in three or more of the most public places within said limits; and any constable for the county upon the application of the person impounding shall sell the

8 Remedy as to all places, to which this Act shall be extended

9 impounded

10 notice

11 sale

swine so impounded at public vendue, at any time after the expiration of five days after the day of impounding; giving notice of such sale by advertisements posted in five or more of the most public and suitable places in said limits and the neighborhood thereof, at least three days before the day of sale: and the constable, deducting from the amount of the sale forty cents and also the rate of three cents on each dollar, shall pay the balance, one half to the person impounding and the other half to the Treasurer of the trustees of the poor of his county. But if the owner of the swine shall before the sale pay to the person impounding fifty cents for each swine weighing not more than forty pounds, and one dollar and fifty cents for each swine exceeding that weight (live weight) and the rate of five cents for each swine for every days impounding, and to the constable, if sale has been advertised, twenty cents, the swine shall thereupon be restored to him: or if the owner reside not within the limits wherein the swine are taken, the same, if they have not been fed within said limits with his permission or been at large there to his knowledge previously to the occasion of the impounding, shall be restored to him on paying to the person impounding the rate of five cents for each swine for every days impounding, and to the constable, if a sale have been advertised, twenty cents. The person impounding shall provide for the swine while in pound necessary food and water.

12 restored to owner

13 trespassing—killed

Sect. 2. If any swine be found trespassing on inclosed ground within any limits, to which this Act shall be extended, the occupier of said inclosed ground or any person by his direction may shoot or in any manner kill such swine; and the person killing shall without delay cause notice thereof to be given to the owner of the swine, that he may take the same. For ground to be inclosed within the meaning of this section, it is not necessary for the fence to be a lawful fence. But swine escaping from the inclosed ground of their owner into the inclosed ground of another person through defect of fences, which the last mentioned person or any one, under whom he holds, was bound to repair, shall not be liable to be shot or killed under this section.

14 notice

15 exception

16 Places within this Act

Sect. 3. This Act shall extend to and be in force in the following limits in New-Castle county, that is to say;

17 Newcastle

18 Part of Appoquinimink

First, Beginning at the Bridge over the southerly prong of Appoquinimink creek on the road from Middletown to Blackbird, and running from thence along said prong to the Wolf swamp, thence to Dutchman's pond and the State line, thence up said line to the line of Appoquinimink hundred, and with said line to the road aforesaid and down said road to the beginning: Second, the bounds of the town of St. Georges; and Third, Beginning at the junction of Drawyers and Appoquinimink creeks, and running down the latter to the mouth of Hangman's creek, thence up said creek to the road from Cantwell's bridge to Taylor's bridge thence up said road to the State road from Cantwell's bridge to Smyrna, and crossing said road on the line between lands heretofore of Thomas M'Kean and lands heretofore of Richard C. Dale to the head of a cripple and marsh, thence down said cripple and marsh with the water courses to Appoquinimink creek aforesaid, thence up said creek to the line of lands of Robert Cochran and of

19 St. Georges

20 Cantwell's Bridge, &c.

lands formerly of Ezekiel Hunn, thence with said line and continuing the same course, crossing the road from Cantwell's bridge to Middletown, to the head of Samuel Thomas' mill pond on Drawyers creek, and down said pond and creek to the beginning. 21 Kent

Also this Act shall extend to and be in force within the following limits in Kent county, that is to say;—First, Beginning at the main branch of Duck creek, where the State road running from the line dividing New-Castle county from Kent through Smyrna &c. crosses the same, and running up said creek on the several courses one and one half mile, thence in a direction parallel with said road to Gravelly run, then down Gravelly run to Duck-creek aforesaid, and up said creek to the beginning: Second, Beginning at the mill dam late of Israel Peterson on the State road from Smyrna to Dover, and running thence with said road to the road leading into Duck-creek neck, thence with said last mentioned road through lands late of William Denny, Edward Joy and James Raymond to a corner of lands late of James Raymond and Edward Carney, and through the lands late of Edward Shane and others continuing ten rods below the house and lot, on the west side of said road, lately sold by Robert Thompson to Timothy Cummins, thence from said road to a corner of lands late of James Morris and land of Abraham Allee, and from thence with the line of land late of said Morris, which adjoins the said Abraham Allee, the heirs of John Allee and Edward Joy to a road leading from Severan's meeting house to Long point, thence with said road by the gate late of Thomas Hawkins senior, to the line of land late of Mordecai Morris on said road, thence leaving said road and running with the line of land late of said Mordecai Morris adjoining lands of John Norton's heirs, until it intersects the line between Jacob Stout and land late of said Mordecai Morris, thence with the lines of said Jacob Stout's land to Duck-creek, thence up said creek to Pairman's Branch, on which the mill late of Israel Peterson is situate, and up said branch to the place of beginning; and extending in Kent county from every part of the said lines outwardly the distance of one mile, so as to comprehend all that is within said limits, and also every place in Kent county, situate within one mile of any part of said limits: Third, the distance of one half mile in every direction from the intersection of the roads crossing each other in the village of Kenton: Fourth, Beginning at St. Jones' creek, where the State road from Dover to Smyrna crosses the same, and running thence down said creek to the line dividing between a lot of James Kerbin and a lot late of Elizabeth Nixon, thence with the line of the said lot late of Elizabeth Nixon and crossing the State road, and thence with the line dividing between lands late of William Killen, and lots late of Elizabeth Nixon and Jacob Furbee and lots of Nicholas Ridgely and Henry M. Ridgely to the south east corner of the last mentioned lot, and thence with the dividing line between said lot and land of Nicholas Ridgely to West street of the town of Dover, and thence with said street and the same course continued, until a line due east will strike the place of beginning, and thence due east to the place of beginning: Fifth, Beginning at the Fork of Murderkill and Spring creeks, and running up Spring creek to the divison line between

22 Duck creek

23 part of Duck creek hundred

24 Kenton

25 Dover

26 Frederica

the heirs of Matthew and Thomas Lowber, thence with said division line to a corner stone of lands formerly of Daniel Leach and Peter Lowber, thence with the division line between lands late of said Leach now of Vincent Moore and lands of the heirs of Thomas Lowber to the line of Joseph G. Rowland, and with said line and continuing the same course to Murderkill creek and down the same to the beginning: Sixth, Beginning at Howell's mill branch, where the Dover road crosses, and running thence down said branch to the line between Thomas H. Howell's land and land formerly of Edward Rogers, thence with said line, until it intersects the line of land of Daniel Mifflin's heirs, thence with said line south-westerly to the mill road, thence with said road to the State road from Camden to Canterbury, thence crossing said road and with the line of a lot purchased by Philip Hardcastle from George Temple to the road from Camden to Willow-grove, thence with said road to land late of Doctor James Fisher, and with the said land to the head of Jarrel-town branch and down said branch to the head of Howell's mill pond and down said pond and the branch first mentioned to the beginning :—Seventh, the distance of three quarters of a mile in every direction in Kent county from the draw bridge over Mispillion creek at Milford :—

27 Camden &c.

28 Milford (37)

Also this Act shall extend to and be in force within the following limits in Sussex county, that is to say; First, the distance of one half mile in every direction in said county from the draw-bridge over Mispillion creek at Milford: Second, Beginning at the mouth of the round pole branch and running thence up said branch and the southmost fork thereof, until it crosses the road from Clowe's to Cool-spring, thence up said road to John Conwell's mill, thence down the mill stream to the fork of Broadkill creek, thence up the north-west fork thereof to Lavinia's bridge, thence a north-west course to the line between James Ponder and William Perry, thence with said line to the neck road, and with said road to the north-east corner of the cleared lands late of Thomas Fisher, and down his fence to Broadkill creek: Third, Beginning at the mouth of Pagan or Canary creek, thence up the same to the public road, thence by a right line to the head of Pot-hook creek, thence down the same to the mouth thereof, and thence down Lewis-creek to the mouth of Pagan or Canary creek aforesaid: Fourth, Beginning at the ship-yard late of Barkly Townsend formerly Thomas Baldwin's, and running thence a straight line to a mill heretofore called said Townsend's little mill, thence with the run of said mill branch, until it intersects the waters of Broad creek, thence down said creek to the place of beginning: Fifth, the bounds of Georgetown: Sixth, the village of Bridgeville and the distance of three eighths of a mile in every direction from the principal bridge in that village: Seventh, Beginning at the mouth of Herring creek and running up said creek to the line of the heirs of William Hazzard, and with said line to the county road, and with said road to the north-east corner of land formerly of Barnard M'Gee, and with said line to Nanticoke river, and with the same to the place of beginning: Provided, that nothing in this Act shall be construed to extend to the swine of any person or persons residing without the bounds last described; also

29 Sussex

30 South Milford

31 Milton, &c (37)

32 Lewist'n

33 Laurel

34 Georget'n

35 Bridgev'le

36 Seaford (37)

37 Proviso, respecting, Seaford,

without the bounds secondly described in Sussex county, and seventhly described in Kent county, unless such swine shall be fed or kept by some person or persons within such bounds. Milton and Milford

Sect. 4. The "Act to prevent swine running at large without rings or yokes in certain parts of New-Castle county within this government," passed October 31, 1746, shall be extended to, and in force in Pencader hundred; and also all that part of St. George's hundred, lying westward of the upper road leading through New-castle county from Mount Pleasant to Middletown, and also all that part of Appoquinimink hundred lying easterly of said upper road from Church branch at the head of Appoquinimink creek to Duck-creek. 38 Extended (k)

Sect. 5. This Act and the Act hereby extended, with the special matter of justification under the same, shall be received in evidence on the general issue. 36 Gen'l issue

Passed at Dover, January 22, 1829.

III.

AN ACT *to prevent swine from running at large in the town of New-Castle and its neighborhood.* 1813

Section 1. No person or persons shall suffer or permit any of his, her or their hogs or swine to run at large within the bounds of the town of New-Castle or within one mile thereof; and any such hog, hogs or swine so permitted or suffered to run at large within the said bounds or limits shall be forfeited to and for the use of the poor of the county of New-Castle. 39 Town of N Castle and neighborhood

Sect. 2. The clerk of the market within the said town for the time being shall act as a receiver for the purpose of keeping and detaining all such hogs or swine, so permitted or suffered to run at large within the limits aforesaid; and if the clerk shall neglect or refuse to do the duties hereinafter enjoined upon him as receiver, he shall forfeit and pay the sum of ten dollars to be recovered by the commissioners of the said town as debts under twelve pounds are recoverable by law and to be applied to the use of the town; and upon every such neglect or refusal or in case of death or removal, any Justice of the Peace within the said town shall appoint some other fit person to act as receiver who shall be liable to the same penalty for neglect of duty, to be recovered and applied as aforesaid. 40 Clerk of the market receiver (44) 41 penalty for neglect or refusal 42 vacancies

Sect. 3. It shall be lawful for any person or persons to seize, drive or convey alive all such hogs or swine as shall be permitted or suffered to run at large within the limits aforesaid to the receiver, who is hereby empowered and required to receive and detain the same; and it shall also be the duty of such receiver to seize and detain all such hogs or swine, as he may find or know to be running at large as aforesaid; and every such person, for every hog or swine of the weight of fifty pounds or upwards, so seized and conveyed to the receiver shall be entitled to the sum of one dollar, and if under fifty pounds, shall be entitled to fifty cents; and the said receiver, if such hog or swine shall be seized by him, shall be entitled to the same compensation. 43 Seizing hogs 44 receiver's duty 45 compensation

46 Hogs seized, apprais'd & sold

Sect. 4. The receiver shall cause all such hogs so seized by him or conveyed to him as aforesaid to be appraised by two freeholders of the hundred of New-Castle and sold at public vendue, after giving four days notice by advertisements set up within the limits aforesaid of the time and place of sale; and the monies arising from such sales shall be applied to the use of the poor of the said county, after deducting the compensation allowed to the receiver as aforesaid or person or persons, who seized and conveyed such hogs or swine to the receiver, and also retaining what may be reasonable for his trouble and expenses in receiving, detaining, supporting and selling the same hogs or swine to be adjudged and determined by the freeholders, who may appraise such swine as aforesaid; and the said receiver shall account with the nearest Trustee of the poor, and shall pay over the monies arising from the sales aforesaid after the deduction aforesaid to the Treasurer of the poor: *Provided nevertheless*, That if any owner of a hog, hogs or swine shall within four days after the same shall be driven or conveyed to the receiver aforesaid pay the sum of one dollar for every hog of the weight of fifty pounds and upwards, and fifty cents for every hog under fifty pounds weight, that shall be so as aforesaid conveyed to the receiver together with the expenses to the receiver for receiving and keeping the same to be adjudged and determined by the freeholders appraising the same as aforesaid, then in every such case such hog, hogs or swine shall be restored to the owner thereof on his, her or their application for the same.

47 money applied

48 allowance to receiver

49 his account

50 hogs seized, restored upon terms

51 Gen'l issue

Sect. 5. If any suit or action shall be brought or prosecuted against any person or persons whomsoever for any act or thing done in pursuance of this Act, it shall be lawful for the defendant in such suit or action to plead the general issue and give this Act in evidence, whereof all Judges and Justices of the Peace are required to take notice and govern themselves accordingly.

Passed at Dover, February 2, 1818.

—o—

TAVERNS.

I.

13 Geo II

AN ACT *for regulating inn-holders, tavern-keepers and other public house-keepers within this government, and empowering the Justices to settle the rates of liquors.*

For regulating inn-holders, tavern-keepers, and other public house-keepers within this government.

1 License (Fees 140) (Prisoners & Gaols 6)

Section 1. No person or persons within this government shall presume to keep any public house of entertainment, tavern, inn, ale-house, ordinary or victualling-house, without obtaining by petition a recommendation from the Justices of the Court of Quarter Sessions to his honor the Governor for the time being for a license for keeping the same, setting forth that the person so petitioning

is a fit person and well qualified for keeping a tavern or house of entertainment.

Sect. 3. No person or persons within this government shall be recommended to the Governor by such Justices as aforesaid for a license for keeping such public house, tavern, inn or ordinary, without making first appear to the satisfaction of the said Justices that such petitioner is well qualified for keeping the same and hath necessaries fit and suitable for the entertainment of travellers, and that the place or habitation of such petitioner is situate in a proper and convenient place and stage for the entertainment of travellers as aforesaid. 2 ground of recommend'g

Sect. 6. If any master or keeper of any such public house or houses or tavern as aforesaid shall after the publication of this Act presume to trust or give any credit to any minor or minors, every such master or keeper of such house or houses shall lose the whole sum or sums so trusted and credited, and is hereby precluded and debarred from suing for the same before any magistrate or in any court within this government. 3 credit to minors, unlawful

II.

AN ACT *concerning public houses of entertainment, and the unlawful selling of liquor or strong drink.* 1827

Section 1. If any person being the keeper of a public house of entertainment, tavern, inn, ale-house, ordinary or victualling house shall suffer any person to continue drinking and tippling at unseasonable hours of the night in his or her house, or shall suffer any drunken and disorderly person to remain in his or her house, or shall suffer any game whatever for money, liquor or other thing, or upon which money, liquor or other thing shall be betted, to be played in his or her house or its dependencies, every such person so offending shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the State a fine of ten dollars; and every such person so offending a second time, shall upon conviction of such second offence forfeit and pay to the State a fine of twenty dollars, and every such person so offending a third time, upon conviction of such third offence, shall forfeit and pay to the State a fine of thirty dollars and shall forfeit his or her license, which shall be revoked, and shall be disqualified from receiving any such license for the space of three years next ensuing such conviction. 4 Tippling at unseasonable hours—drunkenness gaming, &c. penalty for suffering

Sect. 2. If any person shall keep a public house of entertainment, tavern, inn, ale-house, ordinary or victualling house without a valid and subsisting license therefor, or if any person without such license shall retail or sell, directly or indirectly, any wine, rum, brandy, gin, whisky or any spirituous liquor by any measure less than a quart, or any punch or other mixed liquor by any measure whatever; every person so offending shall be deemed to be guilty of a misdemeanor, and upon conviction thereof shall forfeit and pay to the State a fine of fourteen dollars. 5 Penalty for selling liquor by small measure, without license

Passed at Dover, February 1. 1827.

I.

1808 AN ACT *to incorporate a company for making a turnpike road from the borough of Wilmington to the line between this State and Pennsylvania, or to communicate with the artificial road contemplated from the Gap to Newport.*

1 Wilmington & Lancaster

2 corporate name

[By sect. 2, the company are incorporated by the name of *The Wilmington Turnpike Company.*]

3 route

[By sect. 8, the route of said road is *from (a) the borough of Wilmington to the line between this State and Pennsylvania, or to communicate with the artificial road contemplated from the Philadelphia and Lancaster turnpike road to Newport.*]

4 Width and manner of making

[By sect. 10, the president, managers and company shall cause a road to be laid out not exceeding one hundred feet in width, and shall cause twenty feet thereof in breadth at least, to be made an artificial road, which shall be bedded with wood, stone, gravel, clay or other proper and convenient materials well compacted together, a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with clay, gravel or stone pounded, or other small hard substance, in such manner as to secure a firm, and as nearly as the nature of the country and the materials will admit an even surface rising towards the middle by a gradual arch, and shall forever hereafter maintain and keep the same in perfect order and repair: *provided*, that no toll be demanded or taken from any person passing or repassing from one part of his or her farm to another, or to or from any place of public worship or funeral, on days appointed for that purpose.

5 no toll in certain cases

6 License to take toll

Section 11, provides that the Governor on notice that a specified distance of said road is perfected shall appoint three skillful and judicious persons to examine it and report whether the said road is so far executed in a complete and workman-like manner according to the true intent of this Act, and that if their report be in the affirmative, he shall by License allow the company to erect so many gates across the road as will be sufficient to collect the tolls.]

7 Toll gatherer

Sect. 12. The said company having perfected the said road or such part thereof from time to time as aforesaid and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so *(a)* many toll-gatherers as they shall think proper, to collect and receive of and from all and every person and persons using the said road the tolls and rates herein after mentioned and to stop any person riding, leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulky, chair, chaise, phæton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure from passing through the said gates or turnpikes, until they shall have respectively paid the same, that is to say; for *every space of five miles in length* of the said road, the following sums of money, and *so in proportion* for any greater or less distance, or for any greater or less number of hogs, sheep or cattle, to wit: for every score of sheep, four cents; for every score of hogs, six cents; for every score of cattle, twelve cents; for every horse or mule, laden or unladen with his rider or leader, three cents; for every sulky, chair or chaise,

a (15)

[5-29-31]

8 Tolls

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

Sect. 13. If any person or persons owning, riding on or driving any carriage of burden or pleasure as aforesaid, or owning, riding, leading or driving any horse or mule, or driving any hogs, sheep or cattle as aforesaid shall, with an intent to defraud the said company or to evade the payment of any of the tolls or duties as aforesaid, pass therewith through any private gate or bar or along or over any private passage-way, or along or over any other ground or land near to or adjoining any turnpike or gate, which shall be erected in pursuance of this Act, or if any person or persons shall with the intent aforesaid take off, or cause to be taken off any horse or other beast, or cattle of draught or burden from any carriage of burden or pleasure, or shall practice any other fraudulent means or device, with the intent to evade or lessen the payment of any such toll or duty, all and every such person or persons offending in manner aforesaid, shall for every such offence respectively forfeit and pay to the Wilmington turnpike company the sum of fifteen dollars to be sued for and recovered with costs of suit before any Justice of the Peace in like manner and subject to the same rules and regulations, as debts of equal amount are or may be by law recoverable.

9 Frauds to evade toll penalty (32) (33)

10 manner of recovery (22-23)

Sect. 14. If the said company shall neglect to keep the said road in good and perfect order and repair for the space of fifteen days, and information thereof shall be given to any Justice of the Peace of New-Castle county aforesaid, such Justice shall issue a precept directed to any constable, commanding him to summon three judicious freeholders to meet at a certain time in the said precept to be mentioned, at the place in the said road which is complained of,

11 Repairs

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

12 not in repair tolls to cease

13 penalty for exacting (22-23)

14 if not repaired—further proceedings

15 Number of gates limited

Sect. 16. [By this section, there cannot be more than one gate for every two miles.]

16 Index-posts

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

mile-stones

17 rates

Sect. 19. If any person or persons shall wilfully break, deface, pull up or prostrate any mile-stone, which shall be placed in pursuance of this Act on the side of the said road, or shall obliterate the letters ot figures inscribed thereon, or shall wilfully break, pull down, deface, destroy or injure any direction-post which shall be erected in pursuance of this Act at the intersection of any road as aforesaid, or the board or index-hand affixed thereto in conformity with the directions of this Act, or shall obliterate the letters or figures inscribed or marked thereon, or destroy, deface or obliterate the letters, figures or other characters marked at any turnpike or gate, which shall be erected in pursuance of this Act for all or any of the purposes therein mentioned, or the whole or any part of any printed list of the rates of tolls, which shall be affixed in pursuance of the directions of this Act at any such gate or turnpike, he or they so offending in the premises shall and each of them shall for every such offence, severally and respectively forfeit and pay to the said president, managers and company the sum of twenty dollars to be sued for and recovered with costs of suit before any Justice of the Peace in manner aforesaid. 18 injuring index-posts, &c. penalty (22-23) (10)

Sect. 20. All wagoners, carters and drivers of carriages of all kinds, whether of burden or pleasure using the said road shall, except when overtaking and passing by a carriage of slower draught, keep their horses and carriages on the right-hand side of the said road in the passing direction, leaving the other side of the said road free and clear, for other carriages to pass and repass; and if any wagoner, carter or driver shall offend against this provision, he shall forfeit and pay any sum not exceeding two dollars to any person, who shall by reason thereof be obstructed in his passage and will sue for the same before any Justice of the Peace, to be recovered with costs in like manner aforesaid. 19 Keeping to the right 20 penalty for neglecting (22-23) (10)

Sect. 21. If any toll-gatherer on the said road shall demand from any person or persons using the said road any greater rate of toll than by this Act is authorized and allowed, such toll-gatherer shall forfeit and pay the sum of twenty dollars for every such offence to be for the use of the person aggrieved to be recovered before any Justice of the Peace of New-Castle county aforesaid in such manner as other debts are before them recoverable. 21 Unlawful toll-- penalty (8-29-32)

Sect. 22. If in the case of any suit or prosecution, which shall be commenced under the directions of this Act for any penalty incurred under the same, whether by or against the said company, their servants or assignees, the said suit or prosecution shall not be sustained by the plaintiff or prosecutor, then and in such case the person or persons prosecuted as aforesaid shall recover by the judgment of the Justice, before whom such suit or prosecution shall be depending, or by action before the Court of Common Pleas of New-Castle county aforesaid (if such prosecution had been instituted before the Court of General Quarter Sessions of the Peace) such sum not exceeding the amount of the penalty, for which the suit or prosecution shall be commenced, as shall be deemed a reasonable retribution for the vexation of such suit or prosecution. 22 Vexatious suits, &c.

Sect. 23. No suit or action shall be brought or prosecuted by any person or persons for any penalties incurred under this Act, 23 Limitat'n of action

unless such suit or action shall be commenced within three months next after the fact committed, and the defendant or defendants in such suit or action, may plead the general issue and give this Act and the special matter in evidence, and that the same was done in pursuance and by the authority of this Act.

24 gen'l issue

25 Work begun & completed

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

26 junction with Gap and Newport turnpike

[By section 27, it is provided, that as soon as the Gap and Newport turnpike company have erected a gate across their road immediately below the junction with this road in conformity to the Act incorporating that company, the Wilmington turnpike company shall erect a gate across this road at or near the said junction.]

27 or any other

[By section 28 it is provided, that as soon as any turnpike road shall be established by law to intersect this road, this company shall erect a gate immediately below the junction.]

28 Prohibited from preventing junction (26)

[By section 29 the company are prohibited from causing or suffering any obstruction with intent to prevent any company incorporated by law to form a junction with this road, from forming such junction, or from repairing this road opposite the place of such junction, if this company neglect to do so.

Passed at Dover, February 1, 1808.

1817

A SUPPLEMENTARY *Act to said Act.*

Whereas doubts have arisen respecting the construction of the twelfth section of the Act to which this is a supplement; for removing whereof—

29 Divisions of the road & toll gates

Section 1. *It shall* and may be lawful for the said Wilmington turnpike company to divide their turnpike road into as many divisions, as they may deem proper, and from time to time to alter the same, so that the said divisions respectively shall not be less than two nor more than five miles in length, and on each of the said divisions to erect one turnpike gate, at which they shall be authorized to demand and receive from all persons using the said road the same proportion of the rates of tolls mentioned in the said twelfth section, which the length of such division on which the said gate is placed bears to five miles; and to stop any person riding, leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulky, chair, chaise, phæton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure, from passing through such gate, until they shall have respectively paid the same: *Provided always*, that the said company shall cause to be affixed on the said gate or gates now or hereafter to be erected for the information of travellers and others using the said road, a printed list of the number and length of said divisions: *And provided always*, that any person or persons residing in Chris-

30 Notice of divisions

31 Commutation

tiana hundred or within the county of New-Castle and within two miles of said road, except persons keeping horses or any sort of carriages of burden or pleasure for hire, shall have a right to contract for the use of said road for himself and his family by the year, to commence on the first day of January and to end on the thirty-first day of December inclusive in each year, or such part thereof as may be unexpired at the time of his application, on the following conditions: The person or persons applying to commute with the said company shall pay on the first day of January in each year or at the time of such application (if made after that period) to said company such sum as may be agreed upon by the parties, not less than five nor more than ten dollars, which said sum shall be carried to the credit of said applicant on the books of said company on account of his commutation; that there shall be charged to said commutant by the said company all tolls incurred by him during the year aforesaid or the residue thereof unexpired at the time of such application at the rate, which the distance used by the said commutant bears to five miles, namely, for any distance not exceeding one mile, one fifth of the rate of toll established by law for five miles, if more than one mile and not exceeding two, two fifths of said rate, and so in like manner for any greater distance; that at the close of the said year, there shall be deducted from the aggregate of tolls so charged, twenty-five per centum, and if the residue shall be greater than the sum passed to the credit of the commutant as aforesaid, then the difference shall be paid by the said commutant to the said company and be recoverable by law as other debts; but if the sum so passed to the said commutant's credit shall exceed the said residue of tolls, then such excess shall be refunded to the said commutant or his legal representatives by the said company and be recoverable by law as other debts; and lastly that no benefit of the commutation provided by this section shall be enjoyed by any person or persons, until the balance, if any found to be due as aforesaid for tolls commuted under this Act for any preceding year or years, be paid to the said company.

Sect. 2. If any person or persons owning, riding or driving any carriage of burden or pleasure, or owning, riding, leading or driving any horse or mule, or driving any hogs, sheep or cattle shall leave the said turnpike road within three hundred yards of any turnpike gate now or hereafter lawfully to be erected and shall return upon the same road within the same distance on the opposite side of said gate, all and every such person or persons shall pay the toll demandable at the said gate in the same manner, as if he, she or they had passed through the same; and in case of non-payment of such toll at that time such person or persons shall be liable to the same penalty or penalties, forfeiture and forfeitures and to be recovered in like manner, as is or are provided in the thirteenth section of the Act, to which this is a supplement: *Provided*, that nothing in this Act shall be construed to repeal or impair the force and effect of the said thirteenth section.

32 When liable for toll—the not passing gate

33 not paying penalty (9-10)

Passed at Dover, Jan. 28, 1817.

II.

1808

34 Gap & Newport

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

35 Corporate name

[By Section 2, the company are incorporated by the name of *The president, managers and company of the Gap and Newport turnpike company.*]

36 Width & manner of making, &c (4, 5)

Sect. 10. [This section is the same as section 10 of the preceding Act (4) and the same proviso (5).

37 License (6)

Sect. 11. [This section is the same as section 11 of the preceding Act, the specified distances only being different.]

38 Tolls (7, 8, 41)

Sect. 12. [This section is the same as section 12 of the preceding Act except the word *whin* is not in this section.]

39 Frauds to evade toll (9, 10)

Sect. 13. [This section is the same as section 13 of the preceding Act; in this section the words "the president, managers and company of the Gap and Newport turnpike road" are used instead of the words *the Wilmington turnpike company* in that section.]

40 Inquiry of repair, &c. [11, 12, 13, 14]

Sect. 14. [This section is the same as section 14 of the preceding Act, except that in this section the words "the proper county" are used instead of the words *New-Castle county* in that section, and that in this section the words following the words "the said county," in the last clause are "and shall be paid to the supervisors of the high-ways of the place, wherein the offence was committed to be appliedto repairing such highways, as the hundred or county is bound to repair at the public expense thereof."

41 Number of gates limited

Sect. 16. [By this section there cannot be more than one gate for every five miles.]

42 Accounts to be laid before General Assembly

[By section 17, it is provided, that the president and managers shall at the end of every third year after the date of the incorporation, until two years next after the whole road shall be completed lay before the General Assembly an abstract of their accounts; and if at the end of two years after the said road shall be completed, it shall appear from the average profits for said two years that the clear income will not bear a dividend of six per cent. per ann. on the capital expended, then it shall be lawful for the president, managers and company to increase the tolls in equal proportions on every allowance, so as to raise the dividends to six per cent. per ann.; and that at the end of every ten years after the road completed, a like account for the three preceding years shall be rendered to the General Assembly, and if it shall appear that the clear profits will bear a dividend of more than nine per cent. per ann., the tolls shall be reduced so as to reduce the dividend to nine per cent. per ann.]

Sect. 18 & 19. [These sections are the same as sections 18 & 19 of the preceding Act.] 43 Index posts, &c. [16-17]

Sect. 20. [This section is the same as section 20 of the preceding Act.] 44 Keeping to the right [19—20]

Sect. 21. [This section is the same as section 21 of the preceding Act, except that in this section the words following the words "such offence" are "one half to the use of the supervisors of the roads or highways of the hundred in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any Justice of the Peace of the county, where such offence shall have been committed."] 45 Unlawful toll [21-37]

Sect. 22, 23, 24. [These sections are the same as sections 22, 23, 24 of the preceding Act.] 46 (22, 23, 24 25)

Sect. 25. If the Legislature should, at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the Governor, and three by the president and managers of the said company, and three by the Judges of the Supreme Court, who are hereby required to appoint the same, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the Governor of this State, who shall cause the same to be laid before the Legislature, at their next session, and whenever the amount, so certified, shall be paid by the State to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine. 47 Legislature after 1830, taking the road

Sect. 27 & 28. [These sections are the same in effect as sections 28 and 29 of the preceding Act.] 48 (27, 28)

III.

AN ADDITIONAL SUPPLEMENT *to An Act entitled "An Act to incorporate a company for making an artificial road from the town of New-Castle in New-Castle county to the line of this State in the route or direction to Frenchtown on Elk River in Cœcil county, in the State of Maryland."* 1813 New-Castle & Frenchtown

[By section 2. the company is incorporated by the name of *The president, managers and company of the New-Castle and Frenchtown turnpike.*] 49 Corporate Name

[Sect. 4 provides for licences to take toll.]

Sect. 5. Every person or persons, who shall prefer an annual contract for the use of the said road, shall be entitled for himself and his family to all the benefits of the same, (except as to stages for the conveyance of persons for hire and wagons for the conveyance of goods, wares and merchandise,) for the sum of one dollar per mile annually to be paid in such manner, that a quarterly payment shall always be in advance. And if any person or persons, who wish to make such contract, shall think the annual sum aforesaid unreasonable and disproportionate to the number of their family and their use of the said road, the party so aggrieved and the president of the said company shall each choose one disinter- 50 Commutation

Sect. 18 & 19. [These sections are the same as sections 18 & 19 of the preceding Act.] 43 Index posts, &c. [16–17]

Sect. 20. [This section is the same as section 20 of the preceding Act.] 44 Keeping to the right [19—20]

Sect. 21. [This section is the same as section 21 of the preceding Act, except that in this section the words following the words "such offence" are "one half to the use of the supervisors of the roads or highways of the hundred in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same, to be recovered before any Justice of the Peace of the county, where such offence shall have been committed."] 45 Unlawful toll [21–37]

Sect. 22, 23, 24. [These sections are the same as sections 22, 23, 24 of the preceding Act.] 46 (22, 23, 24 25)

Sect. 25. If the Legislature should, at any time after the year one thousand eight hundred and thirty, think proper to take possession of the said road, three persons shall be appointed by the Governor, and three by the president and managers of the said company, and three by the Judges of the Supreme Court, who are hereby required to appoint the same, who, or any six or more of them, not having any interest in the said road, shall proceed to examine and estimate the value of the property which the said company have therein, and certify the amount thereof to the Governor of this State, who shall cause the same to be laid before the Legislature, at their next session, and whenever the amount, so certified, shall be paid by the State to the said company, their right to take toll on the said road, together with all their right, title, claim and interest therein, shall cease and determine. 47 Legislature after 1830, taking the road

Sect. 27 & 28. [These sections are the same in effect as sections 28 and 29 of the preceding Act.] 48 (27, 28)

III.

AN ADDITIONAL SUPPLEMENT *to An Act entitled "An Act to incorporate a company for making an artificial road from the town of New-Castle in New-Castle county to the line of this State in the route or direction to Frenchtown on Elk River in Cœcil county, in the State of Maryland."* 1813 New-Castle & Frenchtown

[By section 2. the company is incorporated by the name of *The president, managers and company of the New-Castle and Frenchtown turnpike.*] 49 Corporate Name

[Sect. 4 provides for licences to take toll.]

Sect. 5. Every person or persons, who shall prefer an annual contract for the use of the said road, shall be entitled for himself and his family to all the benefits of the same, (except as to stages for the conveyance of persons for hire and wagons for the conveyance of goods, wares and merchandise,) for the sum of one dollar per mile annually to be paid in such manner, that a quarterly payment shall always be in advance. And if any person or persons, who wish to make such contract, shall think the annual sum aforesaid unreasonable and disproportionate to the number of their family and their use of the said road, the party so aggrieved and the president of the said company shall each choose one disinter- 50 Commutation

ested person, who shall decide what reduction shall be made from the annual payment aforesaid; and in case the two persons so chosen cannot agree, they shall choose a third person, and then the three persons or a majority of them shall decide as aforesaid; or in case the said president of the New-Castle and Frenchtown turnpike company shall neglect or refuse to choose a disinterested person for the space of five days, the person chosen by the party aggrieved as aforesaid shall decide what reduction ought to be made; and the sum thus fixed shall be the commutation of such person for the current year.

51 Frauds to evade tolls [9]

Sect. 6. [This section is the same substantially as section 13 of the Act first under this title—the words "or ox" being inserted in this section after the word "mule" and the words "the said company" being used in this section in place of the words *the Wilmington turnpike company* in said section 13.]

52 Commissioners of roads in New-Castle & Pencader authorized to subscribe

[By section 7, the commissioners of roads in New-Castle hundred or a majority of them and the commissioners of roads in Pencader hundred or a majority of them, are authorized for each hundred, to subscribe for any number of shares not exceeding one hundred, and to vote at elections and receive dividends.]

Passed at Dover, January 28, 1813.

1818

A SUPPLEMENT *to an Act entitled "An additional supplement to an Act entitled an Act to incorporate a company for making an artificial road from the town of New-Castle in New-Castle county to the line of this State in the rout or direction to Frenchtown on Elk river in Cœcil county in the State of Maryland.*

53 Route & width

Section 1.—[By this section the president, managers and company of the New-Castle and Frenchtown turnpike are authorized to lay out an artificial turnpike road from the place known by the name of Clark's Corner as far as the Maryland line in the direction toward Frenchtown, and after the said road is located of the breadth of sixty feet to cause a map of the same to be made; which map shall be certified by the surveyor, signed by the president and delivered to the Recorder of New-Castle county, who is required to record the same, and said map with the certificate of the surveyor, the signature of the president and certificate of the Recorder with the seal of his office or copy thereof is evidence.]

54 Penalty for nuisances

And in case any person or persons shall thereafter obstruct the road of the said company so laid out and recorded, or shall commit any nuisance thereon, and do not remove any such obstructions or nuisances therefrom within twenty four hours after notice given him, her or them, such person or persons so offending shall severally for every such offence forfeit and pay to the said company the sum of ten dollars for every twenty four hours, such obstruction or nuisance shall be continued, after such notice has been given; which penalty shall be recoverable with costs of suit before any Justice of the Peace in and for New-Castle county, as debts of a like amount are by law recoverable. *Provided however*, that the president and managers of the New-Castle and Frenchtown turnpike shall not in the location of their road or in the prosecution of the

55 not to obstruct any other turnpike or road on Ch. & Del. canal

same in any way hinder or obstruct any other turnpike or canal company heretofore incorporated for making any artificial road or canal in the county of New-Castle, or hereafter offer any let or hindrance to the progress of the Chesapeake and Delaware canal, if the same should cross the said road; nor shall the said turnpike company hinder any county or public road from crossing their said road, or offer any let or hindrance to any person or persons whatsoever from travelling across said road in the direction of any public or private way.

Sect. 6.—[This section is the same in substance as section 12 of the Act first under this title—except that these words in that section "or being of the breadth of seven inches and shall roll more than ten inches" are omitted in this section.] 56 Tolls (7, 8)

Provided however that no tolls be demanded or taken from any person passing or repassing from one part of his or her farm to another part of the said farm, or to or from any place of public worship, or funeral, on days appointed for that purpose, or from any citizen legally qualified to vote when going to or from the place of any general or special election upon days held or appointed for that purpose. Persons exempt from toll

Sect. 7.—[By this section there can not be more than one gate for every five miles.] Number of gates limited

[By section 8, if at the end of two years from completing the road, it shall appear by an abstract of the accounts rendered to the General Assembly, that the clear income will not bear a dividend of six per cent. per ann. on the capital, there is the like provision for increasing the tolls, and in case of increase the like provision for decennial accounts, and for reducing the tolls if the clear income will bear a dividend exceeding nine per cent. per ann. on the capital, as contained in section 17 of the Act second (II.) under this title.] Tolls increased (12)

Sect. 9.—[This section is substantially the same as section 18 of the Act first under this title—except that the word *painted* is used in this section in place of the word "printed" in that.] 57 Index-posts &c (16, 17, 18)

Sect. 10.—[This section is substantially the same as section 19 of the Act first under this title—except that in this section the words *injure or* are used before the word "obliterate," where it first occurs, and in this section before the words *he or they so offending* is this clause "or shall unhang, pull up, break down, or in any manner whatsoever willfully damage any gate, paling, or post thereto belonging or attached" and also in this section after the words *severally and respectively* is this clause "besides paying the appraised value of every such mile stone, post, index board, gate or paling."] 58 Injuring index-posts, &c. [18]

Sect. 11.—[This section is substantially the same as section 20 of the Act first under this title, except that after the words "forfeit and pay" there are in this section these words "as well all damages, which may arise from his breach of this provision" over and above what is in that section.] 59 Keeping to the right [19]

Sect. 12.—[This section is substantially the same as section 21 of the Act first under this title; except that in this section after the words *such offence* are these words "*the one half to the commissioners of roads in the hundred, in which the forfeiture may be incurred and* 60 Unlawful tolls [21]

the other half to the person who may sue for and recover the same before any Justice of the Peace in New-Castle County."]

61 Vexatious suits [22]

Sect. 13.—[This section is substantially the same as section 22 of the Act first under this title.]

62 Limitation [23, 24]

Sect. 14.—[This section is substantially the same as section 23 of the Act first under this title.]

63 Inquiry as to repairs, &c [11,12,13,14]

Sect. 15.—[This section is substantially the same as section 14 of the Act first under this title—except that after the word *freeholders*, where it first occurs, in this section are these words—"not residing within the hundreds of New-Castle or Pencader" and after the words *notice shall be given*, in this section are the words "to the president and managers of the said company in writing at least three days before such meeting"—and after the words *between which such defective place may be*, in this section are these words—"and if the said defective place so pointed out by said Inquisition should not be repaired within the space of fifteen days from such notice being received, then and" and in this section after the word *usually recovered* are these words "and shall be paid to the commissioners of roads of the place or hundred wherein the offence was committed to be applied to the repair of the roads of such hundred" in place of the last clause of said section 14.]

Passed at Dover, January 20, 1818.

IV.

1811

Kennet

AN ACT *to incorporate a company for making a turnpike road from the borough of Wilmington to the line between this State and Pennsylvania, at or near the house now occupied by Charles Twaddle.*

64 Corporate Name

[By section 2 the subscribers are incorporated by the name of *The Wilmington and Kennet turnpike company.*]

65 Route

[By section 8, the president and managers are authorized to fix "such route for the same road as in the best of their judgment and skill will be most practicable from the borough of Wilmington to the line between this State and Pennsylvania, at or near the house now occupied by Charles Twaddle."]

66 Width &c [4]

67 Public worship and funeral—no toll (5)

Sect. 10.—[This section is substantially the same as section 10 of the Act first under this title, varying therefrom in substance only so far as to conform to the route of this road, and with the same proviso.] (5)

68 Licenses (6)

Sect. 11.—[This section is substantially the same as section 11 of the Act first under this title.]

69 Tolls

Sect. 12.—[This section is substantially the same as section 12 of the Act first under this title—except, that the toll for a score of sheep and of hogs is the same, viz. 6 cents.]

[7, 8—72, 73]

70 Frauds to evade toll (9, 10)

Sect. 13.—[This section is substantially the same as section 13 of the Act first under this title—substituting in this section the words *Wilmington and Kennet* for the word "Wilmington" in that.]

71 Repairs [11,12,13,14]

Sect. 14.—[This section is substantially the same as section 14 of the Act first under this title.]

72 Number of gates limited

Sect. 16.—[By this section there cannot be more than one gate for every two miles.]

Sect. 17.—[This section is substantially the same as section 17 of Act second (II.) under this title.] 73 Increase of tolls [42]

Sect. 18, 19.—[These sections are substantially the same as sections 18 and 19 of the Act first under this title.] 74 Index-posts, &c. [15,16,17,18] Keeping to the right [19, 20]

Sect. 20.—[This section is the same as section 20 of the Act first under this title, except that in this section the words *five dollars* are used instead of the words "two dollars" in that.]

Sect. 21, 22, 23.—[These sections are substantially the same as sections 21, 22, 23 of the Act first under this title.] 74 Unlawful toll's, &c [21, 22, 23]

Sect. 26. Any person or persons residing in Christiana hundred (except persons keeping horses or any sort of carriages for hire) shall have a right to contract for the use of the said road for himself and his family by the year; if on application to the president and managers of said road they cannot agree, the parties shall choose each a disinterested freeholder, who if they cannot agree, may appoint a third, who shall determine (any two agreeing) what sum ought to be paid by such person or persons for one year for the use of the said road for himself and family, which sum shall be paid in two equal payments half yearly and in advance. 75 Commutation

[By section 27 it is provided, that if the commissioners of roads for Christiana hundred shall after the year 1820 think proper to purchase the road on behalf of said hundred, they shall apply to the president and managers and company, and if the parties cannot agree for the same, they shall agree upon five or more disinterested freeholders of New-Castle county, who shall examine and estimate the value on oath or affirmation under their hands and seals, and upon payment of the amount, the right shall become vested in the commissioners of roads of Christiana hundred, who shall declare said road free and no further toll shall be collected.] 75 Purchase by comm'ts of roads of Christiana hundred

Passed at Dover, January 21, 1811.

V.

AN ACT *to incorporate a company for making an artificial road from or near the borough of Wilmington in the county of New-Castle on the east side of the Brandywine creek in the route through Westchester to the turnpike roads in the Great Valley, in the State of Pennsylvania.* 1811 West-Chester

[By section 2 the company are incorporated by the name of *The president, managers and company of the Wilmington and Great Valley turnpike company.*] 76 Corporate Name

[By section 8 the route of said road is to be—in, near or from the borough of Wilmington to the line of the State of Pennsylvania on the east side of the Brandywine in Brandywine hundred to communicate with or near upon the track of the Concord road at the line of the State of Pennsylvania.] 77 Route

Sect. 10.—[This section is substantially the same as section 10 of the Act first under this title—and same proviso.] 78 Width, &c (4)

Sect. 11.—[This section is of the same substance as set forth for section 11 of the Act first under this title.] 79 No toll in certain cases [5—91] Licenses [6]

Sect. 12.—This section is substantially the same as section 12 80 Tolls [7,8 [90—79]

of the Act first under this title—except that the words "and every ass or mule as equal to one horse" are not in this section.]

81 Repairs [11,12,13,14]

Sect. 13.—[This section is substantially the same as section 14 of the Act first under this title—except that the last clause following the words "usually recovered in the said county," in this section is, *and shall be paid to the commissioners of the roads of the place wherein the offence was committed to be applied to repairing such roads as the hundred is bound to repair at the public expense thereof.*]

82 Number of gates limited

Sect. 15.—[By this section there cannot be more than one gate for every two miles.]

83 Increase of tolls [42]

Sect. 16.—[This section with section 1 of the Supplement is substantially the same as section 17 of the Act second (II.) under this title—except that by this section the surplus above nine per cent. per ann. is to be applied to sinking the capital, until the whole is extinguished.]

Index-posts, &c (16,17,18,19)

Sect. 17, 18.—[These sections are substantially the same as sections 18 and 19 of the Act first under this title.]

Keeping to the right (19, 20)

Sect. 19.—[This section is substantially the same as section 20 of the Act first under this title, except that in this section the words *five dollars* are used in the place of the words *two dollars* in that.]

84 Unlawful toll [21]

Sect. 20.—[This section is substantially the same as section 21 of the Act first under this title—except that in this section, after the words "such offence" are these words—*one half to the use of the commissioners of the road in the hundred in which the forfeiture shall be incurred and the other half to the use of the person suing for the same.*]

85 Vexatious suits, &c [22, 23, 24]

Sect. 21, 22.—[These sections are substantially the same as sections 22 and 23 of the Act first under this title.]

86 Frauds to evade tolls [9, 10]

Sect. 24. [This section is substantially the same as section 13 of the Act first under this title; except the words "any horse or mule" are in this section omitted—and in this section the words "president, managers and company of the Wilmington and Great Valley turnpike road" are substituted for the words *Wilmington turnpike company* in that section.]

87 Junction of of other roads (28)

Sect. 26.—[This section restrains the company from preventing any other incorporated company from forming a junction with their road.]

Passed at Dover, January 23, 1811.

1816

A SUPPLEMENT *to said Act.*

88 Commutation

Section 2. It shall be lawful for any person or persons living in Brandywine hundred and being owner or possessor of meadows, marshes or arable land in the vicinity of the said Wilmington and Great Valley turnpike, to commute, by the year, for the passage of their wagons, teams, carts, cattle, horses, sheep and hogs going to or coming from said lands at the rate of one dollar per mile to be paid in such manner, that a quarterly payment shall be made in advance; and if any person, who has occasion to use the said road, shall deem such sum unreasonable and disproportionate to his use of the said road, the party so deeming himself aggrieved

and the president of the said company shall each choose one disinterested freeholder, who shall decide what reduction, if any, shall be made from the annual payment aforesaid; and in case the two persons so chosen cannot agree, they shall choose a third person, and then the three persons or a majority of them shall decide as aforesaid; or in case the said president shall refuse or neglect to choose a freeholder for the purpose aforesaid for the space of ten days, then the freeholder chosen by the party aggrieved as aforesaid shall decide what reduction ought to be made, which shall be the commutation for the current year.

Passed at Dover 1 *Feb.* 1816.

AN ADDITIONAL SUPPLEMENT. 1818

89 Part of road near State line

Section 2. The president managers and company aforesaid shall not be obliged to complete the remainder of the said road, being about sixty-eight perches, to the Pennsylvania line, until the turnpike road leading from the Great Valley through Westchester to the said line shall be completed; then if the said president, managers and company shall not proceed to carry on and complete the said remainder of sixty-eight perches of the road aforesaid, within one year thereafter, it shall and may be lawful for the Legislature of this State to resume all and singular the rights, liberties, privileges and franchises which by this Act, or the Act to which this is a supplement, are granted to the said company.

Passed Jan. 29, 1818.

A SUPPLEMENT *to the same Act.* 1827

90 Fractions of toll

Any person or persons, who shall hereafter travel on the said turnpike road or use it for any space or distance less than one mile, shall be charged and required to pay toll or tolls as for one full or entire mile: and when such tolls shall, according to the rate of tolls established by the Act to which this is a supplement, amount to any sum less than one cent, the said company shall have a right to demand and receive for the said toll, one cent, any law, usage or custom to the contrary notwithstanding: and all the tolls demandable under this Act, shall be collected in the same manner, and the toll-gatherers shall have the same power and authority, as is provided in this behalf in the Act to which this is a supplement: *Provided*, that nothing in this Act shall authorize the said company to demand or receive toll from any elector of Brandywine hundred going to and returning from any general or special election.

91 Electors exempt

Passed at Dover, January 19, 1827.

VI.

1811 AN ACT *to incorporate a company for making an artificial road from the town of New-Castle to Clark's Corner.*

92 Corporate name

[By section 2 the company is incorporated by the name of *The New-Castle turnpike company.*]

93 The road, width, manner of making, &c.

[By section 7, the president, managers and company are authorized to occupy all the lands within the limits of the road known by the name of the State road, formerly the King's road from the town of New-Castle towards Redlion, as far as the intersection of said road with the Wilmington bridge road at Clark's corner, beginning at the intersection of Delaware and Union streets, and to cause twenty feet thereof in breadth, at least, to be made an artificial road, which shall be bedded with wood, stone, gravel, clay, or other proper and convenient materials well compacted together a sufficient depth to secure a solid foundation for the same; and the said artificial road shall be faced with clay, gravel or stone pounded, or other small hard substance in such manner, as to secure a firm and as nearly as the nature of the country and the materials will admit an even surface rising towards the middle by a gradual arch and shall maintain and keep the same in good order and repair.]

94 Tolls

[By section 8, the company is authorized to collect tolls, to erect gates and to stop any person riding, leading or driving any cattle, hogs, sheep, sulky, chair, chaise, phæton, coach, coachee, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure from passing through said gates, until payment—that is to say, the following sums of money, and so in proportion for any greater or less number of hogs, sheep or cattle: to wit, for every score of hogs, three cents; for every score of sheep, two cents; for every score of cattle, six cents; for every horse or mule, laden or unladen, with his rider, two cents; for every sulky, chair or chaise, with one horse and two wheels, three cents, and with two horses, four and a half cents; for every chair, coach, phæton, chaise, stage-wagon, coachee or other wagon, with two horses and four wheels, six cents; for either of the carriages last mentioned, with four horses, ten cents; for every other carriage of pleasure under whatever name it may go, the like sums, according to the number of wheels and of horses drawing the same: for every sleigh or sled, one cent for each horse drawing the same; for every cart or wagon, or other carriage of burthen, the wheels of which do not in breadth exceed four inches, two cents for each horse or ox drawing the same; for every cart or wagon, the wheels of which shall exceed in breadth four inches, and shall not exceed seven inches, one cent and an half for each horse or ox drawing the same; for every cart or wagon the breadth of the wheels of which shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches and shall roll more than ten inches, one cent for each horse or ox drawing the same; for every cart or wagon the breadth of the wheels of which shall be more than ten inches and not exceeding twelve inches, or being ten inches shall roll more than fifteen inches, half a cent for each horse or ox drawing the same.]

Sect. 10.—[This section provides, that if at the end of two years after the road is completed, it shall appear from the average profits thereof for said two years that the clear income will not bear a dividend of six per cent. per ann. on the capital, the president, managers and company are authorized to increase the tolls in equal proportions on every allowance (except commutations) so as to raise the dividends to six and not exceeding nine per cent. per annum.] 95 Increase

Sect. 12. That every person or persons who shall prefer an annual contract for the use of the said road shall be entitled for himself and his family to all the benefits of the same, except as to stages for the conveyance of persons for hire, and wagons for conveyance of goods, wares and merchandises, for the sum of two dollars to to be paid in such manner that a quarterly payment shall always be in advance; and if any person or persons who wish to make such contract, shall think the said annual contract unreasonable and disproportionate to the number of their family and their use of the said road, the party so aggrieved and the president of the said company intended to be incorporated by this Act, shall each choose one disinterested freeholder, who shall decide what reduction if any shall be made from the annual payment herein before specified; and in case the two persons so chosen cannot agree, they shall choose a third person, and then the three persons or a majority of them shall decide as aforesaid; or in case the said president shall refuse or neglect to choose a freeholder for the purpose aforesaid for the space of ten days, then the freeholder chosen by the party aggrieved as aforesaid shall decide what reduction ought to be made, which shall be the commutation for the current year. 96 Commutation

Sect. 14.—[This section is substantially the same as the first part of section 14, of the Act first under this title—to wit, as far as the words "shall be put into good and perfect order and repair as aforesaid" inclusive, but all the subsequent parts of said section are omitted from this.] 97 repairs (11, 12)

Sect. 16. The corporation intended to be created by this Act shall cease when and as soon as the hundred of New-Castle, or the inhabitants of the town of New-Castle shall pay to the said company the amount of the money, which may be expended for the improvement of the said road, unless purchased as is directed in the eleventh section of this Act: *provided always*, that no payment shall be made of more than one moiety of the sum so expended at the expiration of five years from the time when the said company shall commence receiving tolls, and the other moiety at the expiration of ten years from the time aforesaid: *And provided always*, that after the expiration of ten years from the time of receiving tolls, if no part of the sum expended as aforesaid shall be paid, then the whole or a moiety thereof may be paid at the expiration of any term of five years thereafter and not otherwise. 98 Provision for the purchase of the road

Sect. 17.—[This section is substantially the same as set forth for section 29 of the Act first under this title.] 99 Prohibition from preventing junction (28)

Sect. 18.—[By this section provision is made for the commissioners of the roads of New-Castle hundred to subscribe, &c.] 100 Purchase

Sect. 19.—[This section is substantially the same as section 21 101 Unlawful tolls (21)

of the Act first under this title; except that after the word "offence," in this section are these words *one half to the use of the commissioners of the roads in the hundred of New-Castle, and the other half to the use of the person suing for the same.*]

102 Vexatious prosecutions (22)

Sect. 20.—[This section is substantially the same as section 22 of the Act first under this title; except, that after the words "the judgment of the Justice," in this section are these words *or the court*: and the words "or by action in the Court of Common Pleas of New-Castle county aforesaid, if such prosecution had been instituted before the Court of General Quarter Sessions of the Peace" are not in this section.]

103 Limitat'n (23)

Sect. 21.—[This section is the same as section 23 of the Act first under this title.]

104 Keeping to the right (19, 20)

Sect. 22.—[This section is the same as section 20 of the Act first under this title—except that in this section the words *five dollars* are used in place of the words *two dollars* in that.]

Passed at Dover, January 30, 1811.

1814

SUPPLEMENT *to said Act.*

Section 4.—[This section is substantially the same as section 13 of the Act first under this title—the word "New-Castle" being in this section substituted for the word *Wilmington* in that.)

105 Injuries to company

Sect. 11. If any person or persons shall cut, damage or destroy any of the gates or improvements made or to be made by the New-Castle turnpike company, he, she or they so offending and being thereof convicted before any Justice of the Peace of New-Castle county, upon the oath or affirmation of one or more credible witness or witnesses, shall forfeit and pay, over the damage done, the sum of thirty dollars to be recovered under the hand and seal of the Justice, before whom such conviction was had, to and for the use of the New-Castle turnpike company.

Passed February 12, 1814.

VII.

1813

Philadelphia

AN ACT *to incorporate a company for making an artificial road from the borough of Wilmington on the east side of Brandywine bridge to the Pennsylvania line in the route leading to the city of Philadelphia.*

106 Corporate name

[By section 2 the company is incorporated by the name of *The Wilmington and Philadelphia Turnpike Company.*]

107 Width &c (4)

108 No toll in certain cases (5)

Section 10.—[This section is substantially the same as section 10 of the Act first under this title, and same proviso, except that in respect to the width of this road the words "nor less than sixty" are added.]

109 Licenses (6)

Sect. 11.—[This section is substantially the same as section 11 of the Act first under this title.]

110 Tolls [7,8-108,120] Increased [116—119]

Sect. 12.—[This section is substantially the same as section 12 of the Act first under this title; except that the toll for a score of sheep as well as of hogs is six cents, and for *twelve cents* in two places in that section, the sum is *twelve and one half cents* in this.]

Sect. 13.—[This section is substantially the same as section 13 of the Act first under this title, substituting in place of the word *Wilmington* in that section the words *Wilmington and Philadelphia* in this.] 111 Frauds to evade tolls (9, 10)

Sect. 14.—[This section is substantially the same as section 14 of the Act first under this title; except that in the proviso, the word *fifteen* is used in this section for the word *twenty* in that.] 112 Repairs (11,12,13,14)

Sect. 16.—[By this section there cannot be more than one gate for every two miles.] Number of gates limited

Sect. 17.—[By this section it is provided that the president and managers shall at the end of every third year from the date of their incorporation until two years after the whole road shall be completed, lay before the General Assembly an abstract of their accounts showing the whole amount of capital expended, and of the income from the tolls with an abstract of the costs of keeping the road in repair and all contingent charges, and shall at the end of every ten years after the said road is completed render to the General Assembly a like abstract of their accounts for three preceding years.] 113 Accounts for General Assembly [117]

Sect. 18, 19, 20, 21, 22, 23.—These sections are the same in substance as sections 18, 19, 20, 21, 22, 23, of the Act first under this title; except that in section 20 the words *five dollars* are used in this Act in place of the words *two dollars* in that.] 114 Index-posts, unlawful toll, &c. (15—24)

Sect. 27. Every person, who shall prefer an annual contract for the use of the said road, shall be entitled for himself and family to all the benefits of the same, for one dollar per mile annually, to be paid in such manner as that a quarterly payment shall always be in advance; and if any person or persons, who wish to make such contract, shall think such annual contract unreasonable and disproportionate to the number of their family and their use of the said road, the party so aggrieved and the president of the said company intended to be incorporated by this Act, shall each choose one disinterested freeholder, who shall decide what reduction, if any, shall be made from the annual payment herein before specified; and in case the two persons so chosen cannot agree, they shall choose a third person, and then the three persons or a majority of them, shall decide as aforesaid: or in case the said president shall neglect or refuse to appoint a freeholder for the purpose aforesaid, for the space of ten days, then the freeholder chosen by the party aggrieved as aforesaid, shall decide what reduction ought to be made, which shall be the commutation for the current year. 115 Commutation [118]

Passed February 1, 1813.

AN ADDITIONAL SUPPLEMENT *to said Act.* 1818

Whereas the president and managers of the said turnpike company have at considerable expense completed the road authorized by the Act, to which this is an additional supplement; and whereas it appears to this General Assembly from the abstract of the expenditures, income and profits of the same, they have been obliged to pledge the whole of the stock and income to obtain money to complete the said road.

116 Increase of tolls

Section 1. It shall and may be lawful for said president, managers and company to increase the tolls allowed by the Act, to which this is an additional supplement, except as to commutation, in equal proportions upon each and every allowance thereof, so as to raise the dividends up to six per cent. per annum: and if it shall appear by any such abstract of the accounts of the said corporation to be laid before the General Assembly, as is required by said original Act, that the clear profits of said company have exceeded on an average nine per cent. per annum upon the capital stock for ten years preceding, then and in such case the said toll shall be so reduced, as to reduce the said dividend down to nine per cent. per annum.

117 under what circumstances diminished

118 Commutation in certain cases

Sect. 2. In all annual contracts, hereafter to be entered into, for the use of the said road, by any person for himself or herself and family the same shall not extend to heavy wagons or carts employed for carrying wood and other heavy articles to market: but if the owner of such team wish to contract by the year, he shall have the right so to do, by application to the present managers of said road; and if they cannot agree, the said parties shall choose each a disinterested freeholder, who, if they cannot agree, may appoint a third, who shall determine (any two agreeing) what sum shall be paid by such person or persons for one year for the use of the said road for such heavy wagons or carts as aforesaid, which sum shall be paid in four equal quarterly payments in advance.

Passed at Dover, 29 January, 1818.

1827 A FURTHER SUPPLEMENT *to said Act.*

119 Fractions of toll

Section 1. Any person or persons, who shall hereafter travel on the said road or use it for any space or distance less than one mile, shall be charged and required to pay toll or tolls as for one full and entire mile; and where such toll shall, according to the rate of tolls established by the Act, to which this is a supplement, amount to any sum less than one cent, the said company shall have a right to demand and receive for the said toll one cent; any law, usage or custom to the contrary notwithstanding; and all the tolls demandable under this Act shall be collected in the same manner and the toll-gatherers shall have the same power and authority, as are provided in this behalf in the Act, to which this is a supplement: *Provided,* That no toll shall be charged to the electors of Brandywine hundred on the days of general or special elections either in going to or returning from the polls.

120 exempt'n from toll

Passed at Dover, February 2, 1827.

VIII.

1813 AN ACT *to incorporate a company to make an artificial road or turnpike from Christiana bridge in the county of New-Castle in this State to the Maryland line in a direction towards Elkton.*

[Elkton

121 Corporate Name

(By section 4 the company is incorporated by the name of the *Elk and Christiana turnpike company.*)

(By section 6, the road is to be opened from Christiana bridge to Elk landing, &c. not more than sixty-six feet wide, twenty feet in width of which shall be bedded with stone, gravel or other hard substance.) 122 Width of the road

[Section 7 adopts the

"ACT *to incorporate a company for making an artificial road from the town of New-Castle in New-Castle county to the line of this State in the route or direction to Frenchtown on Elk river in Cœcil county in the State of Maryland.*"]

(*The said Act was afterwards repealed; but it is supposed, that by this repeal it did not cease to be a part of this Act into which it was thus adopted. The following sections of said Act are presumed therefore to apply.*) 123 Construction [4]

Section 10.—(This section is substantially the same as section 10 of the Act first under this title, with same proviso.) 124 No toll in certain cases

Sect. 12.—(This section is in substance the same as section 12 of the Act first under this title, with this addition: "*Provided always,* That it shall not be lawful for the said turnpike company to erect or cause to be erected any toll gate or gates on either of the roads leading through New-Castle county, over which the said turnpike road shall pass, any thing in this Act to the contrary notwithstanding.") 125 Tolls (7, 8—124)

Sect. 13.—(This section is substantially the same as section 14 of the Act first under this title; except that after the words "usually recovered in said county," are these words in this section *and shall be paid to the commissioners of the roads of the place wherein the offence was committed.*) 126 Repairs (11,12,13,14)

Sect. 15.—(By this section there can not be more than one gate for every five miles.) Number of gates limited

Sect. 16.—(This section is substantially the same as section 17 of the Act Second (II.) under this title.) 127 Increase of tolls (42)

Sect. 17, 18.—(These sections are substantially the same as sections 18, 19, of the Act first under this title; except that in this section before the words *twenty dollars* are the words *not exceeding.*) 128 Index-boards, &c. (15–18)

Sect. 19, 20.—(These sections are the same in substance as sections 20, 21, of the Act first under this title; except that in section 20 of this Act after the words *such offence* are these words *one half to the commissioners of the roads in the hundred in which the forfeiture shall be incurred, and the other half to the use of the person suing for the same.*) 129 Unlawful toll, &c. (19–21)

Sect. 21, 22.—(These sections are substantially the same as sections 22, 23, of the Act first under this title.) 130 Vexatious suits, &c. (22–23)

Sect. 24.—(This section provides for the Legislature taking the road after 1831, and paying amount, if deemed proper.) 131 Legislature may take the road [28]

Sect. 26.—(This section is substantially the same as section 29 of the Act first under this title.) 132 Junction of other road

Passed at Dover, April 14, 1813.

AN ACT SUPPLEMENTARY *to said Act.*

133 [III] Adopted (49-52)

Section 1. The Act entitled "An additional Supplement to an Act entitled An Act to incorporate a company for making an artificial road from the town of New-Castle in New-Castle county to the line of this State, in the route or direction towards Frenchtown on Elk river in Cœcil county in the State of Maryland," and all and every section, clause and provision therein contained are hereby declared and enacted to extend to and be incorporated with the Act entitled "An Act to incorporate a company to make an artificial road or turnpike from Christiana bridge in the county of New-Castle in this State, to the Maryland line in a direction towards Elkton," changing or varying what in the said sections, clauses and provisions contained in the said first mentioned law ought to be changed or varied, in order to render the same applicable and suitable as part of the same last mentioned Act: *provided,* that wagons, carts and other carriages of burden for the conveyance of goods, wares and merchandise, including wood and other timber intended in any way for sale, shall be and are hereby declared and enacted to be excepted out of the commutation-provisions contained in section five of the said first mentioned supplementary Act: *provided further,* that the owners of such wagons, carts and other carriages of burden conveying cord wood for sale, shall be entitled to a discount of twenty-five per centum from the rate of tolls allowed by law, the said company having agreed thereto.

134 commutation regulated (50)

135 Tolls at Cooch's bridge

Sect. 2. The president, managers and company of the Christiana and Elkton turnpike shall have power and are hereby authorized to demand and receive for passing the bridge erected by the said company over the Christiana creek and called and known by the name of Cooch's bridge, from Middletown towards the village of New-Ark, or from New-Ark in a direction towards Middletown, one third of the rate of toll allowed for five miles of said turnpike road, by their Act of incorporation: *provided always,* that the Elk and Christiana turnpike company shall at all times keep and maintain a good and sufficient bridge over the Christiana creek at the place aforesaid; and in case the said bridge shall not be kept in good order and repair, the same provisions, as relate to the repair of the said turnpike, shall be and are hereby extended to the said bridge.

Passed at Dover, 1 *February,* 1816.

IX.

1815 Christiana

AN ACT *to incorporate a company for making an artificial turnpike road from the borough of Wilmington to the village of Christiana in New-Castle county.*

136 Corporate name

(By section 2 the company is incorporated by the name of *The President, managers and company of the Wilmington and Christiana turnpike road.*)

137 Width (4)

137 No toll from certain persons (5)

Section 10.—(This section is substantially the same as section 10 of the Act first under this title except that the word *wood* is not in this section, and similar proviso.)

Sect. 11.—(This section provides for Licenses, to be granted by the Chief Justice of the Supreme Court to take toll, upon report to him, &c.)

Sect. 12. The said company having perfected the said road or such part thereof from time to time as aforesaid, and the same being examined, approved and licensed as aforesaid, it shall and may be lawful for them to appoint such and so many toll-gatherers, as they shall think proper, to collect and receive of and from all and every person and persons using the said road the rates and tolls hereinafter mentioned, and to stop any person riding, leading or driving any horse or mule, or driving any cattle, hogs, sheep, sulky, chair or chaise, phæton, cart, wagon, wain, sleigh, sled or other carriage of burden or pleasure from passing through the said gates or turnpikes, until they shall have respectively paid the same; that is to say, for *every space of one mile in length* of the said road, the following sums of money, and *so in proportion* for any greater or less distance, or for any greater or less number of hogs, sheep or cattle; to wit: for every score of hogs or sheep, one and a half cents; for every score of cattle, three cents; for every horse or mule laden or unladen with his rider, one cent; for every sulky, chair or chaise with one horse and two wheels, one cent and a half, and with two horses, two cents; for every chair, coach, phæton, chaise, stage-wagon, coachee or other wagon with two horses and four wheels, three cents; for either of the carriages last mentioned with four horses, five cents; for every other carriage of pleasure, under whatever name it may go, the like sums according to the number of wheels and of horses drawing the same; for every cart or wagon or other carriage of burden, the wheels of which do not exceed in breadth four inches, one cent for each ox or horse drawing the same; for every cart or wagon, the wheels of which shall exceed four inches in breadth and shall not exceed seven inches, three-fourths of a cent for every ox or horse drawing the same; for every cart or wagon the wheels of which shall be more than seven inches and not more than ten inches, or being of the breadth of seven inches, shall roll more than ten inches, one half cent for each ox or horse drawing the same; for every cart or wagon the wheels of which shall be more than ten inches in breadth, or being ten inches shall roll more than fifteen inches, one fourth of a cent for each horse or ox drawing the same. 139 Toll-gatherers 140 Tolls (143)

Sect. 13.—(This section is substantially the same as the first part of section 14 of the Act first under this title; to wit: as far as the words "until the said defective part or parts of said road shall be put into good and perfect order and repair as aforesaid," inclusive; but all the subsequent parts of said section are omitted from this.) 141 Repairs (11-12)

(By section 15 there can not be more than one gate for every three miles.) 142 Gates limited

Sect. 16.—[This section provides, that if, at the end of two years after the said road shall be completed, it shall appear from the average profits thereof for said two years, that the clear income will not bear a dividend of nine per cent. per ann. on the capital stock, the president, managers and company are authorized 143 Increase of tolls

to increase the tolls in equal proportions on every allowance, except commutations, so as to raise the dividends to nine per cent. per annum.]

144 Index-posts, &c. [15,16,17,18]

Sect. 17, 18.—[These sections are substantially the same as sections 18 and 19 of the Act first under this title; except that in section 18 of this Act the words *not exceeding* are inserted before the words "twenty dollars."]

145 Keeping to the right&c [19]

Sect. 19.—[This section is substantially the same as section 20 of the Act first under this title; except that in this section the words *twenty dollars* are used in place of the words "two dollars" in that.]

146 Unlawful toll [21]

Sect. 20. [This section is substantially the same as section 21 of the Act first under this title; except that in this section after the words *every such offence*, are inserted these words *one half to the commissioners of roads in the hundred in which the forfeiture shall be incurred and the other half to the use of the person suing for the same.*]

147 Vexatious suits, &c [22-23]

Sect. 21, 22.—[These sections are substantially the same as sections 21 and 22 of the Act first under this title.]

147 Junction (28)

Sect. 25. [This section is substantially the same as set forth for section 29 of the Act first under this title.

148 Frauds to evade toll [9]

Sect. 26.—[This section is substantially the same as section 13 of the Act first under this title, substituting *Wilmington and Christiana* for "Wilmington."]

Commutation [50]

Sect. 27.—[This section is substantially the same as section 5 of the Supplement third (III) under this title, except that in this section after the word *disinterested* is used the word *freeholder* in place of the word *person* in that section, and also after the words *choose a* and before the word *chosen* the word *freeholder* is used in this section in place of the word "person" in that, and also in this section the words *ten days* are used in place of the words "five days" in that.]

Sect. 29.—[This section is substantially the same as section 17 of the Act seventh (VII.) under this title.]

Passed at Dover, January 30, 1815.

—o—

VACANT LANDS.

I.

1793

AN ACT *concerning vacant and uncultivated lands.*

Whereas the minds of the good people of this State are much alarmed and disquieted by warrants for surveying lands being issued without the authority of the State; and it appears that the peace thereof will be greatly disturbed by such proceeding: Therefore for preventing the evil consequences thereof—

1 Taking Warrant or making survey of land, except under

Section 1. If any person or persons inhabitants of this State shall, after the passing of this Act, take or receive any warrant, or shall make or cause to be made any survey in consequence of such warrant, or shall take or receive any grant, deed, indenture

to increase the tolls in equal proportions on every allowance, except commutations, so as to raise the dividends to nine per cent. per annum.]

144 Index-posts, &c. [15,16,17,18]

Sect. 17, 18.—[These sections are substantially the same as sections 18 and 19 of the Act first under this title; except that in section 18 of this Act the words *not exceeding* are inserted before the words "twenty dollars."]

145 Keeping to the right&c [19]

Sect. 19.—[This section is substantially the same as section 20 of the Act first under this title; except that in this section the words *twenty dollars* are used in place of the words "two dollars" in that.]

146 Unlawful toll [21]

Sect. 20. [This section is substantially the same as section 21 of the Act first under this title; except that in this section after the words *every such offenee*, are inserted these words *one half to the commissioners of roads in the hundred in which the forfeiture shall be incurred and the other half to the use of the person suing for the same.*]

147 Vexatious suits, &c [22-23]

Sect. 21, 22.—[These sections are substantially the same as sections 21 and 22 of the Act first under this title.]

147 Junction (28)

Sect. 25. [This section is substantially the same as set forth for section 29 of the Act first under this title.

148 Frauds to evade toll [9]

Sect. 26.—[This section is substantially the same as section 13 of the Act first under this title, substituting *Wilmington and Christiana* for "Wilmington."]

Commutation [50]

Sect. 27.—[This section is substantially the same as section 5 of the Supplement third (III) under this title, except that in this section after the word *disinterested* is used the word *freeholder* in place of the word *person* in that section, and also after the words *choose a* and before the word *chosen* the word *freeholder* is used in this section in place of the word "person" in that, and also in this section the words *ten days* are used in place of the words "five days" in that.]

Sect. 29.—[This section is substantially the same as section 17 of the Act seventh (VII.) under this title.]

Passed at Dover, January 30, 1815.

—o—

VACANT LANDS.

I.

1793

AN ACT *concerning vacant and uncultivated lands.*

Whereas the minds of the good people of this State are much alarmed and disquieted by warrants for surveying lands being issued without the authority of the State; and it appears that the peace thereof will be greatly disturbed by such proceeding: Therefore for preventing the evil consequences thereof—

1 Taking Warrant or making survey of land, except under

Section 1. If any person or persons inhabitants of this State shall, after the passing of this Act, take or receive any warrant, or shall make or cause to be made any survey in consequence of such warrant, or shall take or receive any grant, deed, indenture

or other writing from any person or persons not acting under the authority of this State, for any vacant and uncultivated lands in this State, the person or persons so offending shall forfeit and pay for every such offence the sum of one hundred dollars to be recovered in any Court of General Quarter Sessions of the Peace and Gaol Delivery. authority of State [47]

Sect. 2. [No warrant issued since the fourth day of July, one thousand seven hundred and seventy-six, shall be laid or surveyed by any surveyor; nor any patent granted, or deed received, on any warrant or survey, either issued or made since the fourth day of July aforesaid, under the penalty of one hundred dollars for each and every such warrant, survey, patent, or deed, to be recovered as aforesaid.] 2 No Warrant issued since 4 July, 1776. laid— altered [13, 14, 19]

Passed February 2, 1793.

II.

AN ACT *for opening and establishing a Land Office within this State and for the sale of all vacant and uncultivated lands therein.* 1793

Whereas it appears to this General Assembly, that large quantities of vacant and uncultivated land are within this State, which at the present do not, and heretofore have rendered no support to government: Wherefore, Land-Office

Section 1. The Governor shall commissionate in each county some Surveyor of skill and integrity: and it shall and may be lawful for any person or persons to apply to the Recorder of deeds in each county, who is hereby directed and required to issue a special warrant under his hand and the seal of office, directed to the Surveyor of the county, authorizing him to survey and locate the land or lands therein mentioned and to return a plot thereof, which shall contain the courses and distances of the several lines thereof, a description of the boundaries, creeks, branches and rivulets surveyed or lying within the lines of the said plot, the names of the owners of the contiguous or adjoining lands and the quantity of land thereby surveyed, to an examiner to be appointed and commissioned by the Governor; which said plot as above described shall be returned within six months after the date of such warrant to the examiner as aforesaid, who shall examine the same, and if it be imperfect, shall return it to the said Surveyor for amendment; but if the same shall not be returned for amendment but be approved by the examiner, which approbation shall be certified on the said plot, signed by the examiner, and returned by him together with the plot to the said Recorder who shall upon payment of the purchase money to the State Treasurer and a receipt produced as is hereinafter directed, make a grant and present the same to a Board of commissioners in each county, consisting of three suitable persons to be appointed by the Governor for the time being for their approbation, and being attested by them, and signed by the Governor for the time being, the seal of the State shall be annexed thereto. 3 Surveyors 4 Warrants [10-40-47] 5 Examiner [32] 6 return to Recorder [22-23-30] 7 Board of Commissioners— caveat

Sect. 3. *And whereas* disputes may arise between the inhabitants on the location of lands as aforesaid: whenever different

claims or pretensions may arise, or any caveat shall be entered before the Recorder against any warrant and survey at any time, before the same shall be certified to the State Treasurer as aforesaid, it shall and may be lawful for the aforesaid Board of commissioners, upon notice of such caveat having been given ten days previous to the sitting of the said Board to the person or persons in whose favor such warrant and survey was made, to hear and determine all matters in variance in a summary way according to the laws of the land and equity and good conscience; and such determination shall be entered as of record by the said Board. *Provided*, That in all cases a preference shall be given to such person or persons, as have lands contiguous to or adjoining such vacant or uncultivated and other lands, and to all persons who may have settled any lands not included or held under any warrant issued previous to the first of January, one thousand seven hundred and ninety-two, in case such person or persons shall apply for warrants within six months after the appropriation of such lands as aforesaid to the use of the State; and in case two or more shall have adjoining or contiguous lands as aforesaid, then the said Board shall do what to them seems equitable and right; and no warrant shall issue to any one person for any greater quantity than two hundred acres of land.

9 jurisdiction [34]

9 preference

10 limitation of quantity

11 Record books

Sect. 4. The Recorders in the respective counties of this State shall at their own expense procure record books well bound and of good paper, wherein shall be recorded the warrants issued, the surveys made thereon and returned with the certificate of the examiner, the grants made in consequence of such surveys, all caveats entered before the Recorder, with the determination of the Board of commissioners thereon.

12 Variation of compass

Sect. 7. The variation of the compass shall in all cases be according to the usage and custom heretofore practiced in the different parts of the State; and all grants made by virtue or under the authority of this Act shall convey to the grantee or grantees an estate in fee simple.

Fees [Fees 5, n a]

Sect. 9. The Recorder in each county shall have—

For every caveat entered, ten cents.
Every copy thereof, under seal, forty cents.
Every final determination, twenty cents.
Filing every survey, ten cents.
Every grant made out and ready for signing, fifty cents.
Recording every warrant, survey, certificate, grant, caveat, and final determination, one cent for every line of twelve words.

Surveyor

And the Surveyor shall have for every plot, two dollars, and every day's attendance in surveying, two dollars.

Examiner

And the Examiner shall have for every plot examined, fifty cents.
Every certificate thereof, twenty cents.
And the State Treasurer shall have for every receipt, fifty cents.

Which said fees shall be paid by the party, at whose request the said services are done.

13 Warrants issued between 1 Jan. 1776—& 1792 [2-19]

Sect. 10. Nothing in the Act entitled *An Act concerning vacant and uncultivated lands* shall be construed to extend to vacate or annul any warrant issued since the first day of January, 1776, and before the first day of January, 1792, nor any survey, patent,

deed, or grant made or obtained thereon between the times aforesaid.

Sect. 11. The title to any lands in this State held under any grant, warrant, survey, re-survey or patent made or issued between the said first day of January, 1776, and the first day of January, 1792, shall be good and available in law and equity. 14 Confirmation of such grants [19]

Passed June 19, 1793.

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 unlocated lands therein.* 1794

Whereas the right to the soil and lands within the known and established limits of this State was heretofore claimed by the crown of Great Britain: *And whereas* by the definitive treaty between his Britannic Majesty and the United States of America, his said Majesty relinquished all rights, proprietary and territorial, within the limits of the said United States to the citizens of the same, for their sole use and benefit; by virtue whereof the soil and lands within the limits of this State became the right and property of the citizens thereof, and who at the time of passing the Act, to which this is a supplement, had and now have full power and authority by their Representatives to dispose of the same for their sole benefit, emolument and advantage; *And whereas* the claims of the late and former pretended proprietaries of this State to the soil and lands contained within the same, are not founded either in law or equity; and it is just, right and necessary, that the citizens thereof should be secured in the enjoyment of their estates, rights and properties:— 15 Rights to the soil of this State

Section 1. All patents, warrants and grants for lands within this State, made or granted by James heretofore Duke of York, the proprietaries of Maryland, or the pretended proprietaries of this State, or their or any of their agents, officers or commissioners duly authorized to grant lands within the same, at any time before the first day of January, in the year of our Lord one thousand seven hundred and sixty, and all surveys made in pursuance of any such patents, warrants or grants shall be, and at all times hereafter shall be deemed and taken to be, good and valid both in law and equity, fully, clearly and absolutely exonerated, discharged and exempted of and from all manner of rents, fines and services whatsoever; and the said patents, warrants and grants so fully, clearly and absolutely exonerated, discharged and exempted are hereby ratified, confirmed and established forever, according to such estate and estates, rights and interests and under such limitations and uses, as in and by the said patents, warrants and grants, are expressed, directed and appointed, and no other. 16 Confirmation of grants &c. prior to Jan. 1760 (17)

Sect. 2. Any person or persons legally claiming any lands within this State under any warrant or grant issued or made before the first day of January in the year of our Lord one thousand seven hundred and sixty aforesaid, for which lands no patent hath yet been issued, are hereby declared to be entitled to a patent for the same on proceeding in the same manner hereinafter directed 17 Patent pursuant

to procure patents for other lands under this Act, without paying any sum or sums of money for the same, other than the legal fees to the several officers, through whom such patent is to be procured: *provided* that no patent to be issued under this Act for any lands held under any warrant or grant made or issued before the said first day of January in the year aforesaid shall operate so as in any manner to invalidate or take away the right of any person or persons holding lands under any warrant or grant prior in date to the warrant or grant, under which such patent shall be issued.

18 Priority of rights—not affected

19 Patent (30) pursuant to Warrants issued between 1760 & 1792—(14—25)

Sect. 3. Where any warrants have been issued since the first day of January in the year of our Lord one thousand seven hundred and sixty, and before the first day of January, one thousand seven hundred and ninety-two and the terms of such warrants have not been complied with by the persons, to whom such warrants were granted, it shall and may be lawful for any person or persons legally claiming under any such warrants to apply to the commissioners appointed or to be appointed under the Act to which this is a supplement, for a certificate specifying the quantity of land, which the person so applying shall be permitted to hold under such warrant, and upon paying to the State Treasurer the sum of fourteen dollars for every hundred acres contained in such certificate and producing a receipt therefor from the said Treasurer, to the Recorder of deeds for the county, in which the lands lie, the said Recorder shall make out a patent for the said land, in which patent the State of Delaware shall be the grantor and the person or persons named in such certificate shall be the grantee or grantees; which patent being produced to the Governor of this State, he shall sign the same and cause the seal of the State to be affixed thereto; and every patent made in pursuance of this Act and authenticated in manner aforesaid shall convey to the person or persons named as the grantee or grantees therein and to his, her and their heirs as assigns an absolute and unconditional estate in the land mentioned in such patent.

20 purchase money

21 effect of patent (30)

32 Lists of Warrants and Surveys

Sect. 4. The Recorder in each county shall in the month of November annually make out a list of all warrants by him granted, and the surveys made in pursuance of such warrants and returned to his office, containing the names of the person or persons in whose favor the same have issued, the date of the warrant, the date of the survey and the quantity of land contained in such survey, and transmit the same to the State Treasurer; and in case any person, in whose favor any such warrant hath issued or shall issue, shall within two years *(a)* after the date of such warrant pay or cause to be paid to the State Treasurer the sum of fifty dollars for every hundred acres and in proportion for any greater or lesser quantity of land in such survey, he shall be entitled to a patent for the same; but if any person, who heretofore hath or hereafter may obtain a warrant under this or the Act, to which this is a supplement, shall not pay the money for such land within the time aforesaid, such land shall still be deemed vacant and un-

23 Purchase money and time of payment (a) (30)

(a) This time was extended by Act of Feb. 7, 1795, for one year, and by sect. 5, of Act of Feb. 9, 1796, for another year.

appropriated; and it shall and may be lawful for any other person or persons to apply to the State Treasurer at any time after the expiration of two years *(a)* from the date of such warrant, and upon paying the money for the quantity of land mentioned in such survey at the rate aforesaid such other person shall be entitled to a patent for such land. 24 failing to pay—patent to another paying

Sect. 5. The proprietary warrants granted to survey lands to the use of the proprietor, shall not be deemed grants for the quantities of land in the said warrants mentioned, but shall be deemed and taken to be applications for land made by the person or persons in such warrants mentioned; but all surveys made or to be made in pursuance of such warrants shall be subject to be caveated before the Board of commissioners appointed under the Act, to which this is a supplement; which said commissioners shall hear and determine on all such caveats in such manner, that no survey made or to be made in pursuance of any such proprietary warrant shall deprive the owners of lands held under any patents or other warrants of the privilege of taking up and securing such quantity of land adjoining such patents or other warrants, as will make up to such patents or other warrants the quantity of two hundred acres, including the land held under such patents or other warrants; and so also that no survey made in pursuance of such proprietary warrants shall include any improvement made by any other person before the date of such survey and such quantity of land adjoining such improvement, as added to the same, will make two hundred acres; and after all caveats against the confirmation of such surveys shall be determined, the said commissioners shall give to the person or persons legally claiming under such proprietary warrants a certificate specifying the courses and distances of the lines including the lands such person or persons shall be permitted to hold under such proprietary warrants; and the person or persons obtaining such certificate shall be entitled to patents for the lands contained in such certificate, on paying to the State Treasurer for the use of the State the sum of fifty cents for every acre thereof: *provided*, that no survey made in pursuance of any such proprietary warrants shall be permitted to invalidate or in any wise call in question any person or person's title to any patent or other warrant, included within the bounds of such proprietary warrant, either prior or subsequent to the date thereof, nor to include more than two hundred acres of land for every person named in any such warrant; and the residue of the quantity of land mentioned in such proprietary warrant, if any, shall be deemed vacant and unappropriated land. 25 Effect of certain Proprietary Warrants; 26 & surveys; 27 Patents—pursuant; 28 rights saved

Sect. 6. *And whereas* former proprietaries of the late province but now State of Maryland, for the purpose of having lands improved have heretofore made leases to persons for life or lives for lands then within the jurisdiction of Maryland aforesaid, but now within the established limits of the State of Delaware; which leases have in many instances expired by the death of the person or persons, for whose life or lives the same were at first made: The heirs or other legal representatives of such lessees shall be entitled to the preference of warrants and patents for all such leased lands upon the terms expressed in this Act for unappropriated lands. 29 Leases for life—Maryl'd grants (16,17,19,27)

30 Patent

Sect. 7. Patents made pursuant to this Act shall run in the following manner:

The State of Delaware to all to whom these presents shall come, greeting: Know ye, *That for and in consideration of the sum of paid into the treasury of this State by A. B. of county, there is granted unto him the said A. B. a certain tract of land situate in county, containing acres* [describing particularly, in words at length, the courses and distances of the several lines, and the boundaries thereof,] *with the appurtenances: to have and to hold the said tract of land, with the appurtenances, to him the said A. B. his heirs and assigns forever, as his and their absolute and unconditional estate and property, free and clear of all reservation of rents or services whatsoever. In testimony whereof esquire, Governor, hath hereunto set his hand, and caused the seal of the State to be affixed, the day of in the year of our Lord, and in the year of the Independence of the said State.*

31 Recorded

Sect. 8. All patents granted in pursuance of this Act, shall be recorded in the office for recording of deeds for the county in which the lands granted by such patents respectively lie; for the recording of which said patents, the respective Recorders of deeds in this State shall be allowed the like sum as for recording deeds of the same length, and for an indorsement of such patent being recorded and his hand and seal of office thereto, the same sum as in other cases of the like nature.

32 Sitting of commission'rs (45)

Sect. 9. The commissioners appointed or to be appointed under the Act, to which this is a supplement, shall set at the Court House for the county in which they reside, on the first Tuesday of April next, and on their own appointments at all times thereafter, for the purpose of discharging the duties enjoined on them by this and the before recited Act; but before they enter on the said duties, each of them shall take an oath before the prothonotary, or the clerk of the Supreme Court in the respective counties of State,

33 Their oath

That he will to the best of his skill and judgment, faithfully and impartially discharge the trust in him reposed by an Act of Assembly entitled *An Act for opening and establishing a Land Office within this State, and for the sale of all vacant and uncultivated lands therein* and the supplement thereto, *without fear, favor or affection or any partiality whatever;* and each of the said commissioners shall be allowed the sum of two dollars for every day's attendance.

Fees [43]

34 Appeal

Sect. 10. If any person shall consider him, her or themselves aggrieved by any determination of the Commissioners appointed or to be appointed as aforesaid, it shall and may be lawful for such person or persons to appeal from the determination of the said commissioners to the *(c)* High Court of Errors and Appeals, whose determination shall be binding and final and conclusive to all parties.

35 Examiner (5)

Sect. 11. The Governor shall appoint some fit person in each

(c) By sect. 6, of the preceding Act this Appeal was to the Supreme Court. And by sect 3, of an Act of Jan 24, 1797, (VI.) all appeals must be "brought before and entered of record in said" High Court of Errors and Appeals "within one year from taking the said appeal, or otherwise shall be void."

county respectively an Examiner, whose duty and compensation shall be the same as is directed to the examiner in the Act to which this is a supplement.

Sect. 12. All the streets of the town of Lewes, and the bank and marshes between Front street and Lewes creek, and between South street and Canary creek, which have heretofore been considered as common and public property, shall not be subject to be taken up any warrant to be issued in pursuance of this Act or the Act, to which this is a supplement, but shall from and after the passing of this Act be vested in the inhabitants of the town of Lewes and the citizens of this State in general for their common use and benefit; and all warrants already issued to take up any part of the said streets, bank or marshes, are hereby vacated and made void; and the said streets shall be and remain open as common highways under such regulations as other highways in this State; and if any person shall in any manner obstruct the said streets or highways, he shall forfeit and pay the same sum as by law he would forfeit and pay for obstructing any other highway within this State to be recovered in the same manner that such forfeitures by the laws of this State are directed to be recovered.

36 Streets in Lewes, banks & marshes between Front st. and Lewes creek

(Roads, &c. 40)

Passed February 7, 1794.

AN ADDITIONAL SUPPLEMENT *to the Act entitled An Act for opening and establishing a Land Office within this State, and for the sale of all vacant and unlocated lands therein.* 1796

Whereas the former Proprietaries of the late province now State of Maryland have heretofore granted qualified or conditional estates in fee in lands then within the jurisdiction of the government of Maryland, but now within the limits of this State; which said estates have been determined by their own limitations: *And whereas* the said lands have descended or been alienated and held for a great space of time without any interruption to the possessors, and have been always considered as the absolute property of the holders thereof and as such have been taxed and otherwise subjected to their proportions of the public charges:—

37 Qualified estates Maryland grants

Section 1. The heirs, devisees, grantees, bargainees or other legal representatives of such original grantees shall respectively be entitled to the preference of patents upon any warrant or warrants already issued or of warrants and patents to be issued and had for the whole quantities of land respectively held by such original grantees or by their heirs, devisees, grantees, bargainees or other legal representatives and contained in their grants; and every such person having already obtained or who shall hereafter obtain such warrant shall pay to the State Treasurer the sum of fourteen dollars for every hundred acres contained in such warrant, and in the certificate thereupon returned and according to that rate for any less quantity; and such proceedings shall and may be had in securing the said lands and obtaining a title thereto, as are prescribed and allowed in the Act, to which this is a supplement, and in the Act entitled *A supplement to an Act for opening and establishing a Land Office within this State and for the sale of all vacant and unlocated lands therein*; and if any person or per-

38 preference (39)

39 for what time

sons, who by this Act is or are entitled to the perference of warrants and patents for such lands, shall not take the benefit of this Act within one year from the date hereof and pay the money for such land or lands within one year from the date hereof, such lands shall be still deemed vacant and unappropriated and liable to the warrants and proceedings of other persons in manner and form and upon the terms prescribed for taking up and securing other vacant and unappropriated lands.

Passed February 9, 1796.

1807 AN ADDITIONAL SUPPLEMENT *to the Act entitled "An Act opening and establishing a Land-Office within this State and for the sale of all vacant and uncultivated lands therein."*

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

40 General warrants valid

Section 1. All general warrants issued by the Recorders of the several counties in this State after the said nineteenth day of June in the year of our Lord one thousand seven hundred and ninety-three, and before the eleventh day of January in the year of our Lord, one thousand seven hundred and ninety-eight be, and the same are hereby declared to be good and available in law and equity, and shall have the same force and effect, as if they had issued in the special manner directed by the first section of the before recited Act, any thing in the said Act to the contrary notwithstanding.

41 Preference to special warrants

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

Passed at Dover, February 2, 1807.

III.

1796 AN ACT *to repeal part of an Act entitled An Act to extend the time of payment of the purchase money of certain lands granted to the citizens of this State, and for other purposes.*

42 Expenses of trial—how borne

Section 2. All expenses arising and accruing on the hearing and trial since the first day of November last and hereafter of

any caveats heretofore or hereafter to be made or entered before the said commissioners by any person or persons under the laws of this State, including the daily allowance to the said commissioners already established (†) by law, shall be paid and discharged by the party or parties failing in his claim; and in case there be more than one decision or determination upon the same day, the said daily allowance shall be equally divided among the several parties failing in their claims as aforesaid; and for every determination each of the said commissioners shall receive the additional sum of two dollars to be paid by the party failing as aforesaid; any law of this State to the contrary in any wise notwithstanding.

† (33)

43 additional fee

Sect. 3. *And whereas*, there are many warrants, surveys, certificates of surveys, resurveys and locations, which have been executed altogether or in part on lands within the respective counties of this State and which have never been returned to the proper office and now remain in the possession of the former deputy surveyors or their representatives; whereby parties interested may be injuriously deprived of the use and benefit to be derived from such papers;—all warrants, surveys, certificates of surveys, and resurveys and locations heretofore made or executed partially or completely on any lands within this State, and which have not been returned to the proper office, shall be returned within six months from the passing of this Act to the Recorder of deeds of the county, in which such lands lie, to be preserved by him among the records of the Land Office, and to be consulted and used by, and for the use of, all persons interested; and upon application made by the owner or claimant of such land to any former deputy surveyor or person, who acted by appointment under such deputy surveyor, or the legal representative of him in case he be dead; in such case if the said deputy surveyor or his agent or the representative of him or them shall refuse or neglect to make or cause to be made returns as aforesaid of their papers and proceedings in his or their possession, he shall forfeit and pay the sum of one hundred dollars, the one half to the informer and the other half to the use of the State, to be recovered in any court of record in this State, by action of debt, bill, plaint or information.

44 Return of surveys

Sect. 6. The Board of commissioners shall hold four terms each and every year in the counties of this State respectively, until the business before them pending shall be finished and concluded; which terms shall continue two weeks, unless the business and trials set down for the particular terms should be sooner completed.

45 Four terms annually

Sect. 7. The commissioners in each of the counties of this State respectively shall meet on or before the first Tuesday in April next, and when met shall determine and appoint the time for the commencement of each of the terms in the several counties aforesaid, and as soon after as may be, advertise the same in all the hundreds of the counties of this State.

appointed

Passed February 9, 1796.

IV.

1797 AN ACT *to revive the proceedings of the commissioners of the Land Office in Kent county, and for other purposes.*

46 Power of two comm'rs

Section 2. From and after the passing of this Act, any two of the said commissioners shall have full power and authority to hear, try and determine all and every caveat, cause, proceeding and other matter whatsoever, depending before the said commissioners of the Land Office in the respective counties of this State as fully and amply to all intents and purposes, as three of the said Commissioners might or could do before the making of this Act. (c)

Passed January 24, 1797.

V.

1798 AN ACT *to prevent the issuing of warrants for the location of land.*

47 Issuing of Warrants, &c. prohibited

From and after the passing of this Act, it shall not be lawful for the Recorder of deeds, in any county in this State to issue any warrant, directed to the surveyor of the county, authorizing him to survey and locate any land or lands whatever; and no surveyor of any county shall survey, locate, or make any plot of any lands upon any warrant of any Recorder, which may be hereafter issued; and all and every such warrant, survey, location, and plot shall be utterly null and void; any law to the contrary thereof in any wise notwithstanding.

Passed January 11, 1798.

—o—

WEARS IN CREEKS AND RIVERS.

I.

Between 1726 & 1786

AN ACT *against wears across creeks and rivers.*

To the end that all persons inhabiting in or near any creek or river in this government may enjoy all privileges and advantages, that from them are to be reaped;—

1 Wears and nets across channel of creek—prohibited penalty

Whosoever shall make any wear or wears, or set any nets from one side to the other of the channel of any creek or river within this government, being thereof convicted by the view of one Justice of the Peace or by the testimony of one credible witness, shall for every such offence pay ten shillings; and the wear or wears shall be destroyed by order of the Justice, before whom the complaint shall be heard.

[Fisheries II]

Provided, That nothing in this Act extend to restrain the making of wears over mill-dams or races, nor to such as make wears on their own lands, so as that they in either of these cases shall not be injurious to others.

(c) Power is given to one commissioner to adjourn, and like power is given by Act of Jan. 25, 1799, to the Recorder of deeds in case of non-attendance of any commissioner.

No wear or wears shall be made on the south side of Lewes creek in Sussex county, under the penalty of ten shillings, and the wear to be destroyed by order of any Justice of the said county. 2 South side Lewes creek

II.

A SUPPLEMENT *to An Act entitled "An Act against wears across creeks and rivers."* 1803

Whereas it hath been represented to this General Assembly, that divers persons when fishing in St. Jones's creek or Dover river, to the disturbance of other persons, who fish in the said creek, use improper means therefor, by threshing and beating the waters of said creek, thereby preventing the fish from passing up and down the said creek, as they otherwise would do; *And whereas* the said Act, to which this is a supplement, doth not answer and provide in those cases;—

If any person or persons after the passing of this Act shall be discovered whipping, threshing, beating or otherwise disturbing the waters of St. Jones's creek or Dover river with a view to divert or drive the fish into his, her or their nets, seins or wears, he, she or they for every such offence, being thereof convicted by the view of any one Justice of the Peace or by the testimony of one credable witness, shall forfeit and pay to any person or persons, who may sue for the same, the sum of ten dollars with costs of suit to be recovered by complaint made to any one Justice of the Peace for the county of Kent, as other debts under twelve pounds are recoverable by the laws of this State. 3 St. Jones creek—beating waters of, &c. penalty Mode of recovery

Passed at Dover, January 17, 1803.

AN ACT *prohibiting the use of wears, hedges and gill nets in St. Jones's creek.* 1817

Section 1. No person shall keep or continue, make, construct or erect, place or use any wear, wears, hedges or gill seins in any part of St. Jones's creek in Kent county. 4 Wears, &c. in St. Jones creek—prohibited

Sect. 3. If any person or persons shall, after the passing of this Act, put, place, erect, make or construct any wear, wears or hedge or any gill sein in any part of St. Jones's creek, every such person so offending shall for every such offence forfeit and pay the sum of twenty dollars to be recovered with costs of suit before any Justice of the Peace for Kent county, and applied the one half thereof to the use of the person or persons suing for the same, and the other half to the use of the poor of Kent county: and it shall be a part of every such judgment, that the wear, wears, hedge or gill sein complained of shall be removed and destroyed; and a separate warrant shall issue to be directed to any constable of the county, to cause the said wear, wears, hedge or gill sein to be removed and destroyed, and such warrant shall be a sufficient authority for so doing. 5 Penalty 6 and wears, &c. destroyed (8)

Sect. 4. No person or persons shall obstruct any constable in the performance of any duty, which may be enjoined upon him 7 Obstructing constable

penalty under the provisions of this Act, under penalty of being fined at the discretion of the Court of General Quarter Sessions of the Peace and Gaol Delivery of this State any sum not exceeding one hundred dollars, upon conviction upon indictment before such court, to be applied to the use of the poor by the Trustees of the county where the offence shall be committed.

8 Any person may destroy, &c. Sect. 5. It shall be lawful for any person or persons to destroy any wear, wears, hedge or gill sein found in any part of St. Jones's creek.

9 Gen'l issue Sec. 6. If any person or persons be sued for any thing done under this Act, such person or persons may on plea of the general issue give this Act and the special matters of justification under it in evidence.

Passed at Dover, Feb. 6, 1817.

1824 AN ACT *to revive and continue in force "An Act prohibiting the use of wears, hedges and gill nets in St. Jones's Creek."*

10 Revived (4—9) Section 1. The Act of the General Assembly of this State passed at Dover the sixth of February eighteen hundred and seventeen entitled An Act prohibiting the use of wears, hedges and gill nets in St. Jones's creek be and the same is hereby revived and declared to be in full force, except the second section thereof.

11 Proceedings before Justice to remove wears Sect. 2. Upon any complaint made to any Justice of the Peace in and for Kent county, that any wear or wears, hedge or hedges or gill sein is kept, continued, made, constructed, erected, placed or used in any part of Jone'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 wear or wears, hedge or hedges, or gill sein: which warrant shall be sufficient authority for removing any such wear, or wears, 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.

Passed at Dover, January 28, 1824.

III.

1813 AN ACT *for regulating the construction and use of wears, nets and gill seins in the waters of Indian River in Sussex county.*

12 Wears in Indian River Section 1. 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 seins 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 sein 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. clear passage of 20 rods

Sect. 2. No wear or wears shall be put, placed or erected in any of the waters of Indian river above or higher up said river than the place known by the name of the Ferry in any manner, so as to injure the free navigation for vessels, flats or other water crafts, to pass and repass at their will or pleasure; nor shall any two wears be set, placed or put nearer each other than twenty rods, and at all times shall leave a clear space directly across said channel or deepest water 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. 13 Above Ferry—not to injure navigation 14 distance apart 15 duty of owner

Sect. 3. If any person or persons shall place, put, keep or use any gill net, wear, hedge or sein 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 sein, 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. 15 Power and duty of Just. Peace

Sect. 4. It shall be lawful for any person or persons to destroy any wear, hedge or gill sein found in any of the waters of Indian river, contrary to the provisions of this Act. 16 Powers of individuals

Passed at Dover, January 31, 1823.

IV.

AN ACT *for regulating the construction and use of wears in Spring creek.* 1821

Section 1. 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 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: *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. 17 Wears in Spring creek above bridge (21)

Sect. 2. *Provided nevertheless,* That no wear 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 wears or fikes shall be put or placed nearer each other than at the distance of twenty rods; and no wear 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 wear stood. 18 Extent of the wears 19 distance apart 20 owner to clear bottom

21 Direction for placing

Sect. 3. *And provided also,* That every wear or fike 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.

22 Concealed hedging prohibited

Sect. 4. 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 cost, 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 persons suing for the same, and the other half to the use of the poor of Kent county aforesaid.

penalty

Passed at Dover, January 31, 1821.

WILLS.

1829

AN ACT *concerning wills.*

1 Lands, &c. devisable
2 Blac. Com. 375

Section 1. *Be it declared and enacted by the Senate and House of Representatives of the State of Delaware in General Assembly met,* That lands, tenements and hereditaments are devisable by last will and testament.

2 Who can make a Will

Every person of the age of twenty-one years or upwards, of sound and disposing mind and memory, married women excepted, has power to make a will and testament, as well of real as of personal estate.

3 Who cannot

Sect. 2. *And be it further enacted,* That no person under the age of twenty-one years shall be capable of making a will or testament of either personal or real estate.

4 Requisites to a Will (13-14)

Sect. 3. Every will and testament, whether of personal or real estate, must be in writing and signed by the testator or by some person subscribing the testator's name in his presence and by his express direction, and attested and subscribed in his presence by two or more credible witnesses; or it shall be void.

5 Witness
3 Blac. Com. 377

A creditor of a testator may be a witness to his will and testament, although it contain a provision for the payment of his debts. Also a person may be a witness to a will and testament containing a devise or bequest to the Trustees of the poor of either county or to any person or institution for a public purpose, although he is taxable for the support of the poor of said county or for such purpose; and the taxes, to which he is liable, will by means of such devise or bequest be diminished.

6 Revocation

A will and testament or any clause thereof shall not be altered or revoked, except by cancelling by the testator or in his presence and by his express direction, or by a valid last will and testament, or by a writing signed by the testator or by some person subscri-

bing the testator's name in his presence and by his express direction, and attested and subscribed in his presence by two or more credible witnesses: but this clause shall not preclude nor extend to an implied revocation.

2 Woodd. lec. 370 Wms. 304 n

Provided that a nuncupative will of personal estate not exceeding in the whole amount bequeathed two hundred dollars, pronounced by the testator in his last illness before two or more credible witnesses expressly requested by him to take notice thereof, and within three days afterward reduced to writing and attested by the signatures of said witnesses, shall, if the testator die before the expiration of said three days or if he be not at the expiration of said period or afterward capable of making a will, be valid. Such nuncupative will must be produced in the Register's office for probate within thirty days after the testator's death; or it shall not be received; and notice of the time of proving it must be given as the Register may deem reasonable: if the parties interested do not reside in the county, notice by advertisements posted or published according to the Register's direction, shall be sufficient.

7 Nuncupative Wills

8 when reduced to writing

9 and proved

Sect. 4. When a last will and testament in writing of a person not residing in this State at the time of his death, signed by the testator or by some person subscribing the testator's name in his presence and by his direction, and attested and subscribed in his presence by two or more credible witnesses, is proved in another State, territory or country before competent authority; a copy duly verified of such will and testament and the proof thereof, or of the record of such will and testament and proof, shall be sufficient evidence: such copy, to be duly verified, must be certified by the proper officer under his hand and seal of office, if there be a seal of office; and there must also be a certificate, either under the great seal of such State, territory or country or under the hand of the Chancellor or the presiding Judge of a court of record of the said State, territory or country, that such copy is certified in due form and by the proper officer; and in case of a certificate under the hand of a Chancellor or presiding Judge, there must be an attestation of the officer keeping the seal of his court under the hand of said officer and the said seal, that the said certificate is under the hand of the said Chancellor or presiding Judge and is entitled to full faith and credit.

10 Will, proved out of this State

Such copy so verified may be recorded in the office of the Register of the county wherein are any lands, tenements or hereditaments of the testator, and in that case it shall be retained in the said office; and the said record or an office copy thereof shall be sufficient evidence. Also when a copy so verified is given in evidence the court on the application of the adverse party, may order it to be deposited and retained in the office of the Register of the county; and in that case an office copy thereof shall be sufficient evidence.

11 Copy recorded

In every case of the copy of a last will and testament of a person not residing in this State at the time of his death, proved in another State, territory or country, being recorded according to law for the time being in the office of the Register of either county in this State, the record or an office copy thereof, shall continue to be evidence in the same manner, as if this Act had not been passed.

12 Copy now recorded, evidence

13 Will (not agreeable to this Act) of non-resident not invalidated as to personal property 14 but not admitted to probate in this State

Sect. 5. The last will and testament of a person not residing in this State at the time of his death, proved in another State, territory or country, although it be not made according to this Act, shall not, so far as it shall concern personal property of the testator being in this State, be invalidated by this Act; but the Register of either county in this State, shall not admit to probate, as a last will and testament, any instrument not made according to this Act.

Passed at Dover, January 23, 1829.

—o—

WITNESSES.

Between 1726 & 1736

AN ACT *to oblige witnesses, being legally summoned, to give evidence.*

Liability for non-attendance

If any person or persons summoned or required by any process whatsoever or order of any court or magistrate or other officer whatsoever within this government lawfully authorized to issue forth the same, to give his, her or their evidence upon any matter or difference whatsoever, shall refuse or neglect to give attendance according to the directions of the said order, summons or command; such person or persons so refusing (not being prevented by sickness or some unavoidable accident) shall pay to the party or parties wronged or injured thereby all such damages, as he or they shall sustain by reason thereof.

—o—

WOOD-CORDERS.

1829

AN ACT *concerning wood-corders.*

1 Appointed by Quarter Sessions

Section 1. Whenever there is occasion for a wood-corder in any town or village, the Court of General Quarter Sessions of the Peace and Gaol Delivery within the county, upon this being shown to them, shall appoint some suitable person residing in such town or village to be wood-corder for the same for one year and until a successor be duly appointed and qualified, subject to be removed by the said court: and if a wood-corder in any town or village shall die, remove, resign or refuse to serve in vacation of such court, the Justice of the Peace in said town or village (whose commission is prior in date, if there be two,) or if there be none, the Justice of the Peace for the same county residing nearest to said town or village shall have power to appoint a wood-corder for the same to continue to the term of the court next after said appointment.

2 vacancies

3 Deputies 4 oath

A wood-corder may appoint deputies. Every wood-corder and every deputy wood-corder, before acting, shall before a Justice of the Peace for the same county take an oath or affirmation to measure all the fire-wood which he shall be required to measure honestly and truly according to the best of his skill and judgment.

There shall be allowed to the wood-corder or deputy wood-corder for putting up and measuring fire-wood the rate of ten cents a cord to be paid by the buyer and seller in equal parts. 5 Fees

Sect. 2. If any person shall in a town or village, in which there is a wood-corder or deputy wood-corder duly appointed and qualified, buy or sell any fire-wood without measurement by the wood-corder or deputy wood-corder, such person shall, for every parcel of fire-wood so bought or sold by him or her, forfeit and pay to such wood-corder the sum of one dollar and fifty cents to be recovered with costs before any Justice of the Peace proceeding according to the "Act providing for the recovery of small debts." 6 Buying or selling without measure, where wood-corder penalty

If any wood-corder or deputy wood-corder in any town or village shall not, upon application to him, attend and measure any fire-wood sold or on sale in said town or village without delay, he shall, unless he have sufficient excuse, forfeit and pay to the person making the application one dollar and fifty cents to be recovered with costs before a Justice of the Peace as aforesaid. 7 Penalty on wood corder for not measuring

Sect. 3. All fire-wood sold in any town or village in this State shall be of the length of eight or four feet, measuring from the extremity at one end to the beginning of the cart at the other end. 8 Length of wood

Sect. 4. This Act shall not extend to any incorporated town having regulation by its charter, by-laws or ordinances for the measurement of fire-wood and the appointment of a wood-corder. 9 Places not within Act

Passed at Dover, January 26, 1829.

—o—

WRECKS.

AN ACT *for the more effectual preservation of all such ships or other vessels and the goods thereof, as shall be forced on shore or stranded upon the coasts of this State, and for other purposes therein mentioned.* 1786

Whereas from the many unavoidable dangers to which vessels are exposed upon the coasts of this State, the said vessels with their cargoes, mariners and passengers are often liable to be lost, cast away or stranded: for the prevention of such accidents and for other relief in the premises:—

Section 2. The sheriffs, Justices of the Peace and officers of the customs near adjoining to the coasts of this State, upon application made to them or any of them by or on behalf of any commander, officer or owner of any ship or vessel belonging to this State, the subjects thereof or others, in danger of being stranded or run on shore, or being actually stranded or run on shore, are hereby empowered and required to summon so many men of the county, as shall be thought necessary to the assistance and for the preservation of such ship or vessel so in distress as aforesaid and their cargoes; and if any person shall refuse or neglect to attend on such summons, he shall forfeit and pay, for such neglect or refusal, the sum of five pounds, for the use of the State to be recovered by such sheriff, Justice of the Peace or officer of the customs in the manner, that other debts of the same dignity are by the laws 1 Authority to summon men to aid vessel in distress 2 penalty for neglect

of this State; and if there shall be any ship or vessel belonging to this State, or to the citizens thereof, riding at anchor near the place where such ship or vessel is in distress or danger as aforesaid, the sheriffs, Justices of the Peace, officers of the customs above mentioned or any of them are hereby empowered and required to demand of the master or superior officer of such ship or vessel so riding at anchor as aforesaid, assistance by their boats and such hands, as they can conveniently spare for the said service and preservation of such ship or other vessel so in distress as aforesaid; and in case the master or superior officer of such ship or vessel riding at anchor as aforesaid shall refuse or neglect to give such assistance, he shall forfeit for the same the sum of one hundred pounds, to be recovered by the master, superior officer or owner of the said ship or vessel so in distress, together with costs of suit, in any court of record within this State, by action of debt, bill, plaint or information.

3 ships shall assist

4 penalty for neglect

5 Right to give orders

Sect. 3. *And* to prevent confusion and contradictory orders among those persons that are hereby directed to carry this Act into execution; the persons so assembled to save any ship, vessel, or their goods as aforesaid shall conform in the first place to the orders of the master or other officer or owner of such ship or vessel, or such person or persons as shall be employed by them, and for want of their presence or direction, to the orders of the high sheriff of the county, and in his absence, to the orders of the Justices of the Peace, and in their absence, to the orders of the officers of the customs; and if any person or persons whatsoever, besides those empowered by the said sheriffs, Justices, or officers of the customs as aforesaid or some one of them shall enter or endeavor to enter on board any ship or vessel so in distress, without leave or consent of the commander or other superior officer or owner of the said ship or vessel, or of the sheriffs, Justices of the Peace or officers of the customs, or some one of them, employed for the service and preservation of the said ship or vessel as aforesaid, or in case any person shall molest him, them or any of them in the saving of the said ship, vessel or goods, or shall endeavor to impede or hinder the saving any such ship, vessel or goods as aforesaid, or when any such goods are saved, shall take out or deface the marks of any such goods, before the same shall be taken down in a book or books for that purpose to be provided by the master, superior officer, owner, sheriffs, Justices of the Peace, or officers of the customs as aforesaid, or some one of them, such person or persons shall within the space of thirty days make double satisfaction to the party grieved, or in default thereof shall be committed to the county gaol, where he shall continue and be employed in hard labor for the space of twelve months: And it shall be lawful for any master, superior officer or owner of the said ship or vessel so in distress as aforesaid, or for the said sheriffs, Justices of the Peace or officers of the customs or any of them to repel by force any such person or persons, as shall without such leave or consent from the said master, superior officer or owner or the said sheriffs, Justices of the Peace or officers of the customs as aforesaid, or some one of them, press on board the said ship or vessel, and thereby molest them or any of them, in the preservation of such ship or vessel so in distress as aforesaid or the goods thereof.

6 going on board without leave or orders

or molesting

penalty

7 Pressers on board repelled by force

Sect. 4. In case any ship or vessel shall be wrecked or stranded upon the costs aforesaid, and the cargo or some part thereof shall be found on the shores of this State, and no person shall appear to claim the same or any part thereof, the person or persons so finding the said goods and saving the same shall make a true inventory thereof, and shall apply to two Justices of the Peace, who shall cause the said goods together with the said inventory taken as aforesaid after being signed by them to be put into the hands and possession of some good substantial and responsible person, who shall be accountable for the same; and if the said goods shall not be legally claimed by the rightful owner or owners or some person on his or their behalf, within the space of one year next ensuing, then public sale shall be made thereof; and if the goods are of a perishable nature, they shall be sold forthwith after giving due notice by advertisement or otherwise; and after all charges deducted, the residue of the monies arising by such sale with a fair and just account of the whole shall be transmitted to the Treasurer of the State, to be disposed of as other public monies in his hands, subject nevertheless to be refunded to the rightful owner or owners when appearing, who, upon affidavit or other proof made of his or their right or property thereto to the satisfaction of one of the Judges of the Supreme Court, shall upon his order receive the same out of the treasury.

8 Goods saved not claimed within a year

inventoried

sold

9 perishable

10 money p'd into St. Treasury

11 subject to be refunded

Sect. 5. If any person or persons shall plunder, steal, take away or destroy any goods, merchandise or other effects from or belonging to any ship or vessel whatsoever which shall be in distress as aforesaid, or which shall be wrecked, lost, stranded or cast on shore on any part of the coast of this State, or any of the furniture, tackle, apparel, provision or any other part of such ship or vessel whatsoever, or shall beat, wound or otherwise maltreat, with intent to kill or destroy, or shall wilfully prevent or obstruct the escape of any person or persons endeavoring to save his her or their life or lives from such ship or vessel or the wreck thereof, or if any person or persons shall show any false light or lights, or otherwise contrive to bring such vessel into danger, then such person or persons so offending shall be deemed guilty of felony, and shall be punished as persons convicted of grand larceny by the laws of this State.

12 Showing false lights, plundering, &c. how punished.

Sect. 6. It shall and may be lawful for any one or more of the Justices of the Peace of this State, upon information made before him or them upon oath or affirmation of any part of the cargo or effects whatsoever belonging to any ship or vessel lost or stranded upon or near the coast aforesaid or the goods and effects of a ship or vessel stranded or cast away on the shores opposite to this State or elsewhere and brought into the same being unlawfully carried or conveyed away or concealed in any house, out-house, barn or other place or of some reasonable cause of suspicion thereof, to issue his or their warrant or warrants for searching of such house, out-house, barn or other place, as in other cases of stolen goods; and if the same shall be found in any such house, out-house, barn or other place or places whatsoever or upon or in custody or possession of any person or persons not legally authorized and entitled to keep and withold the same, and the owner or occupier of such house out-

13 Goods concealed, &c

14 search warrant

house, barn or other place, the person or persons, upon whom or in whose custody or possession the same shall be found, shall not immediately upon demand deliver the same to the owner or owners thereof or to such other person or persons as shall be lawfully authorized to demand the same, or shall not give a good account to the satisfaction of the said Justice or Justices, how he, she or they came by or were possessed thereof, it shall and may be lawful for such Justice or Justices upon proof of such refusal to commit such person or persons so offending to the common gaol of the county, until he, she or they shall have paid to such lawful owner or owners or to the person or persons lawfully authorized to receive the same double the value of the goods or things so by him, her or them unlawfully detained.

15 if found & not immediately delivered

penalty

16 Salvage

Sect. 7. *And* for the encouragement of such persons, as shall give their assistance to such ships or vessels so in distress as aforesaid or shall take up and secure any goods, that shall be lost and cast on shore within this State, the said sheriffs, Justices of the Peace, officers of the customs and the master or other superior officer of any ship or vessel and all others, who shall act or be employed in the saving and preserving of any such ship or vessel in distress or their cargoes or in finding and saving any goods that shall be lost and cast on shore, shall within thirty days after the service performed be paid a reasonable reward or salvage for the same by the commander, master or other superior officer, owners or mariners of the ship or vessel so in distress or by the merchant, whose ship, vessel or goods shall be saved as aforesaid; and in default thereof, the said ship or vessel, the goods so saved, or so much thereof as may be thought sufficient, shall remain in the custody of such sheriff, Justice of the Peace or officer of the customs, until all charges shall be paid and until the said sheriff, Justice of the Peace, officer of the customs and the said master or other officer of the said ships or vessels and all others so employed as aforesaid shall be reasonably gratified for their assistance and trouble, or good security given to the satisfaction of the several parties who are to receive the same: And in case, after such salvage, the commander or other superior officer, owners or mariners of such ship or vessel so saved or merchant, whose goods shall be saved as aforesaid, shall disagree with the said sheriff, Justice of the Peace or officers of the customs touching the monies deserved by any of the persons so employed as aforesaid, it shall be lawful for the commander of such ship or vessel so saved or the owner of the goods or the merchant interested therein, and also for the said sheriff, Justice of the Peace, or officer of the customs or other person concerned therein, to nominate three good and reputable freeholders of the county who shall thereupon adjust the quantum of the monies or salvage to be paid to the several persons acting or being employed in the saving of such ship, vessel or goods; and such adjustments shall be binding on all parties and shall be recoverable if under twelve pounds, before any Justice of the Peace, and if above twelve pounds, in any court of record within this State, by the respective persons, to whom the same shall be allotted by the said freeholders as aforesaid.

17 vessel, &c. to remain in custody till paid

18 adjustm't in case of dispute, by freeholders

19 award

20 Abuse of

Sect. 8. If any sheriff, Justice of the Peace, officers of the

So much of this section as requires the Sheriff to read the foregoing act is repealed. 8 & 9 Vict. 209.

customs or others so employed as aforesaid shall by fraud or wilful neglect abuse the trust so hereby reposed in him or them as aforesaid, and shall be convicted thereof in due form of law in any Court of Quarter Sessions in this State, such sheriff, Justice of the Peace, officer of the customs or others shall respectively forfeit treble damages to the party grieved, to be recovered by action, bill, plaint or information in any court of record within this State. this Act, treble damages

Sect. 9. If any action, suit or information shall be commenced or prosecuted against any person or persons for any thing, that he or they shall do or cause to be done in pursuance and execution of this Act, all and every person and persons so sued in any court whatsoever shall and may plead the general issue, and give this Act and the special matter in evidence; and if in any such suit the plaintiff or prosecutor shall become nonsuit or forbear prosecution or discontinue his suit or if a verdict shall pass against him, or judgment be given on demurrer, then and in any of the said cases the defendant or defendants shall recover full costs, for which he and they shall have the like remedy as where costs by law are awarded; and this Act shall be taken and allowed in all courts within this State as a public Act, and all Judges and Justices are hereby required to take notice thereof; and the sheriff of each county shall read or cause this Act to be publicly read at the next Court of Quarter Sessions of his county after the passing hereof, and at the said court to be held in the month of November in every year, under the penalty of fifty pounds for each neglect, and during the reading thereof all other business shall cease in the said courts. 21 Gen'l issue 22 duty of sheriff to read this Act at Quarter Sess. in Nov. every year, on penalty of £50

Passed February 2, 1786.

PART II.

ARMORY.

AN ACT *providing for the preservation of the public arms and accoutrements in Kent and Sussex counties.* 1829

Section 1.—[By this section the sheriff of each of the aforesaid counties is required to cause an armory to be built on the public ground on the south or south-east side and within sixty feet of the gaol in his county.] 1 Armory in Kent&Sussex

Sect. 2.—[By this section the sheriff is required to deposit in the armory the public arms and accoutrements in the Court House in his county.]

And it shall be the duty of the sheriffs, Justices of the Peace, constables and militia officers in said counties to take and seize all public arms and accoutrements, which are in any place or shall be in possession of any person without authority, and to deposit the same as aforesaid; and each armory shall be kept by the sheriff under a good lock and key, who shall preserve and safely keep therein all the public arms and accountrements and from time to time deliver out, and receive into, such armory such arms and accoutrements, when required by any officer having authority to make orders and requisitions therefor. 2 Duty to seize public arms

Sect. 3. If any suit is brought against any such officer for any seizure or taking as aforesaid, the burden of proof shall lie on the plaintiff; and the officer shall not pay any costs; but if judgment is rendered for the plaintiff, the costs shall be allowed by the Levy Court and Court of Appeal and paid, as all other allowances. 3 Suits for such seizure 4 costs

Sect. 4. If any person shall sell, buy or give away, or have in possession without authority, any of the public arms and accoutrements, after the first day of August next, he shall be guilty of a misdemeanor and being convicted thereof on indictment in the Court of General Quarter Sessions of the Peace and Gaol Delivery shall be fined not less than twenty nor exceeding forty dollars with the costs of prosecution. 5 Penalty for buying, having, &c. public arms

Passed at Dover, February 13, 1829.

—o—

AUDITOR'S OFFICE.

AN ACT *to appropriate the sum of ten hundred and sixty-six dollars and sixty-seven cents, for covering the flat part of the roof of the State House, in the town of Dover, with copper, and for other purposes.* 1795

Section 3. The two rooms on the west side of the said State House and the room on the south-east corner of the same on the second story thereof be and are hereby appropriated to and for the use and accommodation of the General Assembly and the Auditor of Accounts, whenever they or either of them shall require the use or occupation of the same.

Passed February 7, 1795.

I.

1798 AN ACT *to provide for the erection of a public bridge across Broad Creek in the county of Sussex.*

BROAD CREEK

[Roads and Bridges, 8]

[Section 1 provides for a bridge over said creek between the saw mill of George Mitchell and the landing of Isaac Cooper.]

[Sect. 3. The said bridge shall be so constructed as to admit boats without masts, scows, and stocks, to pass under it with ease and convenience; that the abutments and causeway shall be at least twenty feet wide, and the bridge at least sixteen feet wide.]

Passed January 16, 1798.

II.

1802 AN ACT *for erecting a bridge and causeway over Cedar creek, in Sussex county.*

CEDAR CREEK

Whereas it has been represented to the General Assembly of this State, that considerable convenience and utility would result to the inhabitants of Cedar creek and Slaughter Necks, from the erection of a bridge, by subscription, over the waters of Cedar creek.

Section 1. [By this section, Daniel Rogers, Robert Hill and Edward Stapleford, the survivors or survivor of them, are appointed commissioners to build a bridge and causeway across Cedar creek to begin at or near a cedar tree the north boundary of Daniel Roger's land.]

1 Space clear over the channel

Sect. 2. In the deepest part of the channel of said creek, there shall be left the clear space of sixteen feet at least, and shall be constructed so as to admit boats without masts to pass and repass under it with convenience; and such person or persons, as shall have occasion to pass or repass with any boat or otherwise, are hereby obliged carefully to pass so as the same receive no damage thereby, under the penalty of two dollars for every offence therein, together with the expense of repairing and amending the said bridge, to be recovered with costs in the name of any one of the commissioners aforesaid before any Justice of the Peace of said county and applied to the use of the said bridge.

2 penalty for damaging it

3 Draw, in certain case

Sect. 3. *And whereas* it has been stated, that it may happen, that Joseph Haslet or his representatives may in process of time erect and establish a place of traffick or intercourse with said waters of Cedar creek aforesaid above said bridge thus to be erected and built as aforesaid;

If the aforesaid Joseph Haslet or his representatives do and shall erect make or build, or cause to be erected, made or built, a wharf and granaries or granary at or upon any part of his the aforesaid Joseph Haslet's swamp, low grounds or cripple now lying and adjoining the head waters of Cedar creek aforesaid, then and in such case it shall be the duty of the aforesaid commissioners, and they are hereby directed and required, at the request of the said Joseph Haslet, or his representatives, within four months notice thereof,

to cause the said bridge to be changed in such manner and form, as may afford a sufficient draw or pass-way to any vessel or boat, which may eventually have occasion to pass or repass to or from such wharf, granaries or granary so erected, built and completed:

Provided nevertheless, That there shall be built and erected a wing to project from each side of the bridge on the south side of the creek, so as effectually to prevent the sand from washing down into the said creek. 4 Precaution &c.

Passed at Dover, February 2, 1802.

III.

AN ACT *for erecting and keeping in good repair a draw-bridge over St. Jones Creek.* 1813

Whereas, the erection of a draw-bridge over St. Jones' creek near the Forest Landing, will be of great public utility. 1 Site

Section 1. [Henry Molleston, Philip Hardcastle, John Conwell, Thomas Knock and Thomas Candy or a majority of them are authorized to fix the site of the bridge; to make return to the Court of General Quarter Sessions of the Peace, Kent county.]

Sect. 2. [By this section managers are appointed to build a draw-bridge at least eighteen feet wide across said creek and to make a causeway through the cripple.] 2 Width

Sect. 3. The said bridge shall be built of timber of the most durable kind that can be procured, with a draw of the length of at least twenty feet over the channel or deepest part of the said creek for the purpose of letting vessels pass and repass through the same; and the persons navigating the said vessels so passing and repassing are hereby directed to raise or remove the said draw in such manner, as that the same receive no damage thereby, under the penalty of ten dollars for every such neglect or offence herein, to be recovered with costs before any Justice of the Peace for Kent county, one half thereof to be applied to the use of the party suing for the same, and the other half thereof to the purpose of maintaining the said bridge in good order and repair. 3 Draw—length raised by persons passing through— penalty for injuring it

Sect. 4. The said draw-bridge and causeway, after they shall have been so erected and made as aforesaid, shall be deemed and taken to be a public highway free for all persons to pass and repass over and across the same free from toll and pontage; and the said bridge and causeway are hereby directed to be kept in good order and repair in the same manner that other bridges are directed to be kept; and if any person shall wilfully injure or destroy the said bridge, such person so offending upon conviction in the Court of General Quarter Sessions of the Peace for the county aforesaid shall be fined by the court in such sum, as they in their discretion shall think proper. 4 Public highway. 5 supported as other bridges 6 penalty for injuring it

Passed January 30, 1813.

IV.

1793 [FREDERICA]

AN ACT *for the erecting and keeping in good repair, a bridge over Murderkill creek, where the State road crosses the said creek, at a place called Zaccharian Goforth's Old Landing.*

1 Bridge

[By section 1 commissioners are appointed for erecting a "drawbridge across Murderkill creek, where the State road crosses said creek, at a place called Zaccharian Goforth's old landing."]

Space betw. the wings, &c

breadth of the draw

penalty for damaging it

Sect. 2. There shall be left clear in the place between the abutments, wings and other works erected for the use, support and preservation of the said bridge, the space of twenty feet at all times for the waters of the said creek to pass through; and there shall be left between the said abutments and over the channel of the said creek the clear space of nineteen feet at least, over which shall be erected and placed a draw or platform of the breadth of eighteen feet with good and sufficient chains for raising up the same for the accommodation of all such persons as have occasion to pass with any vessel through the said bridge, who are hereby obliged to raise and lower the said draw or platform, so that the same receive no damage thereby, under penalty of four dollars for every neglect or offence therein to be recovered with costs in the name of the State before any Justice of the Peace of Kent county to and for the use of Kent county.

Supported by county

Sect. 3. The Levy Court of Kent county shall after the said bridge shall be erected and built as aforesaid, cause the said bridge to be supported, maintained and repaired from time to time, always keeping up a draw or platform as aforesaid, in like manner as other bridges are supported, maintained and repaired in said county.

A common high-way

Sect. 4. The said draw-bridge shall be deemed and taken to be a common highway. *Passed February 2, 1793.*

V.

1793 [HEAD OF BROADKILN]

AN ACT *for erecting a causeway and bridge over the head of the Broadkiln creek in Sussex county.*

1 Site

Section 1.—[By this section commissioners are appointed to build a bridge and causeway over said creek to run from a white oak stump a boundary between lands of William Peery and Jacob Hazzard on north side of Broadkiln creek, to south side of said creek, land in possession of George Conwell.]

2 Space left over channel

3 breadth of draw

4 penalty for damaging it

Sect. 2. In the deepest part of the channel of said creek there shall be left the clear space of sixteen and a half feet at least, over which shall be erected and placed a draw or platform of the breadth of sixteen and a half feet, with good and sufficient chains and other things necessary for raising up the same, for the use of all and every such person or persons as shall have occasion to pass or repass with any vessel through the said bridge, who are hereby obliged carefully to raise and lower the said draw-bridge, so as the same receive no damage thereby, under the penalty of ten shillings for every neglect or offence therein, together with the expense of repairing and amending the said bridge to be recovered,

with costs, in the name of any one of the commissioners aforesaid, before any Justice of the Peace of said county, and applied to the use of the said bridge.

Passed February 2, 1793.

VI.

AN ACT *for erecting a bridge and causeway over Lewes creek, from the town of Lewes to the cape-side of the said creek, in the county of Sussex.* 1793 LEWES CREEK

Section 1.—[By this section John Rodney, *(a)* Henry Fisher and Henry Neil, are authorized to build a bridge and causeway over the creek at Lewes-town, formerly called the Whore-kill, to begin at or near the place where the fort in the said town stood, and thence extending in a straight direction to the point of fast land on the cape side of the said creek nearly opposite to the house in the occupation of William Arnald.] 1 Commiss'rs

Sect. 2.—[This section authorizes subscriptions for raising money to accomplish the work.] 2 Subscriptions (19

Sect. 3. In the deepest part of the channel of the said creek there shall be left clear the space of sixteen feet at least, over which shall be erected and placed a draw or platform of the breadth of eight feet or more, with good and sufficient chains for raising up the same for the accommodation of all such persons as have occasion to pass and repass with any vessel through the said bridge, who are hereby obliged carefully to raise and lower the said draw-bridge, so as the same receive no damage thereby, under the penalty of ten shillings for every neglect or offence therein, together with the expense of repairing and amending the said bridge, to be recovered with costs in the name of the Treasurer of the county for the time being, before any two Justices of the Peace of the said county, and applied to the use of the said bridge. 3 Passage for vessels with a draw (15–16)

Sect. 4. *And* for providing a fund to maintain and support the said bridge and causeway when erected, and for defraying *any arrears that may be due for building the same; [the Justices of the Court of Quarter Sessions of the said county of Sussex shall and are hereby empowered and required]* to appoint from time to time, so often as there shall be occasion, some fit and proper person collector to demand, take and receive pontage or toll according to the rates following; *That is to say,* For every single horse and rider, three pence; for every led horse, ox, cow or heifer, one penny; for every foot-passenger, one penny; for every sheep and hog, one penny; for a coach or other four wheeled carriage with a pair of horses and riders, nine-pence; for a chaise or chair with one horse and the riders, four-pence, with two horses and riders, six-pence; for 4 Collector 5 Tolls [6, 17, 20, 22] [23]

(a) By an additional Supplement passed January 28, 1794, David Hall and Caleb Rodney are appointed commissioners in place of John Rodney and Henry Fisher, deceased; and the commissioners are authorized to appoint the collector of tolls; and power is given to the Judges of the Court of Quarter Sessions for Sussex county to supply vacancies by the death, resignation, removal or inability to serve of any of said commissioners: and by section 10 of the "Act to improve the navigation of Lewes creek," &c [See Lewes] provision is made for the transfer to the Trustees of the town of Lewes of the powers and privileges of the said commissioners. (26)

a cart or wagon loaded, and horses and oxen, one shilling; empty cart or wagon and horses or oxen, four-pence.

6 Subscribers of £3 exempt from tolls [18—21]

Sect. 5. *Provided always*, That no pontage or toll shall be exacted or demanded of or from any person who shall subscribe and pay toward erecting and building the said bridge and causeway the sum of three pounds and upwards; and that all poor persons of the said county, exempted from the payment of public rates and levies, shall have liberty to pass and repass toll free.

7 List of subscribers returned

Sect. 6.—[By this section the commissioners are required to return into the Court of Quarter Sessions a list of the subscribers to be lodged with clerk of the peace, who is required to give certified copies thereof.]

8 Unlawful toll

Sect. 7. If the person to be appointed collector of the pontage or toll aforesaid shall exact or demand any greater or other rates or prices for passing over the said bridge than what are herein before prescribed and limited, he, she or they so offending shall forfeit and pay the sum of five pounds lawful money of this government, for every such offence, one moiety thereof to the Treasurer of the county for the time being for maintaining and supporting the said bridge and causeway and the other moiety thereof to the party grieved, to be recovered by action of debt, bill, plaint or indictment in any court of record in the said county of Sussex.

9 Collector's account

Sect. 8. The said collector shall once in twelve months at least pay unto the county Treasurer all such sums of money as he shall have then received by virtue of this Act, retaining thereout so much as shall be stipulated between him and [the Justices of the Quarter Sessions aforesaid] for his service in receiving the same; and the Treasurer shall give receipts to the collector for what he shall so bring in and pay from time to time; which receipts shall be the collector's discharge for so much: *And* the said Treasurer shall from time to time signify in writing to the Justices of the Court of Quarter Sessions of the said county, how much the collector brings in and pays as aforesaid; and when the said collector is negligent or refuses to do his duty in the premises, the Treasurer is hereby required to signify the same by way of complaint to the Justices aforesaid.

10 County Treasurer's account

Sect. 9. The Treasurer of the county for the time being shall keep a distinct book, containing a particular account of all the monies that shall come into his hands by virtue of this Act, as also of all disbursements and payments made by order of the Justices in their Court of Sessions, who are hereby authorized and required to direct the application of the said monies, as well for the maintenance and support of the said bridge and causeway from time to time, as for defraying any arrears that may be due for building the same. *And* the Treasurer shall be allowed for his trouble four pounds for every hundred pounds so by him received and paid, and so in proportion for any greater or less sum of money, to be allowed him at settling his accounts as is hereafter directed. *And* when the said County Treasurer shall be removed from his office or die, the said books and balance of monies then in his hands shall be delivered up and paid to the succeeding Treasurer.

11 his allowance

12 Commis-

Sect. 10. The commissioners aforesaid or the survivors or sur-

vivor of them, after the said bridge and causeway are finished and completed, and the Treasurer, for the time being, yearly and every year, after any monies have come into his hands by virtue of this Act, shall render and make report of their proceedings and transactions in the premises aforesaid to the Levy Court of the county of Sussex, who shall nominate and appoint, out of their own number, three fit persons to settle accounts with the said commissioners and Treasurer, who are hereby required to lay before them the true and just state of all the accounts relating to the said bridge and causeway in their hands, which three persons or two of them shall proceed to adjust and settle the said accounts, and make report to the next Court of Appeal after their appointment as aforesaid; which settlement when so made shall be signed or subscribed by the parties aforesaid, and then received and filed among the papers of the said court. And if after such settlement any balance of monies shall be in the hands of the said commissioners or any of them, the same shall be paid over to the Treasurer of the county, for the time being, to be applied and accounted for as other monies coming into his hands by virtue of this Act.

sioners and Treasurer to account with Levy Court [25]

Sect. 11. The collector of the toll or pontage shall, before he enters upon the execution of his office, give bond to the Justices of the Court of General Quarter Sessions, with security as shall be required, in the name of the Treasurer of the county, for the faithful performance of the trust reposed in him by this Act. And if the said collector shall at any time after refuse or neglect to do his duty, or shall happen to remove out of the said town of Lewes or die, the Justices of the Court aforesaid shall in every such case appoint another in his stead.

13 Collector's bond

[Note (a) 569 page]

Passed November 6, 1773.

A SUPPLEMENT *to said Act.*

1775

Whereas it is apprehended that turning the channel of Lewes creek in the county of Sussex, from the place where it now runs at and near the bridge in part erected over the said creek at Lewestown, to the south-west side of the said creek near the fast land, would be a beneficial improvement; and that the pontage allowed to be paid by [the Act aforesaid] will not be sufficient for the maintaining and supporting the bridge and causeway now erecting by virtue of the said Act; and that subscribers for building said bridge are not sufficiently encouraged:—

Section 1.—[This section authorizes the commissioners] to cut a canal of the width of ten feet and the depth of two feet, from the south-west channel of Lewes creek aforesaid, adjoining a small island called Kollock's Island, as straight as conveniently may be near the south-west shore of said creek, until it passes through the place where a passage of ninety feet is left between two abutments of the bridge now erecting, and from thence in such direction into the present channel of the said creek below the aforesaid bridge, as they shall judge most proper and convenient for terminating the same; and when the said canal is so cut in manner aforesaid, they the said commissioners or any two of them are hereby authorized and empowered to stop and fill up the present

14 Canal

15 passage

channel of the said creek on the cape-side thereof, and to continue the causeway now erecting across the same, any thing in the said Act to the contrary notwithstanding: And also, if they shall find it necessary and convenient, they are hereby empowered and authorized to stop the said channel at the upper end of Shankland's Island to the cape, and that smaller channel situate between White's and Kollock's islands, for the purpose of more readily conveying the waters of the said creek into the canal to be cut in manner aforesaid.

16 draw

Sect. 2. *Provided always,* That there shall be left clear in the place, where the said canal is to pass, between the abutments of the said bridge the space of ninety feet at all times for the waters of the said creek to pass through, excepting the piles necessary for supporting the said bridge; and that there shall be left between the rows of said piles the clear space of sixteen feet at least; over which shall be erected and placed a draw or platform of the breadth of eight feet or more, with good and sufficient chains for raising up the same, for the accommodation of all such persons as have occasion to pass and repass with any vessel through the said bridge, who are hereby obliged carefully to raise and lower the said drawbridge, so as the same receive no damage thereby, under the penalty of ten shillings for every neglect or offence therein, together with the expense of repairing and amending the said bridge, to be recovered with costs in the name of the Treasurer of the county for the time being before any two Justices of the Peace of the said county, and applied to the use of the said bridge.

17 Additional toll [5—23]

Sect. 3. The person appointed to collect the pontage or toll, for passing the bridge aforesaid may and shall demand, take and receive the additional rates or toll following, more than what is already allowed by the said Act; *to wit:* for every single horse and rider, one penny; for every foot passenger, one penny; for every led horse, ox, cow or heifer, one penny; for a coach, or other four wheeled carriage, with a pair of horses and riders, nine-pence; for a cart or wagon loaded and horses or oxen, six-pence; for a chaise or chair with one horse and the riders, four-pence; with two horses and riders, six-pence; and for an empty cart or wagon and horses or oxen, two-pence.

18 Exempt from toll (6—21)

Sect. 4. No pontage or toll shall be demanded and knowingly taken of or from the wife or children or servants of any person, who hath subscribed and paid or shall hereafter subscribe and pay towards the erecting the aforesaid bridge and causeway the sum of three pounds or upwards; or of or from the servant or servants of any such wife or children, during the life of such subscriber or for twenty years from and after the passing of this Act, under the penalty of twenty shillings for every such offence to be recovered with costs and applied in manner, as by this Act is before directed with respect to persons doing damage to the draw of the aforesaid bridge.

Passed March 29, 1775.

[191]

ANOTHER SUPPLEMENT.

Whereas the commissioners by an Act of General Assembly,

entitled, "An Act for erecting a bridge and causeway over Lewes creek, from the town of Lewes to the cape-side of said creek, in the county of Sussex," have been prevented from completing the same for want of a sufficient stock subscribed:—

Section 1. It shall and may be lawful for the said commissioners, or the survivors or survivor of them, to receive and take in subscriptions for erecting and completing the said causeway and bridge over Lewes creek from the town of Lewes to the cape-side in a direct line as near as may be, beginning at or near the place where the fort in the said town stood; and the toll arising from the said bridge and causeway, shall be applied to and for the sole use and benefit of the subscribers and commissioners, for paying off and discharging all arrears due and unpaid to workmen and others, on account of the causeway erected previous to the late war, and for reimbursing such persons as may advance money to the erecting and finishing the said bridge and causeway, on additional subscriptions: 19 Subscriptions 20 appropriation of the toll (22)

Sect. 2. *Provided*, That the said subscribers and commissioners do finish the said bridge and causeway, and keep the same in good repair until the said arrears and subscriptions are or shall be paid.

Sect. 3. All subscribers, who shall be reimbursed their subscription money, shall, after such reimbursement, pay such toll for crossing the said bridge, as is described by the Act, to which this is a supplement. 21 Subscribers re-imbursed shall pay toll

Passed January 29, 1791.

ANOTHER SUPPLEMENT. 1796

Whereas the bridge and causeway lately erected on Lewes creek are likely to become useless by defect of provision for their support:—

Section 1. The pontage and toll arising from the said bridge and causeway shall be applied to keeping the said bridge and causeway in good repair; and all monies arising as aforesaid, more than shall be sufficient for such repairs and paying the collector thereof, shall be applied to and for the sole use and benefit of the subscribers and commissioners for paying off and discharging all arrears due and unpaid to workmen and others on account of the causeway erected previous to the late war, and for reimbursing such persons as may advance or have advanced money to the erecting, finishing or repairing the said bridge or causeway on additional subscriptions. 22 Toll applied [20]

Sect. 2. The person appointed or to be appointed to collect the pontage or toll for passing the said bridge and causeway may and shall take and receive the same rates of toll and pontage for every loaded or empty cart or wagon and horse or team, that shall go upon or pass over the draw or platform of said bridge, as ought to be received in case the said cart or wagon and team had passed over the bridge and causeway aforesaid. 23 Toll for passing platform

Sect. 3. The master or owner or owners of every vessel, which shall or may break or in any manner or by any means injure the said bridge or causeway or any part of them or either of them, and 24 Penalty for injuring bridge, &c.

the owner of any cart, wagon or carriage, which, otherwise than by passing in a direct manner over them, shall injure the said bridge or causeway or any of their appurtenances, shall forfeit and pay the sum of one dollar and fifty cents for such injury, together with the expense of repairing the said part to be recovered with costs, in the name of any one of the commissioners of the said bridge, before any Justice of the Peace of the said county, and applied to the use of the said bridge and causeway.

25 Accounts of commissioners to Levy Court

Sect. 4. The commissioners heretofore appointed to finish, complete and repair the said bridge and causeway, or a majority of them shall yearly and every year render and make report of their accounts, proceedings and transactions in the premises to the Levy Court of the county of Sussex, who shall nominate and appoint, from among the members of the said court, three suitable persons to settle the accounts of the said commissioners; which three persons so appointed as aforesaid or any two of them shall proceed to adjust and settle all the accounts relating to the said bridge and causeway, and shall make their report thereupon to the next Court of Appeal for the said county after their appointment as aforesaid; which account and settlement when so made and adjusted shall be signed by the said commissioners and the committee settling the same, and then shall be received and filed among the records of the said court; and if the said commissioners or a majority of them shall neglect or refuse to make such annual settlement as aforesaid, such neglect or refusal shall be deemed and taken to be a forfeiture of their office or appointment; and others shall be appointed thereto, as is at present by law directed in case of vacanciess.

26 neglect—forfeiture of office

Passed February 9, 1796.

VII.

1802 LITTLE CR'K.

AN ACT *for erecting and keeping in good repair, a draw-bridge over Little creek.*

Whereas the erection of a draw-bridge over Little creek at or near the place where the public road now runs to Little creek landing, would be of great public utility and more especially of advantage to the good people residing in the necks of Little creek and St. Jones respectively;

Section 1.—[By this section commissioners are appointed to build the bridge.]

1 Space for draw, &c. (a) altered [4]

Sect. 2. [*It is provided, that a space, of at least* [*twenty* (a)] *feet for the waters of the creek to flow through, and of at least* [*nineteen* (a)] *feet for a draw, be left*] for the accommodation of all such persons as may have occasion to pass and repass with any boat or vessel through the said bridge; and the said persons so passing and repassing with their boat or vessel are hereby directed to raise and let down the said draw or platform in such manner, as that the same receive no damage thereby under the penalty of four dollars for every such neglect or offence therein, to be recovered with costs of suit before any Justice of the Peace for Kent county by any person, who will sue for the same, one half thereof

2 Penalty for damaging it

to be applied to the use of the party suing for the same and the other half thereof to the use and for the purpose of maintaining the said bridge in good order and repair.

Sect. 5. The said draw-bridge, after it shall be so built, erected, finished and completed, shall be deemed and taken to be a public highway, free for all persons whomsoever to pass and repass over and across the same free from toll or pontage; and the said draw-bridge is hereby directed to be kept in good order and repair in the same manner, that other bridges in Kent county are directed to be kept.

3 A public highway (Roads and Bridges 7)

Passed at Dover, February 5, 1802.

A SUPPLEMENT *to the Act entitled, "An Act for erecting and keeping in good repair a draw-bridge over Little creek."* 1816

Section 1. The space between the abutments of the said bridge and over the channel of the said creek, for the accommodation of such persons as may have occasion to pass through the said bridge with boats and vessels, shall be increased to the width of twenty-eight feet in the clear; and it shall and may be lawful for the Levy Court of Kent county and they are hereby required and enjoined, that the said bridge shall be altered so that there shall be left between the abutments of said bridge and over the channel of said creek the clear space of twenty-eight feet at the least, over which shall be constructed a good and sufficient draw of the proper length, with proper machinery and accommodations for raising or removing the same for the purpose of permitting vessels to pass and repass through the said bridge: *Provided,* that if the said bridge cannot be widened to twenty-eight feet as aforesaid for the sum of one hundred dollars by the contract of some person or persons, who will undertake the same, then and in such case the Levy Court shall not be obliged to cause said bridge to be so widened.

4 Space betw. abutments increased

Provided it can be done for $100

Sect. 2. It shall be the duty of any person or persons appointed by the Levy Court, or of the overseer or overseers of the roads, causeways and bridges, within whose limits the said bridge shall be, and he or they are hereby enjoined and required to cause the said bridge to be altered, and a draw to be constructed according to the foregoing provisions.

Duty of persons appointed for that purpose

Passed at Dover, 14 *February* 1816.

VIII.

AN ACT *for making the bridge across Naaman's creek, in the county of New Castle, a public toll bridge.* 1801 NAAMAN'S CREEK.

Whereas the erection and support of the numerous bridges over creeks and deep waters within the county of New-Castle, is extremely burdensome to the good people thereof; *and whereas* they have lately erected at a very considerable expense a new bridge over Naaman's creek on the main road leading from the borough of Wilmington to the city of Philadelphia; for repairing and keeping up said bridge or bridges, it is but reasonable that those who enjoy the advantages should contribute to their continuance,

and but just and right that the public expenses of the county should be thereby lessened:—

1 Toll bridge

Section 1. The bridge across Naaman's creek in the county of New-Castle, on the State road leading from the borough of Wilmington to the city of Philadelphia shall be deemed, held and taken, and the same is hereby declared, to be a public toll-bridge, for the passing and repassing whereof the rates of toll or pontage hereinafter prescribed and set forth shall be payable to and for the uses hereafter mentioned.

2 Collector appointed

Sect. 2. The commissioners of the Levy Court and Court of Appeal be and they are hereby authorized, empowered and directed at their meeting in February next and annually thereafter to nominate and appoint some suitable person for the purpose of collecting and receiving the rates of toll or pontage hereinafter prescribed; and the person so appointed shall, as soon thereafter as he conveniently can and before he enters upon the duties of his said appointment, give bond with one or more sufficient sureties, with a warrant of attorney annexed thereto, to confess judgment in the penalty of one thousand dollars to the Treasurer of the said county of New-Castle, conditioned *for the true and faithful performance of the duties reposed in him as collector and receiver of the tolls of the said bridge, and that he will render a true and perfect account verified by his oath, to the said commissioners of the Levy Court and Court of Appeal at their annual session, of all and every sums or sum of money which shall come to his hands or possession as collector and receiver of the said tolls, and the same or the balance thereof (after a reasonable allowance thereout for the time and trouble of collecting and receiving the same) shall and will faithfully and truly discharge and pay into the hands of the said Treasurer.*

3 Bond

4 Tolls

Sect. 3. The person, who shall be appointed collector and receiver of the tolls of the said bridge under the regulations of this Act, shall take and receive for toll or pontage over the same the rate and prices following, *to wit*: for every single horse and rider, three cents; for every led horse, ox, cow or heifer, one cent; for every sheep or hog half cent; for a coach or other pleasurable carriage with four wheels drawn by four horses or more, and passengers, twenty-five cents; and for the same carriages drawn by two horses, twelve and a half cents; for every stage-wagon drawn by either two or four horses or more, eighteen cents; for a chair, sulky or sleigh with a driver, six cents; for a wagon or cart with four or more horses or oxen and driver, ten cents; for every other cart or wagon with less than four horses or oxen and driver, four cents; *provided* that no foot passenger shall pay any toll.

5 Unlawful toll:

Sect. 5. If any person having the care and keeping of the said bridge shall exact or demand greater rates or prices for the passing and repassing the same, than are herein before prescribed and specified, for every such offence so by him committed he shall forfeit and pay any sum not exceeding ten dollars, one moiety thereof to the party grieved and the other moiety to the Treasurer of said the county for the use of the county, to be recovered by indictment and conviction in the Court of General Sessions of the Peace for the county aforesaid.

6 penalty

7 Collector's Account

Sect. 6. The person or persons to be appointed as aforesaid col-

lector or receiver of the said toll or pontage shall account at his annual settlement with the commissioners of the Levy Court and Court of Appeal aforesaid, and verify the truth and justice of the entries of all the receipts of the tolls and pontage aforesaid on oath; and the sum or sums of money found due from the said collector or receiver, on settlement with the commissioners of the Levy Court and Court of Appeal annually as aforesaid shall by him be paid into the hands of the County Treasurer *(a)* to and for the use of the said county to be applied to the support, maintenance and erection of bridges lying over creeks and deep waters, which by the laws of this State are to be erected and supported at the common expense of the said county. *Provided nevertheless,* That the said commissioners of the Levy Court and Court of Appeal shall make a reasonable and competent allowance, such as they shall deem proper, from and out of the said tolls or pontage, to the said collector or receiver, as a compensation for his time and trouble in collecting and receiving the same.

(a) quarterly (9)

§ allowance to collector

Passed at Dover, January 30, 1801.

A SUPPLEMENT *to the Act for making the bridge across Naaman's creek, in the county of New-Castle, a public toll bridge.* 1802

Section 1. The tolls to be collected from said bridge shall be paid quarterly by said collector to the treasurer, only retaining one fourth part of the allowance that may be annually made him, by the commissioners of the Levy Court of said county; and all persons desirous of commuting shall hereafter commute annually with the said commissioners of the Levy Court for such sum or sums of money, as the said commissioners of the Levy Court may think proper; and all and every line or lines of stages shall pay toll or pontage and none be excepted; any thing in the said act to the contrary notwithstanding.

9 Collector of tolls to pay quarterly

Passed at Dover, February 3, 1802.

AN ACT *repealing certain Acts therein mentioned.* 1813

Section 1. As soon as the county of New-Castle shall be fully repaid the expense of erecting and maintaining the bridge over Naaman's creek, then the Act entitled "An Act for making the bridge across Naaman's creek, in the county of New-Castle, a public toll bridge," and the Act entitled "A supplement to the Act for the making the bridge across Naaman's creek, in the county of New-Castle, a public toll bridge," shall be and the same are hereby repealed.

10 Provision for repeal

Sect. 2. The Levy Court of New-Castle county shall lay a fair statement of expenditures on the said bridge and of all the tolls collected on the same before the General Assembly at their session in January next.

11 Account before Gen'l Assembly

Passed at Dover, February 2, 1813.

IX.

1813 NEWPORT BRIDGE

AN ACT *to incorporate a company to erect a draw-bridge over the Christiana creek at the village of Newport, and for other purposes therein mentioned.*

1 Corporate name

[By section 2, the company are incorporated by the name of the *The Newport Bridge Company.*]

2 Description of bridge (5)

Sect. 6. The president and managers of the Newport bridge company shall at their own proper costs and charges erect a draw bridge across the Christiana creek at the village of Newport, where the public ferry is kept across the said creek, of the following description: to wit, the bridge shall be built upon piles at least twenty feet from each other; and the said bridge shall be of the breadth of not less than twenty feet, and be of good durable timber, with a draw of the length of thirty feet over the channel and at right angles with the said channel; the said company shall provide and at all times maintain such platforms, buoys and other accommodations for rendering the passage of shallops and other craft, navigating the said creek, through the said draw, as safe and easy as practicable, and so as to occasion to the said vessels as little detention, interruption or inconvenience as possible; which draw shall at all times on the approach of any masted vessel or vessels be drawn at the expense of the said Newport bridge company, and that without any let or hindrance to the said vessel in passing and repassing at all times, and without any charges or costs to such masted vessel for drawing said bridge, under and subject to the penalties and forfeitures hereinafter provided: *Provided nevertheless,* that in the construction or erection of the said bridge, abutments or wharves, it shall not be lawful to erect or put up any wharf or abutment on either side of the said stream or creek, lower than high water mark of the said stream or creek.

3 draw—length

4 drawn without hindrance or charge

5 no abutm't lower than high water mark

6 Bridge—property of corporation

Sect. 9. For and in consideration of the expenses, that the stockholders will be at in the erecting of the said bridge and in the maintaining and keeping of the same in repair, the said bridge and works with all their profits shall be and the same are hereby vested in the said corporation forever; and it shall be lawful for the said president and managers, after the said bridge shall be erected, to appoint a toll-gatherer, and to demand and receive the following tolls or pontage for crossing the said bridge: to wit, for every single horse and rider, four cents; for every led horse, ox, cow or heifer, two cents; for every foot-passenger, one cent; for every sheep and hog, one cent; for a coach or other four-wheel carriage and pair of horses and passengers, eighteen cents; for a chair or sulky, horse and rider, ten cents; for a cart, one horse and driver, laden or unladen, ten cents; for a wagon, laden or unladen, two horses and driver, eighteen cents; for any other horse, mule or ox in a cart or wagon, two cents; for any sleigh or sled, with one horse, ten cents; every other horse, two cents.

7 Tolls [8-9-11]

8 Commutation

Sect. 10. Every person or persons, who shall prefer an annual contract for the use of the said bridge, shall be entitled to the benefit of the same, for himself and family, for the sum of four dollars

per annum to be paid in such manner, that a quarterly payment shall always be in advance; and if any person or persons, who wish to make such contract, shall think the said annual payment unreasonable and disproportionate to the number of their family and their use of the said bridge, the party so aggrieved shall choose one freeholder and the president of the said Newport bridge company shall appoint another freeholder, who shall decide what reduction shall be made from the annual payment herein before specified; and in case the two persons so chosen cannot agree, they shall choose a third person; and then the three persons or a majority of them shall decide as aforesaid; or in case the said president shall neglect or refuse to choose a freeholder for the space of ten days, then the freeholder chosen by the party aggrieved as aforesaid shall decide what reduction ought to be made, which shall be the commutation for the current year.

9 Unlawful toll

Sect. 11. If the president and managers or any person or persons by them appointed and having the care and keeping of the said bridge shall exact or demand any greater prices or rates than what are herein before prescribed and specified, he or they so offending shall for any such offence, forfeit and pay any sum not exceeding twenty dollars, one moiety thereof to the party aggrieved and the other moiety to the Trustees of the poor for the use of the poor of said county, to be recovered as debts to the same amount are recoverable by the laws of this State.

10 Wharves at Newport Ferry [15-16]

Sect. 12.—[This section provides for compensation to New-Castle county for the wharves at Newport Ferry to be paid in shares of the stock of the company, giving to the Levy Court of said county authority to appoint a member to vote on these shares, and vesting the wharves &c. in the corporation.]

11 Passage refused to persons refusing toll

Sect. 13. If any person or persons shall refuse or neglect to pay the rate of pontage or tolls as aforesaid, it shall and may be lawful for the person or persons having the care and collection of the pontage or toll of said bridge to refuse passage to any such person or persons, until he, she or they shall comply, and pay the pontage or toll as aforesaid.

12 Lamps

Sect. 14. The president and managers of the said Newport bridge company shall for the safety of travellers as well as the navigation place, or cause to be placed on each side of the draw a lamp on suitable posts, which lamps shall be lighted within one hour from the setting of the sun and continue lighted until daylight; and the said president and managers of the aforesaid company or their toll keeper shall forfeit and pay for every night the said lamps shall not be lighted, the sum of ten dollars to be recovered as other fines in this Act and applied in the same manner.

13 Penalty for injuring bridge

Sect. 15. If any person or persons shall cut, injure or destroy any piece or pieces of timber or plank or planks or other things belonging to the said Newport bridge, or shall remove the same from the said bridge, or in any otherwise wilfully damage the same, or shall extinguish the lamps aforesaid, or shall cut down or otherwise destroy the draw or other improvements made by the said company, and being thereof convicted upon the oath or affirmation of one or more credible witness or witnesses before any Justice of the Peace of New-Castle county, shall pay, over and above the da-

per annum to be paid in such manner, that a quarterly payment shall always be in advance; and if any person or persons, who wish to make such contract, shall think the said annual payment unreasonable and disproportionate to the number of their family and their use of the said bridge, the party so aggrieved shall choose one freeholder and the president of the said Newport bridge company shall appoint another freeholder, who shall decide what reduction shall be made from the annual payment herein before specified; and in case the two persons so chosen cannot agree, they shall choose a third person; and then the three persons or a majority of them shall decide as aforesaid; or in case the said president shall neglect or refuse to choose a freeholder for the space of ten days, then the freeholder chosen by the party aggrieved as aforesaid shall decide what reduction ought to be made, which shall be the commutation for the current year.

Sect. 11. If the president and managers or any person or persons by them appointed and having the care and keeping of the said bridge shall exact or demand any greater prices or rates than what are herein before prescribed and specified, he or they so offending shall for any such offence, forfeit and pay any sum not exceeding twenty dollars, one moiety thereof to the party aggrieved and the other moiety to the Trustees of the poor for the use of the poor of said county, to be recovered as debts to the same amount are recoverable by the laws of this State. 9 Unlawful toll

Sect. 12.—[This section provides for compensation to New-Castle county for the wharves at Newport Ferry to be paid in shares of the stock of the company, giving to the Levy Court of said county authority to appoint a member to vote on these shares, and vesting the wharves &c. in the corporation.] 10 Wharves at Newport Ferry [15-16]

Sect. 13. If any person or persons shall refuse or neglect to pay the rate of pontage or tolls as aforesaid, it shall and may be lawful for the person or persons having the care and collection of the pontage or toll of said bridge to refuse passage to any such person or persons, until he, she or they shall comply, and pay the pontage or toll as aforesaid. 11 Passage refused to persons refusing toll

Sect. 14. The president and managers of the said Newport bridge company shall for the safety of travellers as well as the navigation place, or cause to be placed on each side of the draw a lamp on suitable posts, which lamps shall be lighted within one hour from the setting of the sun and continue lighted until daylight; and the said president and managers of the aforesaid company or their toll keeper shall forfeit and pay for every night the said lamps shall not be lighted, the sum of ten dollars to be recovered as other fines in this Act and applied in the same manner. 12 Lamps

Sect. 15. If any person or persons shall cut, injure or destroy any piece or pieces of timber or plank or planks or other things belonging to the said Newport bridge, or shall remove the same from the said bridge, or in any otherwise wilfully damage the same, or shall extinguish the lamps aforesaid, or shall cut down or otherwise destroy the draw or other improvements made by the said company, and being thereof convicted upon the oath or affirmation of one or more credible witness or witnesses before any Justice of the Peace of New-Castle county, shall pay, over and above the da- 13 Penalty for injuring bridge

mages done to the said bridge and works, the sum of thirty dollars to be recovered under the hand and seal of the Justice of the Peace before whom the conviction was had, to be applied, one half thereof to the use of the said company, and the other half to the use of the poor of New-Castle county.

14 Draw—not in repair, or not attended penalty (18)

Sect. 16. The president and managers of the said Newport bridge company shall at all times keep and maintain the draw of the said bridge required to be constructed by this Act as well as the platforms, buoys and other accommodations for the expediting of the passage of vessels through the said bridge herein before directed to be provided, in good order and sufficient repair, and at all times after the erection of the said bridge, and during its continuance give or cause to be given good attendance at the said bridge to draw or raise the same on the approach of any masted vessel intending to pass the draw, so as to have the same removed by the time such vessel or vessels, to pass and repass through the said draw, free from all manner of toll; and if the president and managers or any person or persons having the care of the bridge and draw shall neglect or refuse to give good and faithful attendance at the said draw, or to raise the same, so as to permit the passage of all vessels free from toll, such person or persons, or the president and managers of the said bridge so neglecting or refusing shall for each and every offence forfeit and pay to the person or persons aggrieved, for every fifteen minutes, his, her or their vessel or vessels shall be detained by the default or neglect of the parties aforesaid, the sum of ten dollars to be recovered as other penalties in this Act.

penalty (19)

15 Survey of wharves,

16 thirty feet from the center for use of company

Sect. 17. The freeholders directed to be chosen and appointed to view the wharves at the village of Newport shall cause a survey of the said wharves on each side of the Christiana creek to be made and returned with their valuation, a correct map or plan of the same into the office of the clerk of the peace of New-Castle county, who shall record the same with the return of the said valuation, and it shall at all times be lawful for the said Newport bridge company to have and use from the center of the said wharves and parallel with the same, thirty feet on each side for the use of said company, and the said bridge shall be, and the same is hereby declared to be a public highway, free for all and every citizen of the United States to pass and repass at all times, they paying the toll or pontage in this Act mentioned.

17 public highway

18 Notice of approach of vessel

Sect. 18. If the commander of any vessel approaching the said bridge shall cause a horn or shell to be loudly and distinctly blown by some person standing on the deck of such vessel, at the distance of half a mile from said bridge, and shall cause the same to be steadily repeated, as often as the nature of the case will admit of, as the said vessel approaches the said bridge, the same shall be considered as full and sufficient notice of the approach of said vessel to said bridge; and in case the keeper of the said bridge shall neglect or refuse to have the draw of the said bridge removed by the time such vessel arrives thereat, the said company shall be answerable to the owner or owners of such vessel for all damages they may sustain by reason thereof, to be recovered before any Justice of the Peace of the said county, if not exceeding twelve

19 Penalty for neglect

pounds, and if exceeding that sum, before any court of law of the said county, with costs and damages as in other like cases.

Sect 21. If the Levy Court of New-Castle county shall, after the year one thousand eight hundred and thirty-three, pay to the said Newport bridge company the sum which the said company shall have expended, the bridge hereby authorized to be erected with all the improvements thereto belonging, shall be vested in the county of New-Castle, and then this corporation created by this Act, shall cease to have any operation. 20 Terms for vesting bridge in N. Castle county

Passed February 3, 1813.

X.

AN ACT *to incorporate a company to erect a draw-bridge over the river Christiana, at Wilmington, and for other purposes therein mentioned.* 1807

Section 1.—[This section provides for receiving subscriptions for the purpose of erecting a draw-bridge across the river Christiana at Wilmington, and opening a road from thence through Holland's creek marsh in such direction as shall be deemed most eligible and proper, to the fast land at or near the house of Major Peter Jaquett, of the width of eighty feet, inclusive of an allowance for making a drain on each side of the road for the purpose of raising the same above the level of the said marsh and for keeping the said bridge and road through the marsh aforesaid in good and sufficient repair, and for opening and making a road of the width of not less than forty feet nor more than sixty on the fast land from the said Peter Jaquett's to intersect the road leading from the public ferry over the said river below Wilmington to the town of New-Castle, where the said road crosses the division line between the lands of Major Peter Jaquett and Robert White, in the most direct line the nature of the ground will admit of.] 1 WILMINGTON BRIDGE.

[By section 4 the company are incorporated by the name of the *Wilmington Bridge Company*.] 2 Corporate name of company

Sect. 6. [By this section James Stroud, Nehemiah Tilton, James Brindley, Samuel Canby and Joseph Shipley or a majority of them are authorized to fix the place of the bridge, and to lay out a road from the southerly abutment through Holland's creek marsh to the fast land near the house of Major Peter Jaquett and from thence to Read's, formerly Clark's corner, and also a road from said road near Jaquett's to the road leading from the public ferry below Wilmington to New-Castle; and they are to return a draft signed by them and by the surveyor by them employed, of said bridge and roads into the office of the clerk of the peace for New-Castle county to be by him recorded:]—and the said return, when made in the manner aforesaid, shall be conformed to by the said Wilmington bridge company, who shall erect the bridge and open the roads, as they are or shall be laid down in the said plot or draft, without any deviation therefrom; and the said bridge and roads shall forever thereafter be kept in good order and repair by the said company. 3 Roads laid out 60 feet (13)

4 Width of bridge—draw, &c.

Sect. 8. * * * * * * * * * * * * * * * * the bridge shall be of the width of not less than twenty-five feet, with a draw of the length of thirty feet over the channel or deepest part of said river for the purpose of letting vessels pass and repass through the same; which draw shall at all times on the approach of any masted vessel or vessels be drawn at the expence of the said bridge company, and that without any let or hindrance to the said vessels in passing and repassing at all the times and without any charge or costs to such masted vessel for drawing said bridge, under and subject to the penalties and forfeitures hereinafter provided.

5 Tolls

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

	cents.
For every single horse and rider	6
For every foot passenger	1
For every coach, chariot or landau	37½
For every other four-wheeled pleasurable carriage	25
For every curricle	25
For every chair, sulky or other two-wheeled pleasurable carriage	12½
For every stage-wagon, with passengers	25
For every loaded wagon	25
not loaded	12½
For every loaded cart and three horses or oxen	18
For every sled or sleigh	12½
unloaded do. do. do.	9
For every loaded cart and one horse	6
unloaded do. do.	4
For every other other horse, mule or ox in a cart or wagon	3
For driven or led horses, cattle or mules, each	1
For every sheep and hog	½

6 Commutation

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

Sect. 12. If the president, directors and company, or any person or persons having the care and keeping of the said bridge, shall exact or demand any greater prices or rates, than what are herein before prescribed and specified, he or they so offending shall, for every offence, forfeit and pay any sum not exceeding twenty dollars, one moiety thereof to the party grieved, and the other moiety to the Trustees of the Poor for the use of the poor of said county, to be recovered, as debts to the same amount are recoverable by the laws of this State. 7 Unlawful toll

Sect. 17. If any person or persons shall refuse or neglect to pay the rate of pontage or toll as aforesaid, it shall and may be lawful for the person or persons having the care and collection of the pontage or toll of said bridge or either of them to refuse passage to any such person or persons, until he, she or they shall comply and pay the pontage or toll aforesaid. Passage denied on refusal, &c. to pay toll

Sect. 18. The president, directors and company of the said brige shall for the safety of travellers as well as of the navigation place or cause to be placed six or more lamps, at the expense of the said Wilmington bridge company, on a suitable number of posts to be erected on the said bridge; two at the southern end and two at the northern end of the said bridge and one on each side the draw aforesaid; which lamps shall be lighted every evening (after the erection of the said bridge,) within one hour after the setting of the sun and continue lighted until day light in the morning of the ensuing day; and the company aforesaid or their agent or collector of tolls, for every night the said lamps shall not be lighted, shall forfeit and pay the sum of ten dollars to be recovered as debts of the same amount are recoverable by the laws of this State, and applied as other fines and forfeitures under this Act are directed to be. Lamps

Sect. 19. If any person or persons shall cut or injure or destroy any piece or pieces of timber or any plank or planks, or other things belonging to the said bridge, or shall remove the same from the said bridge, or shall in any wise voluntarily damage the same, or shall voluntarily extinguish or injure the lamps aforesaid, or shall cut down or otherwise destroy or injure any tree or trees planted upon the causeway aforesaid by the said company for ornament, or either of them, he, she or they so offending and being thereof convicted before any Justice of the Peace of New-Castle county upon the oath or affirmation of one or more credible witness or witnesses, shall forfeit and pay for every such offence, over and above the damage done to the said bridge, the sum of thirty dollars to be recovered under the hand and seal of the Justice of the Peace before whom such conviction was had, and to be applied, one half to the person or persons who shall sue for the same, and the other moiety to the use of the poor of New-Castle county. 8 Penalty for damaging the bridge

Sect. 20. The president and directors of the said Wilmington bridge company shall at all times keep and maintain the draw of the said bridge, for the free passage of vessels with fixed masts, required to be constructed by this Act, in good order and sufficient repair, and at all times after the erection of the said bridge and during its continuance give or cause to be given good attendance at the said bridge to draw and raise the same when required, and 9 Penalty, if draw out of repair, or unattended

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

10 Bridge and roads public highway

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

11 Profits—excess over ten per cent. per annum—to school fund [12]

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

12 Books open to Trustee

Sect. 24. The books of accounts belonging to the said bridge company shall at all reasonable times be open to the said Trustee.

Passed at Dover, January 20, 1807.

1807

A SUPPLEMENT *to said Act.*

13 Width of road

Section 1. That part of the road directed by the aforesaid Act to be laid out from the stake in the fast land near major Peter Jaquett's dwelling house to Read's formerly Clark's corner shall be of the breadth of sixty feet; and the said road and also all the parts of the roads laid out, or which shall be laid out under the

14 not altered by Qr. Sess.

aforesaid Act shall not be liable to be altered or changed by virtue of any orders of the Court of General Quarter Sessions of the Peace.

Passed at Dover, August 10, 1807.

—o—

BRIDGES.

I.

AN ACT *regulating the travelling over public bridges in New-Castle county.* 1823

Every stage driver driving a stage, and every other person driving any wagon, cart, coach, gig, chaise or any other carriage for the conveyance of persons or otherwise, over any public bridge in New-Castle county built at the expense 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 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 New-Castle county, and applied, one moiety thereof to the person suing, and the other moiety to New-Castle county, and paid to the Treasurer thereof, in an action at the suit of the informer; and further every person driving any stage, coach, wagon, 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 New-Castle county in manner aforesaid; and 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 New-Castle 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 New-Castle 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 New-Castle 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.

1 Driving over bridges built at county expense—New-Castle county

in a walk

2 non-compliance penalty

3 Bridge at Brandywine village-keeping to the right

4 Penalty on offenders

5 proprietors of stage liable &c.

6 Index board

7 lamps

Passed at Dover, February 4, 1823.

II.

1827

8 Summit Bridge

AN ACT *regulating the travelling over the Summit Bridge erected over the Chesapeake and Delaware Canal on the upper State road near the Buck Tavern in New-Castle county, belonging to the Chesapeake and Delaware Canal Company.*

9 Passed on right-hand side & in a walk—penalty on non-compliance

Sect. 1. 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 if any person or persons shall intentionally and wilfully offend against this provision, every person, for such offence, shall forfeit and pay a sum not exceeding five dollars to be recovered before any Justice of the Peace in and for New-Castle county and applied, one moiety thereof to the person suing, and the other moiety to the Poor of New-Castle county and pay to the Treasurer thereof.

10 index-board

And it shall be the duty of the said company to put up an index board at each end of said bridge, explanatory of the aforesaid provisions; and if any person or persons shall, wilfully, or without orders of the said company, pull down, break or destroy, with intent to injure, any part or parts of the said bridge or of any abutment or other property of the said company appurtenant to or erected or made for the use and convenience of the said bridge, or persons employed in conducting the business thereof, or shall wilfully, without the orders and consent of the company or any person or persons authorized by them, obliterate, deface or destroy the letters, figures or other characters affixed or to be affixed in any place or places for the information of travellers, or shall wilfully and maliciously obstruct or impede the passage on or over the said bridge, or any part or parts thereof, he, she or they so offending and each of them, shall forfeit and pay to the said company the sum of thirty dollars to be sued for and recovered before any Justice of the Peace in like manner, and subject to the same rules and regulations, as debts under fifty dollars may be sued for and recovered; and he, she or they so offending may and shall remain liable to actions at the suit of the said company for further damages for such torts, if the said sum or sums herein mentioned be not sufficient to repair and satisfy such damages.

11 penalty for injury to bridge, &c.

12 Lamps

Sect. 2. The said company shall for the safety of travellers place or cause to be placed, at the expense of said company, four lamps, one at each end of said bridge and two at equal distances between them; which lamps shall be lighted every evening within one half hour after the setting of the sun and continue lighted until day-light in the morning of the ensuing day; and the company aforesaid or their agent, for every night the said lamps shall not be lighted, shall forfeit and pay the sum of ten dollars to be recovered as debts of the same amount are recoverable by the laws of this State and applied, as other fines and forfeitures under this Act are directed to be.

penalty

Passed at Dover, Febuary 9, 1827.

I.

AN ACT *to incorporate a company for cutting and opening two canals to facilitate the navigating of Christiana creek.* 1821 1 CHRISTIANA CANAL

By section 2, the subscribers their successors and assigns are incorporated by the name of "The Christiana Canal Company." 2 Corporate name

Sect. 5. * * * * * * * * * one of the said canals shall be cut, opened and improved, through the marsh or low grounds of Jeremiah Lewden, beginning at the 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 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. 3 Description of the canals

* * * * * * * * * * *

Sect. 6. * * * * * * * The tolls for passing the said canals or either of them shall be as follows, to wit: for every vessel laden in whole or in part with goods, wares or merchandise 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; 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 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 pay the same before any Justice assigned to keep the peace, &c. in and for New-Castle county, together with 4 Tolls [8] 5 how recovered neglect or refusal to pay penalty

the further sum or penalty of four dollars, as debts under forty shillings 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.

appropriation

6 Accounts of all the receipts & expenditures to be rendered to Legislature every fifth year

Sect. 11. 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, 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 shall cease and determine.—*Passed at Dover, January* 29, 1821.

7 on reimbursement of capital expended, corporation shall be dissolved

1823 AN ADDITIONAL SUPPLEMENT *to the Act entitled, "An Act to incorporate a company for cutting and opening two canals to facilitate the navigation of Christiana creek."*

8 Tolls for the first canal

Section 1. "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 are hereby authorized to appoint a toll-gatherer or toll-gatherers 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; 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. *Passed at Dover, February* 4, 1823.

(4)

II.

1818 AN ACT *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.*

9 Back bay canal

[By section 1, Joseph Haslet, Samuel Paynter, Henry Hudson,

Peter F. Wright and Isaac Clows or a majority are authorized to lay out a canal; and a certificate of their proceedings is to be recorded in the office for recording of deeds in Sussex county.]

Sect. 3. The said canal, after it shall be completed, shall be deemed and taken to be a public and common highway.

Passed February 8, 1818.

—o—

CANTWELL'S BRIDGE.

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

Sect. 1. [By this section John Merrit, Outten Davis, Jacob Vandegrift, John Reynolds and John Clark or a majority of them are authorized to survey the escheated lands at Cantwell's Bridge and lay out as a public street, the road used as the principal street, and to lay out a road from the point of intersection of the State road to Wilmington with the northeastern boundary of the escheated land to such point in the aforesaid street, as to be at right angles therewith, and to lay out in the part of said escheated land lying on the southeastern side of said road so many streets and lanes as they shall think proper—such streets to be parallel to the principal steet aforesaid or at right angles, and the breadth not less than sixty feet.] 1 Commissioners

Sect. 3. [By this section said commissioners or a majority of them are to return the survey of the roads, streets, lands &c. into the office for recording of deeds in New-Castle county, to be recorded.] 2 Return

Sect. 6. [By this section the commissioners are required to lay out a school house lot not exceeding one hundred and twenty feet front, and two hundred feet in depth, for the use of the inhabitants of Cantwell's Bridge and its vicinity.] 3 School-house lot

Passed at Dover, February 2, 1821.

—o—

CAPE HENLOPEN.

AN ACT *authorizing the Court of General Quarter Sessions of the Peace and Gaol Delivery of the State of Delaware to appoint Trustees to take charge of and secure the rents of the lands and marsh commonly called* Cape Henlopen, *for the use of the county of Sussex.* 1814

Sect. 1. It shall and may be lawful for the Court of General Quarter Sessions of the Peace and Gaol Delivery at their next session, and at their spring session every third year thereafter in the county of Sussex aforesaid, to appoint three good and substantial 1 Trustees appointed

freeholders of said county, one of whom only shall reside in Lewes and Rehoboth hundred, to take possession of and rent to the highest and best bidder in lots, the aforesaid lands and marsh for any time not exceeding three years; and the money arising therefrom to be paid over to the County Treasurer for the use of the county of Sussex only.

2 County Treasurer

3 Treasurer of Trustees

Sect. 2. The said Trustees shall have power to appoint one of their body to be treasurer of said board, who shall by virtue of said appointment receive all and every sum or sums of money, that may be due or arising from the rent of said lands or marsh or sale of spars or other timber sold to the master or masters, owner or owners of any vessel or vessels that may or shall hereafter be cast away, stranded, or otherwise injured, on or near the said cape; in which case only the said Trustees shall have a right or power to sell timber spars or fire-wood from or on the said cape.

4 when timber &c. cut on cape (Crimes, &c. II)

5 Trustee's accounts

Sect. 3. The said Trustees shall keep a true and correct account of all the monies by them received for spars, timber or rent of said marsh and cape, in a book or books provided by the treasurer of said board for that purpose, and each and every year thereafter settle said accounts with the Levy Court commissioners for the county of Sussex, and in the space of ten days thereafter pay over to the County Treasurer such sum or sums of money, as may by them be found due to said county for rent of marsh, sale of timber or fines recovered, after reserving therefrom such allowance as shall be made by the Levy Court to said Trustees for their services.

6 settle with Levy Court

7 allowances

8 Trespasses on cape—(Crimes, &c. 2-5)

Section 4. If any person or persons shall cut any fire-wood, timber, masts or spars, or turn on any cattle, horses or hogs on the said lands or marsh on the said cape, without having first contracted with the said Trustees or a majority of them, such person or persons so offending shall be liable to have a suit brought against them by the Trustees or a majority of them, before any Justice of the Peace in and for said county, for any sum not exceeding thirty-two dollars in like manner, as other debts of trespass are recoverable, any law, usage or custom to the contrary notwithstanding.

suits of Trustees before Justice

Passed at Dover, February 15, 1814.

—o—

COUNTY LINES.

1775 AN ACT *for the more effectual ascertaining and fixing the limits of the several counties within this government, and for remedying some inconveniences that may arise by the late establishment of the boundaries and divisional lines between the same and Maryland.*

Section 1, 2.—[It is herein recited, that the divisional lines between the province of Maryland, the counties of New-Castle, Kent and Sussex and the province of Pennsylvania had been run by commissioners and marked out with stones, pillars and other land

marks and approved by the King by an order in council dated 11 January 1769.]

Sec. 4. The line dividing the counties of New-Castle and Kent, continued from the mouth of a branch issuing from the main branch of Duck-creek and opposite part of Enoch Jones's land on the Kent side and Richard Nash's land on the New-Castle side and running from thence up the said branch on the several courses thereof westwardly six hundred and two perches to a white oak corner tree of Benjamin Hazle and Richard Hollet's lands at the head of said branch, from thence continued due west one thousand seven hundred and eight perches, till it intersects the tangent or divisional line between these counties and Maryland, where the same crosses the Cyprus Branch, shall be deemed, taken and held the boundary between the said counties of New-Castle and Kent; and the line between the counties of Kent and Sussex, continued from a fork of Mispillion-creek at the junction of the Tan-Trough-branch and Beaver-dam Branch, running up the Tan-Trough-branch with the several courses thereof eight hundred and eight perches to the head thereof, thence south westwardly to a small fork of a small branch of the river Nanticoke, thence down said branch to the southward end of a Beaver-dam on the west side of a Beaver-pond the original temporary division between Kent, Sussex and Maryland, and from thence due west two thousand eight hundred sixty and four perches to the north and south or tangent line aforesaid, shall be deemed, taken and held the boundary between the said counties of Kent and Sussex. 1 Divisional line between New-Castle and Kent 2 also between Kent & Sussex (a)

Sect. 5. The Justices of the Peace for the several counties of this government may and shall, as soon as conveniently may be, in the Courts of General Quarter Sessions to be held for the said counties respectively ascertain the bounds and limits of the several ancient hundreds within the same and lay out such and so many new hundreds, as may be found necessary and convenient. 3 Boundaries of hundreds

Passed Sept. 2, 1775.

—o—

DOVER.

I.

AN ACT *for vesting the Court House and public offices with the lots of ground whereon the same are erected together with another lot adjoining the same on the north side thereof situate in the town of Dover in the county of Kent, in Trustees for the uses therein mentioned.* 1775

Whereas the lot of land situate in the Court House Square in 1 Court House & Lots in Dover

(a) By a resolution of the General Assembly of February 6, 1823, Ralph Robinson and John Richards of Sussex county, and John Tatnall and William Hopkins of Kent county, are appointed commissioners to run and mark the division line between Kent and Sussex from the south prong at the head of Rigg's mill pond to the line of the State of Maryland; and William Johnson is appointed surveyor to assist them.

the town of Dover and described in a plot or survey thereof recorded in the office for recording of deeds in the county of Kent, and another lot of land divided from the same by an alley, called the Court House Alley, on the north side of the said lot first mentioned, have been and now are considered, taken and held as ground belonging to the public, and accordingly a Court House and a building for keeping the records of the said county of Kent have been erected thereon at the charge of the same county: *And whereas* there is another lot of land lying on the north side of the said lot last mentioned and on the east side of the Court House Square aforesaid, numbered in the town plot of Dover twenty-seven, and contained within the bounds following, *to wit, Beginning* at a corner of the office lot numbered in the aforesaid town plot thirty-three and running with the line of the said office lot east by north ninety-seven feet, then south by east two perches to the Court House Alley, then by the said alley east by north six perches, then north by west three perches five and an half feet to the corner of lot number thirty, then with the said lot west by south eleven perches fourteen and an half feet to the Court House Square aforesaid, and then therewith south by east twenty-two feet to the place of beginning; laid out for twenty-eight and an half square perches, which hath been purchased at the expense of the said county of Kent, from a certain James Wells and Rebecca his wife, who conveyed the same by their deed bearing date the thirteenth day of March last, to a certain Jacob Stout, Esq. in trust for the inhabitants of the said county of Kent. Now to the end and intent that the said three lots of land, and the buildings thereon erected or hereafter to be erected, together with the said alley, so far as the first recited lot extends along the same, may be effectually secured for the Public, and that the legal estate and inheritance therein may be vested in Trustees to and for the uses and purposes herein after mentioned and specified.

2 vested in Trustees

Section 1. The said lots of land, alley and buildings and all the immunities, improvements, advantages, hereditaments and appurtenances to the same belonging or in any wise appertaining and the remainder and remainders, reversion and reversions thereof shall from and after the passing of this Act be settled upon and vested in Cæsar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout esquires and the survivors and survivor of them and the heirs and assigns of such survivor forever; upon the trusts nevertheless and to and for the ends, intents and purposes, and subject to the uses herein after mentioned, expressed and declared; *That is to say*, As to the said Court House, until another shall by order of the Levy Court for the said county of Kent be built in the place and stead thereof upon some part of the said lots and alley, and such other Court House when built—to and for the use of the Justices of the Supreme Court of this government for the holding the said court for the said county of Kent, as long as the said court shall from time to time be adjourned and continue, and at all other times for the use of the Justices of the Court of Common Pleas, and Justices of the Court of Quarter Sessions for the said county of Kent for the holding courts therein, and for such other uses and purposes, as they shall direct, for the

3 The uses (General Assembly-4)

(Auditor's office)—pa. 566

service of the said county;—and as to the said building for keeping the records of the said county of Kent, until other buildings are erected for that purpose, and such other buildings when erected—the same shall be for the use of the clerks of the several courts and other public officers of the said county of Kent, from time to time and at all times forever, as public offices, subject to such regulations as the Justices of the said Courts of Common Pleas and Quarter Sessions for said county shall think proper to make from time to time concerning the same;—and as to the said three lots of land and alley, whereon the same Court House and office are built—the same be for the use of the said county of Kent, subject to the direction of the Justices of the Courts of Common Pleas and Quarter Sessions for the said county forever: *And* upon this further trust and confidence, and to this further end, intent and purpose, that the said Cæsar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout and the survivors and survivor of them and the heirs of such survivor shall from time to time and at all times hereafter permit and suffer such suit and suits, action and actions to be commenced and prosecuted in his or their names, and also make, seal, deliver, execute and acknowledge such deed or deeds, conveyance or conveyances, fines, recoveries or assurances in the law whatsoever, for the said three lots of land and alley, buildings, tenements and hereditaments settled and vested in the said Trustees, as aforesaid or any part or parcel thereof to such person or persons, and in such manner and form but to the uses aforesaid, as the Justices of the Courts of Common Pleas and Quarter Sessions for the county of Kent aforesaid shall at any time or times hereafter direct and appoint; so always that the said Cæsar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout and their heirs, executors and administrators and every of them be well and truly indemnified, saved and kept harmless of and from any costs, charges, trouble and molestation whatsoever, which may arise for or by reason of such suits, deeds, conveyances, fines, recoveries or assurances so to be commenced, prosecuted, made and executed. (Public offices)

Sect. 2. *And whereas* it may be found convenient to erect a building upon the alley before mentioned, called the Court House Alley, whereby the same will be stopped to the injury of the owners of lands lying to the east-ward of the lots herein before described; in such case it may and shall be lawful to and for the commissioners for disposing of lots in the town of Dover, and they are hereby required to lay out another alley of the same width with the present Court House Alley, through the said lots situate to the north thereof, as a passage for the owners of lands adjoining the same, and return a description of such alley in writing, under their hands, into the office of the clerk of the peace for the said county of Kent, there to be entered of record; which alley so to be laid out, shall continue open forever: any thing herein contained to the contrary notwithstanding. 4 Court-house alley

Sect. 3. This Act shall be deemed, adjudged and taken to be a public Act and shall be judicially taken notice of as such by all Judges, Justices and other persons whatsoever, without specially pleading the same. 5 Public Act

Passed March 29, 1775.

service of the said county;—and as to the said building for keeping the records of the said county of Kent, until other buildings are erected for that purpose, and such other buildings when erected—the same shall be for the use of the clerks of the several courts and other public officers of the said county of Kent, from time to time and at all times forever, as public offices, subject to such regulations as the Justices of the said Courts of Common Pleas and Quarter Sessions for said county shall think proper to make from time to time concerning the same;—and as to the said three lots of land and alley, whereon the same Court House and office are built—the same be for the use of the said county of Kent, subject to the direction of the Justices of the Courts of Common Pleas and Quarter Sessions for the said county forever: *And* upon this further trust and confidence, and to this further end, intent and purpose, that the said Cæsar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout and the survivors and survivor of them and the heirs of such survivor shall from time to time and at all times hereafter permit and suffer such suit and suits, action and actions to be commenced and prosecuted in his or their names, and also make, seal, deliver, execute and acknowledge such deed or deeds, conveyance or conveyances, fines, recoveries or assurances in the law whatsoever, for the said three lots of land and alley, buildings, tenements and hereditaments settled and vested in the said Trustees, as aforesaid or any part or parcel thereof to such person or persons, and in such manner and form but to the uses aforesaid, as the Justices of the Courts of Common Pleas and Quarter Sessions for the county of Kent aforesaid shall at any time or times hereafter direct and appoint; so always that the said Cæsar Rodney, Charles Ridgely, Samuel Chew, William Killen and Jacob Stout and their heirs, executors and administrators and every of them be well and truly indemnified, saved and kept harmless of and from any costs, charges, trouble and molestation whatsoever, which may arise for or by reason of such suits, deeds, conveyances, fines, recoveries or assurances so to be commenced, prosecuted, made and executed. (Public offices)

Sect. 2. *And whereas* it may be found convenient to erect a building upon the alley before mentioned, called the Court House Alley, whereby the same will be stopped to the injury of the owners of lands lying to the east-ward of the lots herein before described; in such case it may and shall be lawful to and for the commissioners for disposing of lots in the town of Dover, and they are hereby required to lay out another alley of the same width with the present Court House Alley, through the said lots situate to the north thereof, as a passage for the owners of lands adjoining the same, and return a description of such alley in writing, under their hands, into the office of the clerk of the peace for the said county of Kent, there to be entered of record; which alley so to be laid out, shall continue open forever: any thing herein contained to the contrary notwithstanding. 4 Court-house alley

Sect. 3. This Act shall be deemed, adjudged and taken to be a public Act and shall be judicially taken notice of as such by all Judges, Justices and other persons whatsoever, without specially pleading the same. 5 Public Act

Passed March 29, 1775.

II.

1829 AN ACT *for establishing the boundaries of the town of Dover, and for other purposes therein mentioned.*

6 Election for commissioners [15]

Section 1. On the first Monday of March next after the passing of this Act, there shall be an election held at the State House in Dover in the manner hereinafter prescribed, for the purpose of electing five persons, who shall be resident freeholders in the said town of Dover, to be denominated *Commissioners of the town of Dover*,

7 their powers.

who shall have full power and authority, and they or any three of them are hereby required and directed, as soon as conveniently may be after their election, taking with them a skilful surveyor to be qualified upon his solemn oath or affirmation, to make an accurate survey of the town of Dover aforesaid, and to ascertain and fix the boundaries and limits of the same; and to regulate the streets, lanes and alleys now open within the said town, and the said surveyor shall under the superintendence 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 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 or a majority of them;

8 return

and the same shall be lodged in the Recorder's office for the county of Kent, there to be recorded; which said plot or map or the record thereof shall be deemed taken and received in all courts of law or equity or elsewhere within this State, to be conclusive evidence of the boundaries of the said town of Dover, and of the courses, width and names of the several

9 restriction

streets, lanes and alleys within the same: *Provided always*, That the said commissioners in ascertaining and fixing the said boundaries of the town of Dover aforesaid, shall not extend the same in a northern and southern direction more than eighty perches from the center of the green in said town; and in regulating the streets, lanes and alleys in the said town, they shall confine themselves as nearly as may be, to the now reputed streets, lanes and alleys within the same; and that they be not permitted, and they are hereby forbidden, to open any street, lane, or alley or to interfere with any building formerly erected on the side of any street, lane or alley: *Provided nevertheless*, That nothing herein contained shall be construed to hinder or prevent the laying out, opening or altering any such street, lane, or alley as aforesaid, for the purpose of straightening the same or otherwise, where the person or persons, through whose ground the same would run, shall voluntarily agree that the same may be done.

10 Stones, &c at intersect'n of streets

Sect. 2. The said commissioners shall fix posts or stones in the earth in the center 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 hereafter to be elec

ted, shall in all cases and in all courts of law or equity within this State 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 stones, every person so offending shall be guilty of a misdemeanor, and upon conviction thereof in the Court of General Quarter Sessions of the Peace in and for Kent county shall severally forfeit and pay the sum of one hundred dollars, besides the costs of prosecution, to the use of the commissioners and inhabitants of said town of Dover, to be employed in and towards defraying the expenses of any public improvement, which may be undertaken or executed by virtue of this Act by the said commissioners of the town of Dover. 11 Penalty for removing

Sect. 3. If any owner or owners of any house lot or lots or of part of a house, lot or lots within the said town of Dover shall conceive him, her or themselves aggrieved by any act or acts of the said commissioners or a majority of them, relative to the boundaries of the said town, the location of the said streets, lanes and alleys, or any other matter or thing which the commissioners aforesaid may do or perform by virtue of this Act, then it shall and may be lawful for such person or persons at any time within thirty days next following the delivery of the said return into the Recorder's office, or within thirty days next after the determination of the said commissioners to do or perform any other matter or thing shall be made public, but not after, to appeal therefrom to the next Court of Common Pleas or to the next Supreme Court to be holden at Dover in and for Kent county aforesaid, he, she or they, first entering into a recognizance before the prothonotary or clerk of the said court, with at least one suffi-cient surety, in double the value of the property in controversy and sufficient to answer all costs to prosecute the said appeal with effect, and to abide the order of the said court. 12 Appeal 13 security

Sect. 4. In case of an appeal or appeals in manner aforesaid, the person or persons who may conceive him, her or themselves to be aggrieved, shall be the appellant or appellants, and the commissioners for the time being or a majority of them, shall be the appellee; and the Court of Common Pleas or the Supreme Court are hereby authorized and empowed to direct such proceedings to be had therein, as will cause a trial to be had by the court and jury, of the matter in controversy between the parties, by a feigned issue, and to give judgment accordingly; and if in any such case it shall be determined by a jury, that the appellant or appellants is or are aggrieved, the quantity of land claimed, or how and in what particular the appellant or appellants are injured or aggrieved shall be particularly described by the verdict of the same jury and judgment of the said court; and in all such cases, the court and jury shall have full and ample power and authority to take into consideration all circumstances relative to the parties and to do justice according to the very right of the matter and law of the land. 14 Proceedings on appeal

Sec. 5. That the clerk of the peace for Kent county aforesaid be empowered and required on the first Monday in the month of March next, and on the first Monday in the month of March in every succeeding year thereafter, to hold an election for five commissioners of the town of Dover, after giving five days previous notice of 15 Clerk of peace to hold election (6), 16 Notice

the time and place of holding said election; he shall take to his aid two freeholders of the said town to assist him in holding such election: at such election every inhabitant of the said town entitled to vote at any general or special election in this State (provided they shall have resided in the said town for the space of twelve months next preceding the time of holding such election and be a taxable therein) and also every free white man and woman of the age of twenty-one years and upwards, who shall have a freehold interest in any real estate within the boundaries of the said town of Dover and which is the subject of taxation, although not an inhabitant of the said town, shall be entitled to vote. And the five citizens as aforesaid, who shall have the highest number of the votes given in at any such election to be held on the first Monday of March in every year after the passing of this Act, shall be the commissioners of the town of Dover aforesaid until the first Monday of March in the year thereafter, and until successors shall be elected and duly qualified to enter upon the duties of their office.

17 Voters

18 Oath of officers of election

Sect. 6. The clerk of the peace aforesaid shall administer an oath or affirmation to the freeholders, which he shall appoint to aid him in holding such election, which said oath or affirmation may be after the following form: *You —— —— do solemnly swear on the holy evangels of Almighty God,* (or, *and truly declare and affirm,* as the case may be) *that you will discharge the duties of a judge of this election with fidelity, and that you will not consent to the receiving or rejecting of any vote through favor, fear, affection, malice or the hope of reward: So help you God* [or *so you declare and affirm.*] The clerk of the peace shall first administer the oath or affirmation to the freeholders; after which one of the freeholders shall administer it to him; and the said oath or affirmation shall be administered to the freeholders and the clerk of the peace respectively before the opening of such election or the receiving of any vote. The clerk of the peace and the freeholders aforesaid, shall make out a return under their hands and seals respectively, of the election of the said commissioners and shall cause the same to be filed in the office of the prothonotary of the Court of Common Pleas of the State of Delaware in and for Kent county aforesaid; and an authenticated copy of the said return under the hand and seal of the prothonotary of the said county shall be evidence of the matters therein contained in any court of justice in this State.

19 Returns

20 Assessor

Sect. 7. The said commissioners of the town of Dover shall have power and authority, and they are hereby required as soon as conveniently may be after their election on the first Monday of March next, and the first Monday in March in every year thereafter, to appoint some suitable person an assessor to make an assessment on the lands and tenements and assessable personal estate included within the bounds of the town of Dover to be ascertained by the commissioners aforesaid, and on all those persons residing within the same, that are liable under the existing laws of this State to be assessed to any county or State rate; which assessment shall be made and returned to the said commissioners within six weeks next after the appointment of the said assessor, who shall cause three or more copies thereof to be set up in at least three of the most public places in the said town, giving notice of the time

21 his duties

23 assessm'nt

when, and the place where, the said commissioners will hear and decide upon all appeals from the said assessment; and they shall, when the said appeals all shall be settled, put up at least three lists of the rates as finally settled and established by them, in some suitable public places with the sum each taxable is to pay, against his name. The said commissioners shall be, and they are hereby empowered to determine the sum to be raised on the said town, and shall on the said rates of assessment respectively apportion the sum so by them directed to be raised on the said town; and also to cause such additional wells and pumps to be settled, as they shall deem necessary for the security of the said town of Dover against fire, to provide fire ladders and hooks and buckets, to impose a fine of five dollars upon every house-keeper, who shall permit his, her or their chimney to catch on fire in such a state of weather as would be likely to endanger the said town, to cause gravel, sand or earth to be carted and thrown on such foot paths or ways of the said town, as require improvement, 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, to fix upon some eligible situation for, and to erect a market house, which shall not however cost exceeding the sum of four hundred dollars, and upon application of either party made to them 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 in any wise use or break into the said wall; and the charge or value thereof shall be set by the said commissioners or any three of them: provided nevertheless, that nothing in this Act shall be construed to abrogate, annul or alter any contract that hath heretofore been or that may hereafter be made by the owners of adjoining lands in the said town, or to authorize laying out and putting down any pavement of brick, other than in front of the buildings in the said town, or for the purpose of joining pavements where the space between the buildings shall not exceed fifteen yards. 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 cost of the parties; and the said commissioners shall be the judges of the cost 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 or refuse to pay his, 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, then the party, at whose costs the same was so made and repaired, may recover the same before any Justice of the Peace for the county of Kent aforesaid or in any

23 appeals

24 Tax

25 pumps, wells

26 ladders

27 foot paths

28 pavements

29 market house

30 party walls

31 partition fences

court of this State, as debts of a 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 or party wall is or shall be made, one dollar and no more.

32 Collector

Sect. 8. The said commissioners shall have power and authority and they are hereby required to appoint annually a collector of the taxes imposed by them on the persons and property within the bounds of the said town; and the collector by them to be appointed shall have as full and ample power to collect or enforce payment of the said taxes or rates imposed by the commissioners as aforesaid, as the collectors of county rates and levies have or may have by the laws of this State; and the said collector shall be allowed by the commissioners aforesaid five per centum for the collection of the said rates or taxes; and the said collector shall on the first day of September next after his appointment pay over to the town treasurer, who shall be appointed by the said commissioners at the same time and place that they appoint the said collector, the whole amount of the rates or taxes imposed as aforesaid on the persons and property within the bounds of the said town as aforesaid, deducting therefrom only the amount of delinquencies, which shall have been allowed by the said commissioners and his compensation or per centum for his trouble. The said collector shall take an oath or affirmation, before he enters upon the duties of his office, to perform the same with fidelity; which oath or affirmation shall be administered to him by one of the said commissioners; and he shall also enter into a judgment bond with sufficient surety in double the amount of the rates and levies, which it shall be his duty to collect, to the said commissioners and their successors, with condition thereto annexed, that the same shall be void *if the said collector shall faithfully and diligently discharge the duties of his said office, and pay over to the town treasurer aforesaid, the amount of the rates and taxes as aforesaid, or otherwise, to be and remain in full force and effect:* and in case of delinquency by such collector, the said commissioners may enter such bond, and issue execution immediately for the amount of such delinquency.

33 his powers

(Levy Court 43)

34 fees

35 oath

36 bond

37 Treasurer's bond

Sect. 9. The said commissioners shall take from the person by them appointed as aforesaid town treasurer a judgment bond in the penal sum of two thousand dollars, with sufficient sureties for the faithful performance of his duties as prescribed by this Act; which said bond shall be taken in the name of the "Commissioners of the town of Dover." And the said commissioners shall also appoint a clerk of the said town, who shall keep minutes of the proceedings of the said commissioners in a book to be by him provided for that purpose, which said book of minutes shall be evidence in any court of justice in this State, of the proceedings of the said commissioners; and the said clerk shall keep all books of accounts and perform all other matters and things, which may appertain to his said office, for which he shall receive a compensation to be fixed by the said commissioners.

38 Town Cl'k

39 Paym'ts by Treasurer

Sect. 10. The town treasurer aforesaid shall not pay out any money, that shall come to his hands, except it be upon a written order signed by at least a majority of the said commissioners and attested by the clerk of the said town; he shall settle his accounts

40 settlem'ts

once a year before the said commissioners at such time as they shall appoint for that purpose, and pay over to his successor in office any balance that may appear to be in his hands, after deducting therefrom two per centum on the amount by him received and paid out to the orders of the commissioners as aforesaid for his trouble; and the said treasurer shall deposit all money by him received by virtue of this Act in the Farmer's Bank of the State of Delaware, and may draw for the same from time to time, to pay the orders of the said commissioners or the amount of his commissions.

41 his fees

42 deposits

Sect. 11. The commissioners aforesaid or a majority of them are authorized, empowered and required to cause to be put down a pavement in front of the State House and to repair the roof to prevent its leaking, the walls of the said house by filling up the padlock holes, and otherwise to repair the same as to them may seem necessary, and to draw on the State Treasurer for the amount of the said pavement and repairs, who is hereby authorized and required to pay the said order out of any monies in his hands not otherwise appropriated: Provided, that the sum expended in repairing said walls do not exceed seventy-five dollars.

43 Pavement before State-house &c.

Sect. 12. If the proprietor of any house or land, before or in front of which the said commissioners shall have laid out pavements and gutters for carrying off water, shall neglect or refuse for the space of three months to put down such pavement, or to cut and make such gutters, it shall and may be lawful for the said commissioners to cause such pavements and gutters to be made and to recover the costs of the same by distress and sale of any goods, chattels, lands and tenements belonging to such proprietor within the bounds of the said town. And if any pavement already down shall be deemed an insufficient pavement by the said commissioners or a majority of them, they shall have power to direct the owner thereof to make a sufficient one, and upon his neglecting or refusing to do so for the space of three months, the said commissioners shall cause the same to be done, and recover the expense of the same in the same manner, as is herein prescribed for the recovery of the costs of constructing and making new pavements and gutters for carrying off water, when the owner of the house or land, in front of which the same is made, hath neglected or refused to do so for the space of three months. The said commissioners shall also have power to abate nuisances within the boundaries of the said town, to ascertain, fix and limit the rent to be paid for the use of the stalls in the market house by them to be constructed, to appoint a clerk of the said market and to make rules and regulations to govern the same, and to inflict penalties for the violation thereof.

44 Pavements before private houses

45 abating nuisances &c.

Sect. 13. The said commissioners shall not themselves receive any money to be raised by virtue of this Act; and their draughts or orders upon the said treasurer shall always be in favor of those, to whom it may be due for services rendered or for materials furnished, the said town; and if any commissioner shall get into his possession any money raised upon the said town against the provisions of this law, or be guilty of any malpractices to the injury of the said town, he shall thereby forfeit his office and a suit may

46 Commissioners not to receive money

be instituted and maintained against him in the name of the commissioners of the said town to recover compensation in damages for the injury sustained;—And the said commissioners or any one of them shall be liable to be indicted and fined on conviction, for any fraudulent or oppressive act done by them, or any of them, under color of their said office.

47 incorporated

Sect. 14. The commissioners of the town of Dover to be elected as herein before prescribed shall be, and they are hereby created a body politic and corporate in law; and the said commissioners of the town of Dover and their successors shall be able and capable to sue and be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of judicature whatsoever in this State by the corporate name of *The Commissioners of the town of Dover*, and may have and use a common seal with such device or devices, as they shall think proper, with power to alter or change the same as may be deemed expedient, 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, and to alien, grant, demise, sell and dispose of the same in such manner and form as they may deem expedient: Provided nevertheless, that there is hereby reserved to the Legislature the power and authority to repeal this Act or any part thereof or any other law which may hereafter be enacted respecting the said town of Dover.

48 Fines,

Sect. 15. All fines and forfeitures which may accrue or be recovered by virtue of this Act shall be for the use of the said town of Dover.

49 Vacancies

Sect. 16. If the place of any of the said commissioners shall become vacant by death, resignation or otherwise during the term for which such commissioner was chosen it shall be supplied by the remaining commissioners, who are hereby directed and required to elect by ballot, as soon as conveniently may be thereafter, some suitable person to fill such vacancy.

50 Ornamental trees, &c.

Sect. 17. The said commissioners shall have power and authority to direct the planting of ornamental trees in such places and at such distance from each other, as they or a majority of them may deem meet and proper, and also to direct what kind of defences shall be erected around the same. If the said commissioners shall direct the planting of any tree or trees and the erection of defences for the same in front of any house or land within the bounds of the said town, the costs thereof shall in all cases be borne and defrayed by the proprietor of such house or lot; and if such proprietor shall neglect or refuse to plant such tree or trees or to erect such defence or defences for the space of three months, it shall and may be lawful for the said commissioners to cause such trees to be planted and such defences to be erected and to recover the costs thereof from such proprietor in the manner prescribed in the twelfth section of this Act, for the recovery of the costs of putting down pavements and cutting and constructing gutters to carry off water. In all cases where it shall become necessary under the provisions of this Act for the said commissioners to cause any work or labor to be done and performed, in consequence of the neglect or refusal of any proprietor of any house or ground situate within the limits of the

said town to do the same, it shall and may be lawful for the said commissioners to authorize by writing under their hands or the hands of a majority of them the collector of the said town to levy the distress upon and to make sale of the goods and chattels, lands and tenements, of such neglecting or refusing proprietor.

Sect. 18. Nothing herein contained shall be construed or understood to affect the public roads running through, in or about said town, all of which shall remain to be kept up and protected as they heretofore have been by the existing laws of the State. This Act not to affect public roads

Passed at Dover, February 16, 1829.

—o—

DOVER HUNDRED.

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.*] 1823

Section 1. Murderkill hundred in Kent county shall be divided by the following division line, that is to say: Beginning at the 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 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 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. 1 Murderkill hundred—how divided; 2 Dover hundred; 3 Murderkill hundred

Passed at Dover, January 28, 1823.

1823 **AN ACT** *to establish the line between Duck creek and Little creek hundreds in Kent county.*

Division line of Duck creek & Little creek described

Section 1. 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 of water courses thereof, until it crosses the State road leading from Kenton to Sadler's cross-roads in the State of Maryland, thence with the 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.

Passed at Dover, February 4, 1823.

—o—

FERRY.

I.

1803 **AN ACT** *for establishing and regulating a ferry over the river Delaware, at the town of New-Castle.*

NEW-CASTLE

Whereas it hath been represented to the Senate and House of representatives of the State of Delaware in General Assembly met, by the petition of divers inhabitants of New-Castle county, that great inconvenience has for some years past been and still is experienced from the want of a well regulated ferry at the town of New-Castle, for the accommodation of travellers and others desirous of crossing the river Delaware from the said town; for the remedy whereof, it is prayed that an Act of the General Assembly may be passed for establishing and regulating a ferry over the said river at the town aforesaid:

And whereas it hath been further represented, that the brick house and wharf commonly called *The old ferry*, herein after described is the most suitable place for keeping the said ferry:—

1 Ferry at N. Castle across the Delaware

Section 1. A ferry shall be and hereby is established at the brick house and wharf in the town of New-Castle aforesaid, commonly called *The old ferry* formerly of George Monroe deceased and now of James M'Calmont, situated at the south easterly corner of Harmony and Front streets, for the transportation of travellers, horses, cattle, carriages and goods, from thence over the river Delaware; and it shall and may be lawful for the said James M'Calmont and such other person or persons, as may from time to time be the owner or owners, possessor or possessors of the said brick house and wharf, to keep and maintain a ferry at the place aforesaid for the purposes aforesaid, for and during the term of [*twenty-one*] years from the twenty-fifth day of March next ensuing, and to have, take and receive to his or their own proper use, all such sums of money as may arise therefrom, according to the rates herein after mentioned.

2 term *thirty-one* (18)

Provided always, That the said James M'Calmont or such other person as may be the owner of the said premises, do and shall within two years from the said twenty-fifth day of March next extend and carry out the said wharf at least one hundred and fifteen feet further into the river Delaware from the present end thereof, either by continuing the said wharf or by erecting a pier and bridge, and shall also annex a slip thereunto, so as to render the landing place safe and convenient for the purposes of a ferry. 3 Proviso

Sect. 2. When the said wharf and landing place shall be completed as herein below mentioned, the owner or keeper of the said ferry shall at all times thereafter keep and maintain the said wharf and landing place in good order, condition and repair, suitable for passengers, horses, cattle, carriages and goods to pass and repass with safety, and also shall at all times be provided with good and tight boats, wherries or other vessels suited to such ferry, sufficient in size, strength, steadiness and accomodation for the safe and speedy transportation of passengers, horses, cattle, carriages and goods, well furnished with sails, oars, setting-poles or other necessary implements, and men prudent, skilful, able-bodied, sufficient and competent for such business and service. 4 Wharf, &c. in good orde

Sect. 3. If any keeper of the said ferry shall at any time carry or attempt to carry over the said river any person, horse, cattle, carriage or goods in any boat, wherry or other vessel, that is not good and sufficient according to the provisions of this Act, or shall overlade his boat, wherry or other vessel, so that the passengers or goods be thereby endangered, such keeper of the said ferry shall for every such offence forfeit and pay ten dollars to be recovered, as herein after mentioned, and shall also be liable to an action for damages at the suit of the party aggrieved. 5 Bad boats—penalty, &c [16]

Sect. 4. Every keeper of the said ferry, who shall not provide good and sufficient boats, wherries or other vessels suited to such ferry, with good and sufficient sails, oars setting poles or other necessary implements aforesaid, and such number of men qualified according to this Act to attend the boats as the condition of the passage may require for the safe and speedy transportation of passengers, horses, cattle, carriages and goods over the said river, shall for every default therein forfeit and pay five dollars to be recovered as hereinafter mentioned. 6 Not keeping good boats—penalty [16]

Sect. 5. Every keeper of the said ferry shall give constant and diligent attendance at the same, and shall not deny or unnecessarily delay the carrying over of any passenger, horses, cattle, carriages or goods, under the penalty of five dollars to be recovered as hereinafter mentioned; and such keeper of the said ferry shall for any default herein be also liable to an action for damages at the suit of the party aggrieved by such denial or delay. *Provided always*, that the person keeping the said ferry shall not be obliged to put off from his wharf and pass the said river, when it manifestly appears to be hazardous or dangerous for him so to do, on account of any storm, tempest or ice. 7 Delaying passengers &c penalty (16) 8 proviso

Sect. 6. All persons and goods shall be received into the ferry boats and carried over the said river, according to their arrival at or first coming to the said ferry; and every keeper of the said ferry acting contrary to this rule shall for every violation thereof for- 9 Priority

feit and pay three dollars to be recovered as hereinafter mentioned.

10 Disorderly conduct

Sect. 7. The keeper of the said ferry shall have authority to keep or put out of his ferry boat any person, who shall attempt or press to enter or stay therein, contrary to his order, when the said boat shall be laden or occupied by other persons or goods having a prior right of passage according to the sixth section of this Act; and every person so doing contrary to his order, shall for every such offence forfeit and pay one dollar to be recovered as herein after mentioned.

(16)

11 Rates of ferriage

Sect. 8. The keeper of the said ferry shall have, take and receive, for ferriage over the same, the rates and prices following, to wit; for every

Single man, - - - - -	sixty cents.
Two or three persons, each - - -	fifty cents.
Or more persons - - - -	thirty-three cts.
A man and horse -	one dollar and twenty-five cents.
A horse and chair - -	one dollar and fifty cents.
A wagon, pair of horses and passengers,	two dollars and fifty cents.
A coachee with pair of horses and passengers,	three dollars.
Ditto with four horses and ditto,	three dollars and fifty cents.
One or more horned cattle, each, - -	fifty cents.
A cart with yoke of oxen or two horses, -	two dollars.

And for all and every kind of merchandise at the rate of thirty-three cents for every hundred weight so carried or ferried across said river, and no more.

12 Table of rates set up at ferry

Sect. 9. Every keeper of the said ferry shall set up and constantly keep in public view at the said ferry house a table of the rates aforesaid fairly written, printed or painted in large letters, so that the same shall be open and visible for the inspection of passengers, under the penalty of one dollar for every day that he shall neglect so to do. And if any keeper of the said ferry, or his servant shall take a greater sum for ferriage than the rates allowed by this Act, he shall for every such offence forfeit and pay three dollars to be recovered as herein after mentioned.

13 penalty for extortion

[16]

14 Penalty on other persons carrying passengers &c

Sect. 10. It shall not be lawful for any person, except the keeper of the said ferry, to take or carry over the river Delaware from the aforesaid wharf, or from any place on the shore of the said river within one mile of the said wharf any person or persons, who reside out of the town of New-Castle aforesaid, under the penalty of five dollars for every person so carried over contrary to the provision of this section to be recovered as herein after mentioned;

15 proviso

Provided, that nothing in this Act shall be construed, so as to prevent any person or persons, who may come from the State of New-Jersey to the town of New-Castle, from returning in the boat or boats in which they came; or if such persons have come to the town aforesaid for the purposes of trade or traffic, they shall not be prevented from returning in the boats, in which they came, or in any other boats, at their election; nor shall the inhabitants of the said town be prevented from crossing the said river in such boats as they may choose; and further nothing in this Act shall be construed to prohibit any commercial intercourse between the State of

(16)

New-Jersey and the town of New-Castle, but that the same may be continued as heretofore without interruption.

Sect. 11. The several fines and penalties in this Act mentioned shall and may be sued for and recovered before any Justice of the Peace in any of the counties of this State in the same manner, as debts under forty shillings may be sued for and recovered by the laws of this State, together with costs of suit, by any person who will sue for the same. 16 Suits for penalties

Sect. 13. The said James M'Calmont, his heirs or assigns shall within one year after the passing of this Act, procure from the Secretary of this State, a copy of this Act of Assembly duly certified under his hand and the seal of the State, and shall cause the said copy so authenticated, to be recorded in the office for recording of deeds in the county of New-Castle; and a copy thereof certified by the Recorder of deeds, under his hand and the seal of office shall be evidence in all cases whatsoever. 17 recorded

Passed at Dover, January 21, 1803.

A SUPPLEMENT *to the Act, entitled, "An Act for establishing and regulating a ferry over the river Delaware, at the town of New-Castle."* 1811

Section 1. The term of time prescribed and limited by the herein before recited Act for the exercise and enjoyment of the exclusive ferry-right, at the said ferry in the town of New-Castle aforesaid, as secured by the said Act, shall be and is hereby extended and enlarged for and to the extent and full end and term of thirty-one years from and after the said twenty-fifth day of March, eighteen hundred and one, to be exercised and enjoyed in full right by the said James M'Calmont and such other person or persons, as may be owner or owners, possessor or possessors from time to time of the said brick house, wharf and landing-place herein before recited and mentioned, any thing in the said herein before recited Act contained to the contrary notwithstanding. 18 Ferry-right extended (19)

Section 2. *Provided always,* That the said James M'Calmont or such other person or persons as may be the owner or owners of the said premises shall add to and extend the slip of its present breadth sixty feet beyond the end thereof into the river Delaware, within the period of the present year, and shall from time to time afterwards and during so much of the said term of thirty-one years as shall then be unexpired and to come, continue and increase that extension of the said slip further into the said river, as the alluvion thereof and the accumulation of the mudflat there may render necessary; so always that ferry-boats may at all times of the tide in the said river depart from or approach to the said slip, with passengers, horses, cattle, carriages and goods, to pass and repass with safety and convenience. 19 Conditionally

Sect. 3. All the provisions, clauses and sections of the said recited Act, except so much or such part thereof as are hereby altered or amended, shall be and continue and are hereby declared to be and continue in full force for and during, and unto the full end and term of the aforesaid period of thirty-one years. (I.)

Passed at Dover, January 29, 1811.

II.

1808 **AN ACT** *to establish and regulate a ferry over Nanticoke river, at the village of Seaford, in Sussex county.*

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

20 Proprietors [25]

Section 1. Richard Lawrence, John Rust senior and John Hooper esquire be, and they are hereby appointed proprietors, for the purpose herein after mentioned ; and they are hereby authorized and empowered, after the passing of this Act, to make a good and sufficient road from the head of Market-street and down said street to Nanticoke river, with good and sufficient landings on both sides of said river, at the places now laid out by an order of court, in the following manner, one on Market-street, and the other opposite to Market-street, and a good and sufficient causeway to fast land ; the aforesaid road, landing places and causeway shall be made good and substantial, suitable for footmen, horses and carriages to pass and re-pass, also find a good and sufficient boat or boats, and man or men, to be kept for the use of said ferry.

21 Penalty for using ferry without license

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

22 Ferry to be kept in good order

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

23 penalty for neglect & for extortion

24 Rates of ferriage

Sect. 4. Any person or persons, who shall keep the said ferry, shall have, take and receive for ferriage over the same, the rates and prices following, to wit: for every foot-passenger, six cents ; for every single man and horse, twelve and one half cents ; for every led horse, ox or cow, six cents ; for a chair or sulky, horse

and rider, twenty-five cents; for a coach or other four wheel carriage and pair of horses, sixty cents; for a cart, one horse and driver, laden, thirty-three cents, unladen, twenty-five cents; for a wagon, two horses and driver, laden, sixty-seven cents, unladen, fifty cents; for every other horse in a cart, wagon or other carriage, six cents.

Sect. 5. The right hereby vested in the proprietors, shall and may be transferable to any person or persons, under the regulations before mentioned. 25 Ferry transferable

Passed at Dover, January 27, 1808.

—o—

FREDERICA.

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.* 1826

Sect. 1. It shall and may be lawful for the white inhabitants of said village living within the limits herein after 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. 1 Commiss'rs assessor and treasurer

Sect. 2. [By this section the said commissioners or any three of them are authorized to cause all the streets and alleys in said village to be surveyed and laid out by a skilful surveyor—who shall under their direction make a map containing the boundaries of the village, the courses width and names of the streets and alleys —and said map signed by the commissioners or a majority of them and by the surveyor shall be deposited and recorded in the Recorder's office in Kent county.] 2 Survey of streets & map

Sect. 3. The said commissioners shall cause to be fixed large stones in the earth (so that no part thereof appear above the surface) in the center or middle of the streets respectively, where they intersect each other; which stones so set and affixed in the the earth in the middle of the streets as aforesaid, as well as such other stones as shall from time to time hereafter be so set or affixed 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. 3 Stones for marks of streets

Sect. 4. 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 4 Streets regulated, repaired, &c. 5 Tax

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.

6 Nuisances removed, &c.

Sect. 5. 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.

7 Assessor his oath & duties

Sect. 6. 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 favor 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.

8 appeal

9 Treasurer— his duties and powers (Levy Court 43)

Sec. 7. 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.

10 bond, &c.

11 settle with commiss'rs

12 compens'n

13 Limits of the town

Sec. 8. 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 Leach and Peter Lowber's land, thence with a line dividing the lands of said Leach now Vin-

cent 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 said creek to the forks of Spring creek and place of beginning.

Passed at Dover, February 9, 1826.

—o—

GEORGETOWN.

AN ACT *for removing the seat of justice from Lewes to a more central part of Sussex county, and for other purposes.* 1791

Whereas it appears to this General Assembly, That a great majority of the inhabitants of Sussex county by petition have prayed a removal of the seat of justice from Lewes to a more central and convenient part of said county; and this Assembly conceiving the prayer of said petitions should be granted:—

Sect. 1. [By this section George Mitchell, Robert Houston, William Moore, John Collins, Nathaniel Young, William Peery, Rhoads Shankland, Woodman Stockley, Daniel Polk and Thomas Batson are appointed commissioners, with authority to them or a majority of them to purchase in fee, for the use of Sussex county not exceeding one hundred acres of land near the center of Sussex county, at a place called *James Petitjohn's Old field*, or within two miles of the house of Ebenezer Petitjohn, in Broadkill hundred, for the purpose of building thereon a Court House and prison, for said county, and to cause said land to be surveyed by the Surveyor of the county, and a certificate to be delivered to the Recorder of the county, who shall record the same.] 1 Purchase of land for Court House & Prison—Sussex 2 certificate recorded

Sect. 2. [By this section Robert Houston, Rhoads Shankland, George Mitchell, William Moore and John Collins or any three of them are authorized with the assistance of the Surveyor of said county to cause the land purchased as aforesaid to be laid out in lots and to sell the same to the best advantage, and execute deeds thereof; reserving to the use of Sussex county half an acre of ground each, for erecting said Court House and prison on respectively and their respective accommodations, and appropriate the money toward the discharge of the expenses occasioned by the purchase and finishing of the buildings.] 3 Sale of part (6)

Sect. 3. The Court House and prison so to be built as aforesaid, shall be at least of the same size and dimensions with the old Court House and prison now at Lewes, the Court House to be built of wood, and the prison of brick or stone; and when the said Court House and prison are so far finished, that courts can conveniently be held in said Court House, and prisoners safe kept in said prison, then the said commissioners, or a majority of them shall have power and authority to sell, by way of public sale or otherwise to the best advantage, the old Court House and prison in Lewes and appropriate the monies arising from such sale towards the finishing of said buildings; and shall give good and sufficient deed or deeds in fee simple to the purchaser or purchasers of the same. 4 Sale of old Court House & Prison in Sussex

Sect. 4. After such sale is made of the old Court House and

5 Courts held there [Public Offices 1]

prison, all the courts of Sussex county shall be held in such new Court House, according to the usage and practice of other courts in this State; and such new Court House and prison shall then be used, taken, held and deemed, to be the proper Court House and prison of Sussex county.

Passed January 29, 1791.

1801 AN ADDITIONAL SUPPLEMENT *to said Act*

6 Commissioners to fill vacancies [3]

Section 1.—[By this section Benton Harris, Doctor James Robertson and William Russel are appointed commissioners in place of Robert Houston, William Moore and George Mitchell Esquires deceased; and the surviving commissioners and the commissioners hereby nominated and their successors or a majority of them are authorized to sell all the lots remaining unsold, and execute deeds for lots that had been sold pursuant to the Act aforesaid.]

7 Future vacancies

Sect. 2. When vacancies shall hereafter happen by the death, resignation, removal or inability to serve of any of the said commissioners, it shall and may be lawful for the Levy Court for the county of Sussex to nominate and appoint a suitable person or persons, to serve as commissioners for the purpose aforesaid.

8 Alleys vacated

Sect. 3. The following alleys and lanes in Georgetown, to wit, South Alley, from Market-street to Laurel-street, South Lane, from Market-street to Laurel-street, Cooper's Alley, from Front-street as far as the town land extends, Cherry Lane, from Market to Cooper's Alley, Cooper's Alley, from Acre lot number one to the south side of lot number two hundred and thirty-three and two hundred and thirty-six, Strawberry Alley, from Bedford-street north one hundred and twenty feet to the line that divides lots number forty-one and forty-four, are deemed and are hereby held to be stopped up and done away; and the said alleys and lanes stopped up and done away as aforesaid shall be divided equally between the adjoining lot and land holders.

Passed at Dover, January 23, 1801.

—o—

LAUREL.

1827 AN ACT *for establishing the boundaries of the town of Laurel, and for other purposes therein mentioned.*

1 Commiss'rs

Section 1. [By this section Kendal M. Lewis, John Tennant, William W. Green, Philip Matthews and Henry Bacon are appointed commissioners with authority to them or any three of them, taking a skilful surveyor, to make a survey of the town of Laurel, and ascertain and fix the boundaries thereof and lay out, open and regulate the streets, lanes and alleys: the surveyor under the superintendence of the commissioners to make a map of the said survey, containing the boundaries of the town and courses, width and names of the streets, lanes and alleys—and the said map signed by

2 Survey & map

the surveyor and commissioners to be lodged in the office for recording of deeds in Sussex county and there recorded—and the said map or the record thereof is made sufficient evidence.]

Sect. 2. The said commissioners shall fix stones six inches below the surface in the earth, in the center or middle of the streets respectively where they intersect one another; which stones so set and fixed in the earth in the middle of the streets aforesaid, as well as such posts and stones as shall from time to time be hereafter set and 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, he or they so offending shall forfeit any sum not exceeding twenty dollars to be recovered with costs by the commissioners before any Justice of the Peace as provided in the "Act for the recovery of small debts," and applied to the expenses of carrying this Act into execution.

3 Stones to mark streets

4 penalty for removing

Sect. 4. The commissioners appointed by this Act shall continue in office until the first Monday in December next; on which day and on the same day annually in future the white male freeholders or taxables in the said town of Laurel shall meet at the public house now occupied by Nancy Martin in the said town, and the electors between the hours of twelve o'clock noon and four in the afternoon, having first appointed two or more discreet persons to be judges of such election, shall proceed to choose by ballot a like number of discreet persons, who shall be styled *Commissioners of the town of Laurel.* 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 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 wall or for so much thereof as the next builder may have occasion to make use of, before such next builder shall any wise use or break into the said wall, and 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 extend to abrogate, annul or alter any contract, that hath heretofore been or may be made by the owners of adjoining lands.

5 Election of commiss'rs

6 their style

7 pavements, gutters and party walls

Sect. 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;—when such houses or buildings as aforesaid shall fall down by reason of decay or otherwise be destroyed, then and in such case, if the owner or owners of any such

8 Penalty for laying foundation &c in certain cases, without direction

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 builder, shall forfeit and pay the sum of one hundred dollars each, besides costs of suit, to be recovered by the commissioners of the town of Laurel for the time being, to be applied towards the expenses of executing this Act.

9 Removal of walls or buildings

Sect. 6. The commissioners for the time being or any three of them shall have power and authority at any time to cause to be removed any wall, house or building which may be, either in whole or in part, upon any of the streets, lanes or alleys of the said town, and to assess the damages to the owner or owners, which shall be paid to them out of the funds in the hands of the treasurer of the said town: *Provided always*, That in no one case such damages shall exceed the sum of one hundred dollars; and which damages shall be paid before any such wall, house or building shall be removed.

proviso

10 Compensation

Sect. 7. 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 building as aforesaid, the sum of one dollar each and mileage.

11 Partition fences

Sect. 8. 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 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 or refuse to pay his, 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, then the party, at whose costs the same was so made or repaired, may recover the same before any Justice of the Peace for the county of Sussex, 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.

compensation

12 Encroachment on sts.

Sect. 9. The said commissioners shall be and they are hereby authorized, empowered and required to guard against encroachments being made upon any of the streets in the said town, to be laid out and regulated in the 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 inclosures 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 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

13 penalty for not removing nuisances

being duly convicted thereof in any court of General Quarter Sessions of the Peace and Gaol Delivery, shall be fined in any sum not exceeding fifty dollars, to be paid to the use of the State.

Sect. 10. 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 adjusting any matters of controversy relative to the bounds of said town, streets, lanes and alleys, for setting up and fixing landmarks, &c. 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 the 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 qualified faithfully to perform the said duty: *Provided*, that those persons, who are not liable to be taxed for the relief of the poor, shall not be taxed or assessed by virtue of this Act. 14 Taxes proviso

Sect. 11. The said commissioners, or a majority of them shall cause to be set up, in two or more public places in the said town of Laurel, a duplicate of the assessment made in virtue of this Act; and every person and owner of every estate within the said town so assessed shall within thirty days after the said duplicate shall be set up as aforesaid pay to the treasurer their respective quotas 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 and collected; and the said treasurer for the time being shall have for such purpose the same power and authority which the collectors of county rates and levies now have by law; and all laws in relation to the collection of county rates and levies are hereby extended to the said treasurer to enable him to collect any and all sums and taxes which he shall or may be authorized to collect; and the said commissioners shall settle their accounts annually before a committee to be appointed by the electors of said town, at the town meeting. 15 Notice of assessment 16 treasurer's powers (Levy Ct. 43) 17 accounts of commiss'rs

Sect. 12. 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. 18 Treasurer's settlements 19 compensation

Sect. 13. The aforesaid commissioners or any commissioners hereafter elected shall, before they enter upon the duties of their office, be sworn or affirmed before some Judge or Justice of the Peace, faithfully and impartially to perform the duty in them reposed by this Act. 20 Oath of commiss'rs

Sect. 14. The aforesaid commissioners or a majority of them, or any commissioners elected pursuant to this Act or a majority of them, when they may deem proper, shall appoint some fit person to be treasurer to hold his office during the pleasure of the com- 21 Treasurer appointed

his bond

missioners of the town of Laurel; and every treasurer appointed as aforesaid, before entering upon the duties of his office, shall give bond to the State of Delaware with sufficient security to be approved by said commissioners in the penal sum of five hundred dollars, with condition for the faithful performance of the duty of his office, and payment of the sum or sums of money, which may come to his hands agreeably to the order or orders of the commissioners or a majority of them, which bond may be put in suit for the use of those who may be aggrieved by the breach of the condition thereof, and for the use of the commissioners for the time being, or a majority of them, for neglect to collect the taxes imposed pursuant to this Act.

Passed at Dover, January 31, 1827.

—o—

LEWES.

1818

AN ACT *to improve the navigation of Lewes creek, to survey and regulate the streets of the town of Lewes, and for other purposes.*

1 Survey & map of Lewes

Section 1. [By this section Samuel Paynter, James F. Baylis, Benjamin Prettyman, David Hazzard and Peter F. Wright are appointed commissioners with authority to them or a majority of them to take to their assistance a skilful surveyor and after having caused to be ascertained and established the boundaries of said town and caused to be surveyed and laid out all the streets, lanes and alleys in said town and such additional streets, lanes and alleys as they shall deem proper, to cause to be fixed stones in such places as they shall deem proper for establishing the lines and boundaries of the streets, lanes and alleys, and to cause the surveyor to make an accurate map of said town, on which shall be designated the boundaries thereof, and the courses, width and names of the streets, lanes and alleys, which map they together with the surveyor shall sign, and cause it to be recorded in the office for recording of deeds in Sussex county; and the said record or a duly certified copy thereof is made sufficient evidence.]

(23)

2 recorded

3 Trustees, treasurer & assessor elected

Sect. 2. It shall and may be lawful for every free white male person of twenty-one years of age and upwards resident within the limits of the said town and possessing a freehold therein of a lot with a dwelling-house thereon or a lot not less than sixty feet by two hundred feet without a house thereon to attend on the first Monday in June next, and on the first Monday in June annually, between the hours of two o'clock and six o'clock in the afternoon, at such place within the said town as may be appointed by the said commissioners, and then and there elect by ballot five persons having the same qualifications as the electors aforesaid, to be trustees of the town of Lewes, and shall also elect one other person to be treasurer, and one other person to be assessor for said town, both qualified as aforesaid; which persons so elected shall continue in office one year, and from thence until others are duly elected and qualified to supply their places respectively; and every election for trustees, assessor and treasurer as aforesaid shall be held

4 term of office

conducted and carried on under the superintendence and management of three substantial freeholders to be appointed for that purpose by the trustees of the town of Lewes for the time being: and immediately after each election, as soon as it is ascertained who are appointed trustees of the town of Lewes, assessor and treasurer as aforesaid, the persons, under whose superintendence and management such election is carried on, shall enter in a book to be provided for that purpose, a memorandum or minute of such election containing the names of the persons respectively elected, and shall give to the trustees, treasurer and assessor so chosen as aforesaid certificates of their election: and the book containing such minutes shall be carefully preserved by the trustees of the town of Lewes, and shall be admitted as competent evidence in all courts of law and equity within this State.

5 Judges of election

6 their duties

Sect. 3. The trustees of the town of Lewes appointed or elected according to the provisions of the preceding sections shall be called and known by the name of *Trustees of the town of Lewes*, and by that name shall have perpetual succession and a common seal, and shall and may be able and capable in law to sue and be sued, plead and be impleaded, in any court of law or equity or any other place whatsoever, and to do and execute all other matters and things which bodies politic and corporate may lawfully do.

7 Trustees their style & corporate powers

Sect. 4. It shall be the duty of the trustees of the town of Lewes, and they are hereby invested with full and ample powers therefor, to cause all the streets, lanes and alleys and other public lands, within the said town to be opened and repaired, as they may judge necessary, except where buildings are erected thereon, and in that case to levy a ground rent, which shall not exceed one fourth part of the sum that the buildings and ground so occupied would usually rent for, which said rents together with such voluntary donations as can be obtained shall be exclusively appropriated towards cleaning out and deepening the channel of Lewes creek and in such works as may be useful to prevent injury and obstructions to the said channel by the drifting of sand therein from the cape.

8 Streets opened

9 buildings on street—ground rent

10 Lewes creek

Sect. 5. The trustees of the town of Lewes shall be and they are hereby authorized and required to cause all obstructions and nuisances, that may be at any time in any of the streets, lanes and alleys of the said town to be removed or abated; and in case any person or persons, who shall occasion such obstruction or nuisance, shall neglect or refuse to remove the same within three days after being required so to do in writing by any three of the trustees of the town of Lewes, he, she or they so refusing or neglecting to remove such obstruction or nuisance as aforesaid shall forfeit and pay to the treasurer of the said town, for the use of said town, the sum of five dollars, to be recovered in the name of the treasurer of the town of Lewes as debts under forty shillings are now recoverable by the laws of this State; and the trustees of the town of Lewes may moreover cause such obstructions or nuisances to be removed or abated as aforesaid.

11 Nuisances removed

Sect. 6. Not less than three trustees shall form a quorum to do business; and in case of being reduced to a less number, elections may be held in the manner herein before directed to fill vacancies, until the stated annual election. Each of the trustees of the town

12 Trustees quorum

vacancies

13 Trustee

conservator of the Peace

of Lewes during his continuance in office shall be a conservator of the peace within the limits of the said town, with full power and authority to do all things for the preservation of the peace that any other conservator of the peace may or can do by the laws of this State.

14 oath of Trustees

And each of the said trustees, before he enters upon the duties of his office as such, shall take an oath or affirmation faithfully and impartially to discharge the duties of his office as trustee of the town of Lewes to the best of his skill and judgment; which oath or affirmation shall be administered by any Judge or Justice of the Peace of this State, and a certificate of the same shall be made by the person administering the same in the record book of the election of such trustees.

15 Assessor

Sect. 7. The assessor of the town of Lewes for the time being shall annually during the month of June make a true, just and impartial valuation and assessment of all the real estate within the said town; and the said assessor shall forthwith after making such assessment deliver to the trustees of the town of Lewes a duplicate thereof containing the names of all persons being owners of real estate within the said town and the amount of the assessment or valuation of the real estate of each person respectively within the said town: which duplicate in the hands of the trustees shall be and remain open and free for the inspection of all persons concerned:

16 appeal

and if any person or persons shall conceive him, her or themselves aggrieved or overrated by the said assessor, it shall and may be lawful for him, her or them at any time before the twentieth day of July after making such assessment to appeal to the trustees of the town of Lewes, who shall assemble for the purpose of hearing such appeals and whose decision thereon shall be final and conclusive: and in case one of the trustees appeals, he shall not sit in judgment on his own appeal, but it shall be decided by the others:

17 his property assessed

and the trustees aforesaid shall assess and value the real estate of said assessor within said town, and add such valuation and assessment to the said duplicate: and after the said assessment and valuation shall be examined and adjusted as aforesaid by the trustees of the town of Lewes, all taxes shall be assessed, levied and raised on the property thus valued, in just and equal proportions and rates:

18 his oath

and the said assessor immediately after his election and before entering on the duties of his office shall take an oath or affirmation, diligently, faithfully and impartially to perform the duties of his office to the best of his ability, knowledge and judgment; which oath or affirmation shall be administered by any Judge or Justice of the Peace of this State, and a certificate thereof shall be made by the person administering the same in the record book of the election of the trustees, treasurer and assessor aforesaid.

19 Tax

Sect. 8. The trustees of the town of Lewes shall have power and authority to levy a tax, which in no case shall exceed the sum of three hundred dollars in any one year; and when the assessment is adjusted as aforesaid, and they have ascertained the sum necessary to be raised on the said town for the purposes of this Act, and having apportioned the same on the assessment and valuation aforesaid, they shall as soon after as convenient furnish the treasurer of said town with a list containing the names of every

conservator of the Peace

of Lewes during his continuance in office shall be a conservator of the peace within the limits of the said town, with full power and authority to do all things for the preservation of the peace that any other conservator of the peace may or can do by the laws of this State.

14 oath of Trustees

And each of the said trustees, before he enters upon the duties of his office as such, shall take an oath or affirmation faithfully and impartially to discharge the duties of his office as trustee of the town of Lewes to the best of his skill and judgment; which oath or affirmation shall be administered by any Judge or Justice of the Peace of this State, and a certificate of the same shall be made by the person administering the same in the record book of the election of such trustees.

15 Assessor

Sect. 7. The assessor of the town of Lewes for the time being shall annually during the month of June make a true, just and impartial valuation and assessment of all the real estate within the said town; and the said assessor shall forthwith after making such assessment deliver to the trustees of the town of Lewes a duplicate thereof containing the names of all persons being owners of real estate within the said town and the amount of the assessment or valuation of the real estate of each person respectively within the said town: which duplicate in the hands of the trustees shall be and remain open and free for the inspection of all persons concerned:

16 appeal

and if any person or persons shall conceive him, her or themselves aggrieved or overrated by the said assessor, it shall and may be lawful for him, her or them at any time before the twentieth day of July after making such assessment to appeal to the trustees of the town of Lewes, who shall assemble for the purpose of hearing such appeals and whose decision thereon shall be final and conclusive: and in case one of the trustees appeals, he shall not sit in judgment on his own appeal, but it shall be decided by the others:

17 his property assessed

and the trustees aforesaid shall assess and value the real estate of said assessor within said town, and add such valuation and assessment to the said duplicate: and after the said assessment and valuation shall be examined and adjusted as aforesaid by the trustees of the town of Lewes, all taxes shall be assessed, levied and raised on the property thus valued, in just and equal proportions and rates:

18 his oath

and the said assessor immediately after his election and before entering on the duties of his office shall take an oath or affirmation, diligently, faithfully and impartially to perform the duties of his office to the best of his ability, knowledge and judgment; which oath or affirmation shall be administered by any Judge or Justice of the Peace of this State, and a certificate thereof shall be made by the person administering the same in the record book of the election of the trustees, treasurer and assessor aforesaid.

19 Tax

Sect. 8. The trustees of the town of Lewes shall have power and authority to levy a tax, which in no case shall exceed the sum of three hundred dollars in any one year; and when the assessment is adjusted as aforesaid, and they have ascertained the sum necessary to be raised on the said town for the purposes of this Act, and having apportioned the same on the assessment and valuation aforesaid, they shall as soon after as convenient furnish the treasurer of said town with a list containing the names of every

person owning real estate within the said town, and opposite to each name respectively the amount of the real estate of such person within the said town, and the tax to be levied on such assessment for each person as aforesaid; which list shall be signed by the trustees of the town of Lewes and shall contain a note or minute of the whole tax laid for the year being, and the rate per hundred dollars necessary to raise that tax; and the treasurer of the said town immediately after receiving the said list shall proceed to collect the taxes mentioned in the said list, and shall have the same power and authority to collect the said taxes, as are given by law to the collectors of county rates and levies. And the said treasurer, before he enters on the duties of his office, shall give bond with sufficient surety in the penalty of one thousand dollars lawful money of the United States to the trustees of the town of Lewes, conditioned for the faithful discharge of the trust reposed in him and the payment over to his successor in office of all such sums of money as may remain in his hands upon the settlement of his accounts. And the said treasurer shall pay all orders drawn on him by the said trustees of the town of Lewes or any three of them, and shall settle his accounts with the said trustees annually at such time, as they shall require. And the said treasurer and assessor shall each receive for the performance of the duties enjoined on them by this Act a reasonable compensation to be determined by the said trustees.

20 powers of Treasurer [Levy Ct. 43]

21 payments & settlement

22 compensation of Treasurer & assessor

Sect. 9. The said town of Lewes shall begin at the north corner of Robert West's land where it intersects the line of William Russel's land on the road or street leading to Pilot-town, thence running in a south west direction parallel with Ship-carpenter's street to Canary creek or branch, thence up Canary creek to a place two hundred feet higher up said branch than South street, thence in a north east direction parallel with South street keeping two hundred feet distance to a place where a north west course from the intersection of the road leading from Lewes to Rehoboth with the road leading to William Wolfe's will intersect with this line, thence north west across the Rehoboth road aforesaid and two hundred feet up the road leading to William Wolfe's, thence in a north east direction keeping two hundred feet distance from said Rehoboth road until it intersects with a line drawn parallel with South street and one quarter of a mile south easterly of the same, thence with said line north easterly across Lewes creek to the edge of the cape, thence along the edge of the cape until it intersects a north east line from the first bounder, thence running across Lewes creek south westerly home to the place of beginning.

23 Limits of Lewes

Sect. 10. The trustees of the town of Lewes are hereby authorized to contract with the commissioners of Lewes bridge and others, to whom any sum or sums of money are due, as arrearages, and to pay and satisfy them respectively, and whenever such payment and satisfaction shall be made, the said trustees shall immediately thereafter be invested with all the power and privileges at present granted by law to the commissioners of Lewes bridge.

24 Trustees may contract for Lewes bridge page 569

25 Injury to works to prevent sand drifting into Lewes creek

Sect. 11. The trustees of the town of Lewes shall have the same powers to prevent and punish depredations on any works that may be made to prevent sand from drifting into Lewes creek as are granted by this Act in case of nuisances in any of the streets lanes or alleys of the said town: *Provided always,* that the said trustees of the town of Lewes shall not be compelled to support, repair or amend the streets in the said town, now deemed public highways and supported by the county of Sussex, except only so far as they may consider it to be for the particular convenience and accommodation of the inhabitants of the said town.

26 No compensation to Trustees

Sect. 12. The said trustees of the town of Lewes shall not take or receive any compensation for their services under this Act under any pretence whatsoever.

27 Remedy for persons aggrieved, &c.

And any person or persons, conceiving him, her or themselves aggrieved by any thing unlawfully done by any of the persons or officers herein invested with powers in the execution of this Act, such person or persons so aggrieved shall have the same remedy as is given by law in similar cases against the public officers of the State or counties respectively.

Passed at Dover, February 2nd, 1818.

—o—

MILFORD.

1829 AN ACT *directing the manner of choosing commissioners to regulate and repair the streets of Milford and for other purposes.*

1 Town officers elected

Section 1. It shall and may be lawful for the inhabitants of the town of Milford (living within the limits hereinafter described,) who are free white male citizens and house-keepers or possessors of lands or tenements in the said town and of the age of twenty-one years to assemble at any convenient place in said town on the first Monday of March next, between the hours of three and nine o'clock in the afternoon and on the same day annually in future, and then and there choose by ballot five commissioners, one assessor, one inspector of accounts, one treasurer and one constable who shall continue in office for one year, or untilothers are duly elected.

2 term

3 their powers

Sect. 2. The said commissioners for the time being shall have full power and authority to cause the streets, lanes and alleys in said town 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 town, and shall cause a fund to be raised by way of tax upon persons authorized to vote for commissioners by this Act and upon all lands and tenements within the limits of said town, to discharge the expense of repairing the said streets or for any other purpose they may believe will contribute to the safety, convenience and prosperity of said town: *Provided always,* that the said commissioners, in case no tax shall be assessed and levied for the purposes hereinbefore mentioned, shall not be compelled to support or repair the streets in said town, now deem-

4 tax

ed public highways, and subject to be supported by the county of Kent.

Sect. 3. The said commissioners, assessor, inspector of accounts, treasurer and constable shall before one of the Justices of the Peace in the said town be duly qualified by oath or affirmation to perform the duties of their offices respectively to the best of their knowledge respectively and without favor or partiality; and in two weeks after the first Monday in March annually the said assessor shall make a true and impartial assessment on all the persons qualified to vote under the provisions of this Act and on all lands and tenements within the limits of said town, for the purpose of raising a general fund for defraying the expenses incurred for the purposes hereinbefore mentioned; and the said assessor shall forthwith after making the assessment cause a duplicate thereof to be put up in the most public places of the said town, notice whereof he shall give by at least two advertisements; and if any person shall conceive himself to be aggrieved or overrated by the said assessor, they may within twenty day after putting up said duplicate appeal to the board of commissioners for the time being, who shall or a majority of them hold a court for that purpose, whose decision thereupon shall be final.

5 Official oaths

6 duty of assessor

Sect. 4. The inspector of accounts so elected shall examine and ascertain, that all accounts presented to him for approval are just, and were necessary to be expended to defray the expenses incurred by said commissioners, which shall be attested by them or a majority of them affixing their names thereto, in which case and not otherwise the said inspector shall indorse upon the bill, order or draft, *allowed*, together with the day of the month and year of the said indorsement and sign his name thereto; and the said bill, order or draft thus indorsed shall be forthwith paid by the treasurer, out of the funds of said town in his hands.

7 Inspector of accounts

Sect. 5. After the expiration of twenty days from the putting up of the said duplicate, the treasurer so elected shall proceed to collect the taxes herein before directed to be assessed and levied by the said assessor, and corrected by the said commissioners or a majority of them in case of appeals; and the said treasurer is hereby authorized and empowered, in case of neglect or refusal to pay the said tax, to proceed to collect the same in the same manner, as is by law provided for the collection of county rates and levies; and the said treasurer shall, before he enters on the duties of his office, 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 a majority of them and allowed by the inspector of accounts as aforesaid, and shall annually in the month of February settle his accounts with the commissioners for the time being, or as often as a majority of them shall notify him for that purpose; and it shall be the duty of the treasurer aforesaid to pay over to his successor within twenty days after his election the money remaining in the treasury at the expiration of his office; and in case of his neglect or refusal, the said successor is hereby authorized to sue for any balance that shall be due from his predecessor in office.

8 Treasurer

9 his powers (Levy Ct 43)

10 bond

11 Constable, powers (Swine, &c. 28) pa 516

Sect. 6. The constable so elected shall within the limits and bounds, as the same are mentioned and defined in the seventh limits of the Act entitled "An Act to restrain swine from running at large within certain bounds" passed at Dover at the January session 1829, have all the powers and shall perform and discharge all the duties, that belong to and are imposed upon the constables of Kent county by the existing laws of this State, and shall receive such fees and compensations for his services, as are allowed by the existing laws of this State to the constables of said county for like services, and shall be liable to all such fines, penalties and forfeitures for neglect or breach of his duty, as are imposed on the constables of said county in like cases by the existing laws of this State: *Provided always* that it shall not be lawful for said constable to execute any process, civil or criminal, within the limits aforesaid, so far as said limits exclusively appertain to the county of Sussex, unless the writ or warrant of process be issued to him by a Justice of the Peace residing within said last mentioned limits.

fees

12 Pound

Sect. 7. It shall and may be lawful for the commissioners and they are hereby authorized and empowered to make and provide a suitable pound and to keep the same for the purpose of impounding any swine, which may be found running at large within the aforesaid limits and bounds, contrary to the provisions of the aforesaid Act of the General Assembly mentioned in the sixth section of this Act; and it shall be the duty of the said constable *ex-officio* to take up and impound in the said pound all swine, which may be found running at large within the said limits, contrary to the provisions of the said Act, as mentioned in the aforesaid sixth section of this Act, and generally to carry into effect all and every the provisions of said Act; and in case any swine shall be taken up and impounded in the said pound by the said constable as aforesaid, and sale of such swine shall be made under the provisions of the said Act, the one half the proceeds of such sale shall be paid by said constable to the treasurer of the said town and by him be accounted for to the commissioners aforesaid, to be appropriated to the purposes aforesaid, and the other one half of the said proceeds to the treasurer of the trustees of the poor of Kent county; the said constable first retaining out of said proceeds of such sale for his own use all such fees and compensation, as are by the said Act allowed to constables in such cases.

13 swine impounded

and sold

14 Place of confinement

Sect. 8. It shall and may be lawful for the said commissioners, and they are hereby authorized and empowered to make and provide some safe and suitable place as a temporary place of confinement within the said town, and the said constable of said town shall be the keeper of such place of confinement; and any Justice of the Peace residing in the limits of the said town as hereinafter described shall be and he is hereby invested with full authority in all lawful cases of commitment to commit to the said place of confinement any person guilty of a breach or disturbance of the peace, or any person guilty of any felony, or any person bound over to keep the peace, and who shall not enter into the proper recognizance to keep the peace within the last mentioned limits of the said town as hereinafter described, until such person can be conveniently removed to the common gaol of the county; and it shall be the

duty of the said constable, upon any such temporary commitment as aforesaid, as keeper of said temporary place of confinement to receive all and every person so committed as aforesaid. and there keep securely confined until they can be conveniently removed to the common gaol of the county.

Sect. 9. It shall be the duty of said constable to notify in writing any person, who shall occasion a nuisance, to remove the same from any street, lane or alley within the limits of the said town within twenty-four hours from the time of such notification; and if such person so notified shall neglect or refuse to remove the said nuisance within the time specified, he or they so refusing or neglecting to remove the same shall forfeit and pay to the treasurer for the use of said town, the sum of five dollars to be sued for by said treasurer and recovered as debts under fifty dollars are by law recoverable; and it further shall be the duty of the constable aforesaid to cause the said nuisance forthwith after the expiration of the time specified as aforesaid to be removed; and all expenses incurred in removal thereof shall be paid by the parties offending, to be recovered by the said constable, together with the costs of suit, as other debts under fifty dollars are recoverable, to and for his own use and benefit. 15 Nuisances

Sect. 10. It shall and may be lawful to and for any person whatsoever residing within the bounds as hereinafter described to shoot or kill all poultry that may be found running at large and trespassing on the premises of any person residing within the bounds aforesaid, and to give notice thereof within one hour thereafter to the owner or leave notice at his dwelling, provided, the owner be known and not otherwise. 16 Poultry, shot

Sect. 11. It shall be the duty of the present assessor, or in the case of his death, resignation or removal, the inspector or treasurer, and those hereafter to be elected, to appoint some suitable and convenient place for the holding of the annual elections in the said town; and he shall give at least ten days notice thereof by three advertisements in the most public places in the said town; and the said assessor, inspector or treasurer, as the case may be, shall call to his assistance two discreet and judicious freeholders of the said town, who shall together with the said assessor, inspector or treasurer, be the judges of the elections holden in the said town. 17 Assessor, &c. to provide place of election 18 notice

Sect. 12. The plot of the said town containing a description of the boundaries and landmarks of the said town. as laid out and surveyed under the superintendence of the commissioners elected by authority of the Act entitled "An Act directing the manner of choosing commissioners to regulate, repair and light the streets in the town of Milford, and for other purposes," passed at Dover, Feb. 5th, 1807, shall be and remain in full force, and in all cases, and in all courts of law within this State, be deemed, taken and allowed as the boundaries and landmarks of the said town as if the aforesaid Act was not repealed. And the said town shall be deemed to be bounded as follows, viz: Beginning at a corner late of Joseph Oliver senior deceased and lands late of Peter Caverly deceased, on Mispillion creek, and thence extending with the line of the aforesaid lands, until it intersects the line of the lands late of William Bradley deceased and the said Joseph Oliver senior de- 19 Boundaries

ceased, thence till it intersects the line of John Draper's land; and thence extending therewith to Mispillion creek and then up said creek to the place of beginning.

Passed February 14, 1829.

—o—

MILTON.

1819 AN ACT *to survey, lay out and regulate the streets of the village of Milton.*

1 Bounds Section 1.—[By this section John Robinson, Watson Pepper, and John Parker senior or the survivors or a majority of them are authorized to ascertain and establish the bounds of the village aforesaid and to cause all the streets, lanes and alleys of said village and additional streets, lanes and alleys, as they may deem proper, to be surveyed, laid out and opened, and by section 2 are further authorized to take to their assistance a skilful surveyor and to cause to be fixed stones for marking the lines, bounds, corners, streets, lanes and alleys—and to cause the surveyor to make an accurate map of said village, on which shall be designated the boundaries of said village and the courses, width and names of the streets, lanes and alleys; and they may add to said map such additional lines, surveys, observations and explanatory notes, as they may deem proper; and they together with the surveyor shall sign the same, and cause it to be recorded in the office for recording deeds in Sussex county; which record or a copy duly certified shall be sufficient evidence.]

2 Oath [Sect. 3. This section provides, that the commissioners and surveyor, before entering upon their duties, shall be sworn or affirmed before some Judge or Justice of the Peace of this State faithfully and impartially to perform the duties assigned them by this Act, according to the best of their skill and judgment.]

Passed at Dover, 28 *January,* 1819.

—o—

MISPILLION NAVIGATION COMPANY.

1827 AN ACT *to establish a company under the name of "The Mispillion Navigation Company."*

1 Corporate name [By section 3, the company is incorporated by the name of *The Mispillion Navigation Company*; and it is provided, that the directors (among other powers) shall have power] "to make or cut such canal or canals for the improvement of Mispillion creek, as may be deemed necessary to shorten the course or deepen the waters of the same, or to make or cut a new mouth at such place as the directors may select, or do all other such matters and things, as they or a majority of them may consider necessary for the improvement of said Mispillion creek."

Sect. 8. It shall be the duty of the directors aforesaid and they are hereby authorized and empowered, as soon as the said canal or canals shall be completed, so that a vessel drawing five feet six inches water may pass through the same at a common tide, to stop or dam up said creek at such place or places, as they may deem expedient, so as to turn the waters of said creek through said canal or canals. 2 Director's duty

Sect. 9. If any person or persons shall designedly fill up or obstruct the said canal or canals, 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 Kent or Sussex counties. 3 Penalty

Sect. 10. Until the amount of capital stock or the actual amount expended in cutting and making the said canal or canals with all costs attending the same with legal interest shall be fully satisfied and paid, it shall and may be lawful for the directors 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 three cents per ton for every time, such vessel shall pass up the said creek above the said canal or canals, or shall pass down the said creek from above the said canal or canals; and in case the master or commander of any vessel as aforesaid shall neglect or refuse to pay the said sum of three cents per ton for every ton she may measure, to the said directors 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 directors or their agent, and they or their agent are hereby authorized to issue a warrant in the name of the State of Delaware directed to any constable in Kent or Sussex counties, commanding to levy the said sum by distress and sale of any part of the rigging, tackle or furniture belonging to such vessel, and after retaining the sum or sums which may be due and the costs which have occurred on the sale of the 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 nevertheless*, That no toll shall be demanded from any flat, lighter or open boat passing or repassing the same, except the passing or repassing of the same shall be to freight or load vessels at or beyond the eastern end of said canal or canals. 4 Toll 5 how collected proviso

Sect. 11. For the purpose of ascertaining the amount or rate of toll each and every vessel may be liable to pay under the provisions of this Act, it shall be the duty of each and every captain or commanding officer of any such vessel to produce to the treasurer or other officer authorized to collect any such toll the register or license of every such vessel when demanded, under the penalty of five dollars with costs of suit to be recovered before any Justice of the Peace in and for Kent or Sussex counties to be applied to the use and benefit of the canal or canals as aforesaid. And should there be no license or register of any such flat, lighter or open boat, which shall come within the provisions of this Act, it shall and may be lawful for the directors or their agent to call upon 6 Rate of toll 7 penalty for neglect to pay

some skilful person to measure the burden thereof, and the said flat, lighter or open boat when so measured shall come within the provisions of this Act and be liable for amount of toll so rated.

Passed at Dover, February 1, 1827.

—o—

MURDERKILL & SPRING CREEKS.

1810 AN ACT *for improving the navigation of Murderkill creek and Spring creek in Kent county.*

1 Commiss'rs [By section 1, Walter Douglass, M'Kinney Smack, Moses Sipple, Michael Hall Bonwell and Andrew Barratt are appointed commissioners to cut canals, &c. By section 3, the Governor is authorized, in case any of the commissioners should die, remove from the county, be incapable or refuse to serve, to appoint others in their stead.]

2 Obstructing canal, &c. penalty Section 4. If any person or persons shall fill up or designedly or intentionally injure or obstruct any canal already cut between the waters of the said creeks or either of them, or shall injure or obstruct the navigation of the said creeks or either of them, or of any canal already cut or hereafter to be cut between the waters of the said creeks or either of them, by wears, hedges or in any other manner whatsoever, he, she or they so offending shall severally forfeit and pay any sum not exceeding one hundred dollars, one moiety thereof to the use of the State and the other moiety thereof to the use of him or her, who will sue for the same in any court of record in this State by action of case, debt, bill, plaint or information.

3 Drawbridge Sect. 6. The said commissioners or any two of them be, and they hereby are authorized, empowered and required to build and erect, or to cause to be built or erected, a drawbridge across Spring creek aforesaid, where the State road leading from Dover to Frederica crosses the said creek, and where the old bridge now stands.

4 Clear space & draw Sect. 7. There shall be left clear in the place between the abutments, wings and other works erected for the use, support and preservation of said bridge the space of nineteen feet at least at all times, for the waters of the said creek to pass through, over which shall be erected and placed a draw or platform of the breadth of eighteen feet at least, so constructed as to roll off or be raised up for the accommodation of all such persons, as may have occasion to pass with any vessel through the said bridge, who are hereby obliged to roll off and on or raise and lower (as the case may be) the said draw or platform, so that the same receive no damage thereby, under the penalty of fifty dollars for every neglect therein, to be recovered with costs in the name of the State of Delaware in the Court of General Quarter Sessions of the Peace and Gaol Delivery in and for Kent county.

5 penalty for injuring

6 Supported by county Sect. 9. The Levy Court of Kent county aforesaid shall, after the said bridge shall be erected and built as aforesaid, cause the said bridge to be supported, maintained and repaired from time to

time (always keeping up a draw or platform as aforesaid) in like manner, as other bridges are supported, maintained and repaired in said county; and the said draw-bridge shall be deemed and taken to be a common highway.

Passed at Dover, January 22, 1810.

—o—

NEWARK.

AN ACT *for establishing the market in the town of Newark, and for regulating the same.* 1772

Sect. 12. *And* for preventing all uncertainty and disputes that may arise touching or concerning the limits of the said town of Newark;—The lines and bounds herein after mentioned are and always hereafter shall be reputed, deemed, allowed and taken to be the boundaries and limits thereof; *That is to say,* Beginning at the junction of the public roads near an inn now known by the name of the sign of Saint Patrick, and extending thence along the road leading to New-London township in Chester county to a small stream or run, and by the same stream or run to the mouth thereof, where it empties into Whiteclay-creek, and from thence down the said creek to the most easterly line of the land now of Doctor Samuel Platt, and by the lines of the said Samuel Platt and of land now of James Simpson, to include the said lands within the said town, to the land now of David M'Mechen, and from the corner of the said James Simpson and David M'Mechen their land to the end of James Anderson's lane, and thence by a right line to the place of beginning. Boundaries of the town

Passed June 13, 1772.

—o—

NEW-CASTLE.

I.

AN ACT *for erecting a pound in the town of New-Castle.* 12 Geo. II.

Whereas many of the inhabitants of the hundred of New-Castle have received great injury and damage by unruly horses and cattle breaking into their fields and inclosures; for remedy whereof—

Section 1. A pound shall be erected in the town of New-Castle in the county of New-Castle on Delaware at the proper cost and charge of the inhabitants of the said hundred: And if any horses or cattle shall at any time hereafter break into any field or inclosure of any of the inhabitants of the aforesaid hundred, being fenced as the law of this government directs, then and in that case it shall and may be lawful for the owner or possessor of such field or inclosure to put such horses or cattle in the pound aforesaid there 1 Pound 2 cattle impounded

to remain, until the damages, which shall be adjudged by the viewers of the fences within the said hundred to have been sustained, are paid by the owner or owners of such horses or cattle so impounded: But in case the owner or owners of such horses or cattle are not known or do not appear, the keeper of the pound shall and is hereby ordered immediately to cause notes to be affixed at the most public places in the said hundred, describing the marks and colour of such horses or cattle in his possession, and shall in the mean time provide the said horses or cattle with sufficient food and water. And if the owner or owners of such horses or cattle do not appear within the space of ten days after such impounding, it shall and may be lawful for the said keeper of the said pound to cause the said horses or cattle to be appraised by two creditable men inhabitants of the said hundred (they being first lawfully qualified), and to cause them to be sold at public vendue at the market place within the town of New-Castle aforesaid, and out of the money arising by the sale aforesaid to pay all charges of keeping such horses or cattle in the pound, and other costs together with such damages as the owners of such field or inclosure shall have sustained; and the overplus (if any be) to be lodged in the hands of the County Treasurer for the time being there to remain for the full space of one year; and if the owner or owners of such horses or cattle during that time do not appear, then the money so lodged in the Treasurer's custody to be applied for the use and benefit of the poor of the hundred aforesaid. But if it shall be found upon view by the overseers of the fences within the hundred aforesaid, that the fences of such fields or inclosures, wherein such horses or cattle have been taken trespassing, are not sufficient or lawful fences then and in such case the owner or owners of such field or inclosure shall pay all costs and damages which have accrued or shall accrue thereon.

3 Notice of impounding

4 owner not appearing, appraisement and sale

Sect. 2. *And* in order that the design of erecting the pound aforesaid may not be defeated;—The Justices of New-Castle county, in their next Court of Quarter Sessions, &c.

5 Poundkeeper appointed

Sect. 3. The said Justices, at their sessions aforesaid or any succeeding sessions shall, and are hereby empowered to appoint a proper officer for keeping of the said pound, and to establish such fees to be paid to the said officer for his services, and for keeping the said pound in repair, as they from time to time shall think proper.

II.

13 Geo. II.

AN ACT *for establishing a market in the town of New-Castle, for appointing a clerk of the Market, and directing the assize of bread.*

Market [30, 31, 32] [10, 11, 12, 13]

Whereas the want of a regular market in the town of New-Castle, in the county of New-Castle within this government hath been attended with great inconveniencies to the inhabitants thereof, as well as to such persons who offer provisions to sale in the said town: for remedy whereof,

Section 2. No person or persons whatsoever shall presume

either to buy or sell any kind of provisions (fish, milk and bread excepted) on market-days, within any part of the town of New-Castle but at the public market-house, under the penalty of forfeiting both by the buyer and seller all such provisions so sold or bought or the value thereof, to be levied together with costs by the clerk of the market, by distress and sale of the offender's goods and chattels respectively, by warrant under the hand and seal of any one Justice of the Peace of the said town or county.

6 No provision sold on market days but at the market house [11—13] [30, 31]

Sect. 3. If any person or persons shall presume to bring to market and sell or offer to sale any meat or flesh that shall be poor, lean or carrion or any other provision not sound and wholesome, every person so offending shall forfeit the same, if sound and wholsesome, [to the use of the prisoners in the common gaol of the said town or county], if unwholesome or unsound, to be thrown into the river.

7 Poor, lean meat [31]

Sect. 4. No person or persons whatsoever shall presume to kill or slay any cattle, sheep, calves or hogs within the said market-house, on penalty of forfeiting the sum of five shillings for every such offence, to be levied as aforesaid.

8 Penalty on slaughtering in the market house [31]

Sect. 5. If any person or persons whatsoever shall by themselves or others either sell or offer to sale any butter, cheese, tallow, or any sort of provisions by any false weights, or for more weight than the same shall be found to be by trial of the said clerk of the market for the time being, upon complaint made, such person or persons shall, for every such offence, forfeit such butter, cheese, tallow or provision so sold or offered to sale as aforesaid, [*to the use of the poor of the town and hundred aforesaid,*] and the clerk of the market is hereby empowered to seize the same.

9 False weights—wanting weight [31]

Section 14. Said clerk of the market hereby appointed, or that shall hereafter be appointed by virtue of this Act, before he shall presume to enter upon his said office or execute the trust reposed in him, shall first take an oath or affirmation before some Justice of the Peace of the said county of New-Castle, *That he shall and will well and truly demean and behave himself in the office of clerk of the market aforesaid and impartially discharge the trust reposed in him by virtue of this Act during his continuance in that office.*

10 Oath of clerk

A SUPPLEMENT *to said Act.* 1806

Section 1. Tuesday and Friday of each week, and no other days, shall be deemed the regular market days in the town of New-Castle.

11 Market days

Sect. 2. The clerk of the market hereafter to be elected for the town of New-Castle shall before he enters upon the execution of the duties of his office, give a bond to the commissioners with such security, as shall be approved by a majority of the commissioners of the town of New-Castle, for the faithful performance of the duty required of him and for the paying over to the treasurer of the said town one moiety of the rents of the stalls in the said market.

12 Clerk's bond [30]

Passed at Dover, January 30, 1806.

1807

A FURTHER SUPPLEMENT.

Whereas the Act, to which this is a further supplement, is found insufficient in many respects, with regard to the regulations of the market in the town of New-Castle, and much hardship and inconvenience is experienced by the inhabitants of the said town, for want of better regulations, and more especially to prevent the injurious practice of forestalling; for remedy whereof—

13 Commis'rs to make regulations

Section 1. It shall and may be lawful for the commissioners of the town of New-Castle or a majority of them and they are hereby authorized to make, alter, repeal and again re-enact all laws, regulations and ordinances, which they may from time to time deem requisite and necessary for the better regulation of the market in the town of New-Castle: *Provided nevertheless*, that nothing in this Act shall be construed to authorize the said commissioners to exercise any powers repugnant to the laws and constitution of this State.

proviso

Passed at Dover, Jan. 29, 1807.

III.

1797

AN ACT *for establishing the boundaries of the town of New-Castle, and for other purposes therein mentioned.*

14 Survey & map [89]

Section 1.—[By this section James Booth, George Read the younger, Nicholas Vandyke, Archibald Alexander and John Crow are appointed commissioners, with authority to them or any three of them, taking with them a skilful surveyor to make an accurate survey of the town of New-Castle and to ascertain and fix the boundaries and limits of the same and to lay out, open and regulate the streets, lanes and alley within the same: the surveyor under the superintendence of the commissioners to make a map of the survey containing an account of the boundaries of the said town, and the courses, width and names of the several streets, lanes and alleys; the said map to be signed by the surveyor and commissioners and lodged in the Recorder's office for New-Castle county and there recorded; and said map or the record thereof is made competent evidence.]

15 Stones and posts for marks

Sect. 2.—This section provides that the commissioners shall fix posts or stones in the earth in the center or middle of the streets respectively, where they intersect each other, and that said stones or posts, as well as other stones or posts, that shall be fixed by commissioners hereafter to be appointed shall be in all courts of law allowed as land marks.]

16 Penalty for removing them

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 New-Castle, to be employed in and towards defraying the expenses of carrying this law into execution.

17 Appeal

[By sections 3 and 4, an appeal is given and regulated, from the

acts of the commissioners or a majority of them "relative to the boundaries of the said town," and "the location of the said streets, lanes and alleys," to the next Court of Common Pleas or the next Supreme Court to be holden for the county of New-Castle.]

Sect. 5. The commissioners appointed by this Act shall continue in office until the first Tuesday in May, which will be in the year of our Lord one thousand seven hundred and ninety eight; on which day, and on the same day annually in future, the freeholders and inhabitants, who are taxables of the said town of New-Castle, shall meet in the Court House 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 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 any wise use or break into the said wall; and 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 extend to abrogate, annul, or alter any contract that hath heretofore been or may be made by the owners of adjoining lands.

15 Election of commiss'rs

16 pavements & gutters (34)

17 party walls

Sect. 6. *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; when such houses or buildings as aforesaid shall fall down by reason of decay, or otherwise be destroyed, 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-builder 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 herein after mentioned, one moiety thereof for the use of the said town, and the other moiety to the prosecutor.

18 Penalty for building without directions of commiss'rs

19 Fees.

Sect. 7. 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.

20 Partition fences

Sect. 8. 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 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, 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, 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 New-Castle as debts under forty shillings 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.

21 Penalty for obstructing or encroaching upon the streets

Sect. 9. 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 any such encroachments, if any at present exist, or may hereafter be made on said streets, by reason of inclosures 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 expences arising from putting this law in execution.

22 Tax [47—53]

Sect. 10. 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 and 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 adjusting any matters or controversy relative to the bounds of the said town, streets, lanes, and alleys, for setting up and fixing land marks, for repairing the market house in the said town, and for erecting such number of public pumps in the streets of the said town as the said commissioners or a majority of them may think necessary, and 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 commission-

23 assessment

ers 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 qualified faithfully to perform the said duty: *provided*, that those persons who are not liable to be taxed for the relief of the poor shall not be taxed or assessed by virtue of this Act.

Sect. 11. The said commissioners or a majority of them shall cause to be set up at the Court House in the town of New-Castle aforesaid a duplicate of the assessment made in virtue of this Act; and every person and owner or names of every estate within the said town so assessed shall within, twenty days after the said duplicate shall be set up at the Court House aforesaid, pay to the treasurer to be nominated and appointed by the said commissioners, their respective quotas 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 delinqents goods and chattels, lands and tenements, by warrant under the hand and seal of any one Justice of the Peace; which such 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 New-Castle, 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 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 the said commissioners shall settle their accounts annually before a committee to be appointed by the inhabitants of the said town, at a town meeting.

24 published

25 treasurer appointed

26 powers

27 Settlement of commiss'rs

Sect. 12. 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.

28 payments by treasurer

29 his acc'ts

Sect. 13. Every white free man of the age of twenty-one years having resided within the said town of New-Castle one year next before the election and within that time paid a State or county tax, and every other such freeman owner of property within the said town for one year next before the election and within that time having paid therefor a State or county tax, shall be, and they are hereby authorized and empowered to elect by ballot on the first Tuesday in May next and on the same day annually in future, or in case of neglect to elect that day then any other day after ten days notice, one suitable person to serve in the office of clerk of the market in

30 Clerk of market elected

[10, 12] (Swine &c. 40) page 517

the said town of New-Castle, who is hereby authorized, empowered and required to exercise the powers and perform the duties required to be done and performed by the clerk of the market of the said town of New-Castle by an Act entitled "An Act for establishing a market in the town of New-Castle, for appointing a clerk of the market, and directing the assize of bread."

(1) page 626

31 His perquisites

Sect. 14. All suits, penalties, fines and forfeitures, as are directed to be forfeited and paid by the said recited Act entitled "An Act for establishing a market in the town of New-Castle, for appointing a clerk of the market, and directing the assize of bread," shall be applied to the use of the clerk of the said market; and also the one moiety of the rent of the stalls in the market-house in the said town shall be applied to the use of the clerk of the market aforesaid, and the other moiety to and for the purpose of repairing the said market house, and keeping it in repair.

32 Rents of stalls in market fixed

Sect. 15. It shall and may be lawful for the said commissioners or a majority of them annually or as often as there shall be occasion, by warrant under their hands and seals to nominate and appoint three persons inhabitants of the said town to ascertain and fix the rents of the stalls in the said market house; and the clerk of the market shall not demand, take or receive from any person or persons whatsoever, for the rent of the stalls, any greater sum than may be so ascertained and fixed as aforesaid, on penalty of forfeiting the sum of ten dollars, one moiety thereof to the use of the person who shall sue for the same, and the other moiety for the use of the inhabitants of the said town.

Passed June 3, 1797.

1804

A SUPPLEMENT *to said Act.*

33 Ground-plan

Section 1. The commissioners of the town of New-Castle shall have full power and authority to make a ground plan of the said town, ascertaining the ascents and descents of the streets, lanes and alleys within the same, which may be necessary for the regulation of buildings to be erected in future so as to determine the elevation of the ground floor above the surface of the streets and

34 gutters, pavements, &c.

also for carrying off the water by gutters and common sewers, and shall lay out the proper pavements and gutters in front of dwelling houses, and continue the same with a footway on the inside of those gutters, not less than three feet in breadth in front of unimproved lots and parts of lots within the said town, to wit, from Vine-street along both sides of Delaware-street to Front-street and further if deemed necessary, along both sides of Front-street from Delaware-street to the Northeastern side of Harmony-street and further if deemed necessary, the whole length of Market-street on both sides thereof, along both sides of Orange-street from Delaware-street to Harmony-street aforesaid and further if deemed necessary, and along such other streets within the said town, as may be deemed necessary by the commissioners aforesaid; and after the said gutters, pavements or footways are laid out, the owner or owners, guardian or guardians of minor owners of any buildings or lots, in front of which such gutters, pavements or footways are

laid out, shall cause the same to be made in the manner directed by a majority of the commissioners aforesaid, within ninety days thereafter; and if the owner or owners, guardian or guardians of minor owners as aforesaid shall neglect or refuse to make the said gutters, pavements or footways, for the space of time aforesaid, then it shall be lawful for a majority of the commissioners aforesaid and they are hereby authorized to cause the said gutters, pavements or footways to be made; and the expense of the same shall be paid by the owner or owners, guardian or guardians of minor owners of buildings or lots, in front of which any such gutters, pavements or footways shall be made by the order of a majority of the commissioners aforesaid, to the person or persons whom they shall have authorized to make the same; and if the owner or owners, guardian or guardians of minor owners shall neglect or refuse to pay the person or persons, who may have been authorized in manner aforesaid, for the space of thirty days, then it shall be lawful for a majority of the commissioners aforesaid and they are hereby authorized to issue their warrant directed to the sheriff of New-Castle county, who is hereby authorized and directed after ten days public notice to sell so much of the goods and chattels of the owner or owners, guardian or guardians of minor owners aforesaid at public sale, and apply so much thereof to the payment of the expenses of making such gutters, pavements or footways made by order of a majority of the commissioners aforesaid, and after deducting such legal costs therefrom, as is herein after provided for, return the overplus, if any, to such owner or owners, guardian or guardians of minor owners as aforesaid: *provided always*, that if a guardian or guardians of minor owners shall cause such gutters, pavements or footways laid out by a majority of the commissioners aforesaid to be made in manner directed as aforesaid, the said guardian or guardians of minor owners as aforesaid shall be allowed the expenses thereof on settlement of their guardianship accounts, before the Register of New-Castle county.

35 making gutters, &c when owners refuse

& recovering expenses

39 guardian allowed

Sect. 2. When the said ground plan and elevations as aforesaid shall be so made and agreed upon by the commissioners aforesaid and a plot or map thereof made, the same shall be lodged in the Recorder's office for the county of New-Castle there to be recorded or enrolled, and be thereafter inalterable; and the 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 ground plan and elevations of the streets, lanes and alleys within the town of New-Castle.

37 Ground-plan recorded

38 Evidence

Sect. 3. It shall be lawful for any tenant of those lots of a delinquent owner or owners to pay to the commissioners aforesaid or their order the amount of the expense which may be incurred by making the said gutters, pavements or footways, and the same shall be a good discount against his landlord for any rent which may be due, or thereafter become due.

39 Tenants may discount expense ag'st rent

Sect. 4. In case sufficient goods or chattels of the owner or owners of the said lots, in front of which any such gutters, pavements or footways shall have been made in manner aforesaid, cannot be found within the precincts of the said town, in such case after thirty days notice to the owner, if he or she resides within this

40 Sale of lots for expenses (52)

State, or if out of the State two months notice given by advertisement in some public gazette, the commissioners aforesaid are hereby authorized to issue their warrant directed to the sheriff aforesaid, who shall seize, sell at public vendue and convey the whole or so much of the aforesaid lots, as the said commissioners by their warrant shall order and direct, to defray the expense which may be incurred by making the said gutters, pavements or footways, and if any surplus, to pay over the same to the owner or owners aforesaid.

41 Public lamps

Sect. 5. The commissioners aforesaid or a majority of them are hereby authorized to provide for erecting such number of public lamps in the said town, as they may deem needful, and for lighting and keeping the same in repair; and after the said lamps shall be erected, if any person or persons shall wilfully and maliciously break, pull down or otherwise destroy any of the said lamps, or extinguish the same when lighted, he, she or they so offending shall forfeit and pay any sum not exceeding thirty-two dollars for each and every such offence, upon due proof thereof being made before any Justice of the Peace within the county of New-Castle, who is hereby authorized and directed to issue his warrant to any constable of the said county, directing him to levy the amount thereof on the goods or chattels of the offender or offenders, or for want of goods or chattels to commit him, her or them to the work house in the town aforesaid for any term not exceeding three months, there to be kept at hard labor.

42 penalty for destroying

43 Inspector of flour and wood-corder

Sect. 6. The commissioners of the town aforesaid or a majority of them are hereby authorized to appoint annually in the month of May an inspector of flour and a corder of wood for the town of New-Castle aforesaid, and upon the death, removal from the town, misbehavior or refusal to serve as inspector or wood corder as aforesaid, to appoint others in their place; and all such inspectors or wood corders appointed as aforesaid shall take an oath or affirmation, that they will discharge the duties of their respective appointments faithfully and impartially.

44 their oath

45 Compensation to inspector and corder

Sect. 7. The inspector of flour shall receive for inspecting flour, one cent per barrel; and the corder of wood shall have and receive for cording each cord of wood, the sum of twelve and an half cents, all which sums shall be paid equally by the buyer and seller; and if any inspector of flour or corder of wood shall take or demand any greater fees than are herein specified, such inspector or corder shall forfeit and pay for every such offence the sum of thirty dollars, upon due proof thereof, before a majority of the commissioners aforesaid, to be recovered by warrant under their hands and seals, directed to the sheriff of the county aforesaid, who is hereby authorized to levy the same on the goods and chattels of the offender, and after ten days public notice to sell so much thereof as will pay the said fine and his legal costs.

46 penalty for extortion

47 Tax

Sect. 8. The commissioners of the town aforesaid or a majority of them are hereby authorized and empowered to lay a tax on the inhabitants and estates within the said town for carrying into effect the provisions of this Act.

47 Treasurer's bond

Sect. 9. The treasurer of the town of New-Castle aforesaid hereafter to be appointed by the commissioners aforesaid shall be-

fore he enters on the duties of his office, give bond in the name of the said commissioners with warrant of attorney thereto annexed, in double the amount of the tax by him to be collected, with at least one good and sufficient freeholder to be approved by a majority of the commissioners aforesaid, as surety for the faithful performance of his duty as treasurer.

Sect. 10. The surplus of any taxes heretofore laid upon the inhabitants and estates within the town of New-Castle aforesaid by virtue of the Act, to which this is a supplement, together with all the penalties, that may be incurred under this Act, shall be appropriated by the commissioners aforesaid to the objects contemplated herein. 49 Surplus taxes

Sect. 11. It shall not be lawful for any person or persons whatsoever, to shoot or discharge any loaded musket, fowling piece, fuzee or pistol within the limits of the town of New-Castle aforesaid, under the penalty of forfeiting and paying for every offence by him or them, so committed, the sum of one dollar to be recoverable on the view of any one Justice of the Peace, within the said town, or on the information of one or more reputable witnesses: *provided always*, that nothing herein contained shall be construed to prevent the firing of cannon and small arms on days of public rejoicing or on the days and times of military parade. 50 Shooting within town, penalty 51 proviso

Sect. 12. The sheriff of the county of New-Castle shall have and receive for the performance of the duties enjoined on him by this Act the like fees, as he is entitled to for similar services by the laws of this State; and that the bond given by him for the faithful execution of his office, be extended for the due performance of the duties herein enjoined on him. 52 Fees to sheriff

Passed at Dover, Jan. 20, 1804.

AN ADDITIONAL SUPPLEMENT. 1825

Section 1. It shall be lawful for the commissioners of the town of New-Castle or a majority of them to levy and assess on the persons and estate within the town of New-Castle 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 commissioners 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. 53 Tax to supply Fire companies

Passed at Dover, February 7, 1825.

IV.

AN ACT *to enable the persons therein named to raise a sum not exceeding twelve thousand dollars by a lottery, for the purpose of erecting piers in the harbor of the town of New-Castle.* 1794 Piers (U. States)

Section 5. If any of the said piers shall be built, erected or placed opposite to any of the public streets of the said town of New- 54 Streets opposite piers to remain open

Castle, the said streets shall remain open and unobstructed to low water's mark, so as to afford a free and easy passage, or egress and regress, to and from the town to the said piers.

Passed February 7, 1794.

V.

1772 AN ACT *for vesting the State House and other public buildings with the lot of ground whereon the same are erected together with other ground situate in the town of New-Castle, in Trustees for the uses therein particularly mentioned.*

55 Settlement upon trust of— Whereas the lot of land situate in the square called the Market Square, in the center of the town of New-Castle, and contained within the bounds following,—*to wit*, Beginning at a stone placed for a corner on the north-east side of the Market-street and at the north-west end of the State House, and extending thence north fifty-one degrees east fifteen perches to a stone placed for a corner in the said square [the said line running two perches from the north-west end of the said State House], thence south thirty-nine degrees east eight perches to another stone placed for a corner in the said square, thence south fifty-one degrees west fifteen perches to another stone placed for a corner on the north-east side of Market-street aforesaid, and from thence along the said street and bounded therewith north thirty-nine degrees west eight perches to the place of beginning,—hath at all times been considered, taken and held as ground dedicated to the use of the public, and accordingly a State House, gaol and other buildings have been erected thereon at the charge of the county of New-Castle: Now to the end and intent that the said State House, gaol, buildings and lot of land described as aforesaid may be effectually secured for the public, and that the legal estate and inheritance therein may be vested in trustees to and for the uses and purposes herein after mentioned and specified;

56 The State house Section 1. The said State House, buildings and lot of land and all the immunities, improvements, advantages, hereditaments and appurtenances to the same belonging or in any wise appertaining, and the remainder and remainders, reversion and reversions thereof shall from and after the passing of this Act be settled upon and vested in Thomas M'Kean, George Read, John M'Kinly, Alexander Porter, George Monro, John Evans and David Thompson, gentlemen, and the survivors and survivor of them and the heirs and assigns of such survivor for ever; upon the trusts nevertheless, and to and for the ends, intents and purposes, and subject to the uses herein after mentioned, expressed and declared, *That is to say*; as to the said State House, that the same shall be to and for

57 for the use of the Assembly the use of the Representatives of the freemen of these counties, which now are and from time to time hereafter shall be duly elected by the freemen aforesaid, at all times when in Assembly met, and to and for such other uses, intents and purposes, as the said Representatives, during the time they shall be so convened in Assembly shall direct and appoint, and to and for the use of the Jus-

tices of the Supreme Court of this government, for the holding of said court as long as the said court shall from time to time be adjourned and continue; and at all other times, the said State House and the wings adjoining the same, for use of the Justices of the county Court of Common Pleas and Justices of the Court of Quarter Sessions for the said county of New-Castle, for the holding courts therein, and to and for such other uses intents and purposes, as they the said Justices of the Court of Quarter Sessions at the General Sessions to be holden at New-Castle for the county of New-Castle on the third Tuesday in May yearly and every year shall direct and appoint; and as to the under sheriff's and gaoler's houses, the gaol, work-house and yards, with the appurtenances, to the use of the sheriff of the said county of New-Castle for the time being, for the residence of himself, his under sheriff and gaoler, and for the safe custody of all and every person and persons to him legally committed, and for such other purposes as the same have been usually applied to, for the service of the said county: And upon this further trust and confidence, and to this further end, intent and purpose, that the said Thomas M'Kean, George Read, John M'Kinly, Alexander Porter, George Monro, John Evans and David Thompson and the survivors and survivor of them, and the heirs of such survivor, shall from time to time and at all times hereafter, permit and suffer such suit and suits, action and actions to be commenced and prosecuted in his or their names, and also make, seal, deliver, execute and acknowledge such deed or deeds, conveyance or conveyances, fines, recoveries or assurances in the law whatsoever for the said lot of land, buildings, tenements and hereditaments, settled and vested in the said trustees as aforesaid or any part or parcel thereof, to such person or persons, and in such manner and form, but to the uses aforesaid, as the Justices of the Court of Quarter Sessions for the county of New-Castle aforesaid shall at any time or times hereafter direct and appoint: So always, that the said Thomas M'Kean, George Read, John M'Kinly, Alexander Porter, George Monro, John Evans and David Thompson, and their heirs, executors and administrators and every of them be well and truly indemnified, saved and kept harmless of and from any costs, charges, trouble or molestation whatsoever, which may arise for or by reason of such suits, deeds, conveyances, fines, recoveries or assurances so to be commenced, prosecuted, made and executed.

58 Supreme Court

59 Common Pleas & Qr. Sessions

60 Gaol, &c.

61 Gaol, &c. for use of sh'ff N. Castle city for the time being

Sect. 2. *And whereas* another lot of land situate in the Market square in the town of New-Castle aforesaid, and bounded as follows, *to wit*, Beginning at a stone placed for a corner on the south-west side of Mary-street, being also the north-west corner of the graveyard or burying ground, belonging to Immanuel Church, and extending from thence north forty-six degrees thirty minutes west five perches and three tenths of a perch to the street or road leading from Wilmington, leaving the said street forty feet for width, thence along the same street or road south forty-five degrees west ten perches to a stone placed for a corner, thence extending south forty-six degrees, thirty minutes east five perches and three-tenths of a perch to another stone placed for a corner, and from thence along the pale fence of the graveyard aforesaid

north forty-five degrees east ten perches to the place of beginning, hath at all times been considered, taken and held, as ground dedicated and set apart for the use of the said town; *And whereas* the inhabitants of the said town intend to erect a school house thereon, and are desirous of having the same appropriated and applied to that use. The said lot of land last described, and all the immunities, advantages, hereditaments and appurtenances to the same belonging, or in any wise appertaining, and the remainder and remainders, reversion and reversions thereof, shall, from and immediately after the passing of this Act, be settled upon and vested in David Finny, John Thompson, George Read, Thomas M'Kean and George Monro, gentlemen, and the survivors and survivor of them, and the heirs and assigns of such survivor, in trust nevertheless for the erecting a school house or school-houses thereon, and to be for that use forever.

62 School

Sect. 3. *And whereas* another lot of ground situate also in the market square, in the town of New-Castle, whereon Immanuel Church stands, and the grave yard or burying ground of the said church is laid out, bounded as follows, *to wit*, beginning at a corner stake of the herein before described school house lot, being also the north-west corner of the grave yard or burying ground belonging to Immanuel Church aforesaid, on the south-west side of Mary-street and running thence south forty-five degrees west ten perches along the line of the said school house lot to another stake set for a corner, thence south forty-six degrees east ten perches and eight tenths of a perch to a post in the market square, thence north forty-seven degrees east ten perches to Mary street aforesaid; and thence along said Mary street north forty-six degrees thirty minutes west to the place of beginning, hath been and is now set apart and appropriated to and for the use of the members of the Episcopal Church of England, residing and dwelling in and about the said town of New-Castle, who being desirous that the same should be forever hereafter confirmed to and for the uses aforesaid.

63 Immanuel church and grave-yard

Sect. 4. The legal estate and inheritance of and in the said church, burying ground and last described lot, with the appurtenances thereto belonging, shall be and is hereby declared to be from henceforth vested in the reverend Æneas Ross, Richard M'William and Joseph Tatlow and the survivors and survivor of them and the heirs of the survivor forever, in trust nevertheless, to and for the use, benefit and behoof of the members of the Episcopal Church of England, residing and hereafter to reside in and about the said town of New-Castle, as a place of worship and burial-ground forever, and to no other use, intent or purpose whatsoever.

64 The residue of market square vested in trustees for use of inhabitants of New-Castle forever

Sect. 5. *And whereas* the remaining part of the aforesaid market square hath at all times been considered, taken and held as ground belonging to the inhabitants of the said town of New-Castle for holding of fairs, markets and other public uses, and a market house hath accordingly been erected thereon at the charge of the said inhabitants;—the residue or remaining part of the said market square not herein before settled on trustees, and all the immunities, improvements, advantages, hereditaments and appurtenances to the same belonging or in any wise appertaining, and the

remainder and remainders, reversion and reversions thereof shall be settled upon and vested in David Finny, John Thompson, George Read, Thomas M'Kean and George Monro gentlemen and the survivors and survivor of them, and the heirs and assigns of such survivor, in trust nevertheless for the use of the inhabitants of the said town of New-Castle forever. 65 names of trustees

Sect. 6. This Act shall be deemed, adjudged and taken to be a public Act, and shall be judicially taken notice of as such by all Judges, Justices and other persons whatsoever, without specially pleading the same. 66 Public Act

Passed June 13, 1772.

—o—

PENALTY FOR INJURY TO CERTAIN WORKS.

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.* 1823 (Penalties) page 425

[In section 6 is mentioned the tract of marsh granted to Thomas Clayton and Jacob Stout esquires 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.] 1 Marsh granted to T. Clayton & J. Stout

Sec. 8. 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 Gaol 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. 2 Injuring banks penalty

Passed at Dover, Feb. 1, 1823.

1793 AN ACT *to regulate certain public buildings in the town of Dover, in Kent county, and in George-Town, in Sussex county.*

1 Dover

Section 1. The whipping-post and pillory to be erected in the county of Kent shall be put up and erected on the Court House lot in the town of Dover on the east side of the Court House in such convenient situation as the prothonotary shall direct; and the whipping-post and pillory now erected in George-Town shall be taken down and removed from the place where they now stand, and shall be put up on the public lot on the east side of the Court House in George-Town between that and the gaol, in such convenient situation as the prothonotary of the county shall direct.

2 George-town

3 Not to be removed

Sect. 2. It shall not be lawful for the Levy Court and Court of Appeal, or any other court whatever, to remove the said whipping-posts and pillories, or to cause new ones to be erected in any other situations.

Passed, June 14, 1793.

—o—

RECORDS.

I.

1770 AN ACT *for the making divers copies of records duly authenticated under the Great Seal of the province of New York, and other copies, public records, and for rendering real estates within this government more secure.*

1 Comes from New-York

[The substance of the preamble is—that these counties before the twenty-fourth day of August, one thousand six hundred and eighty-two, were under the jurisdiction of the province of New York, and lands were granted by the Governor of that province, and many of the orders of the Governors, minutes of Council, warrants, surveys, patents and deeds for the same were filed and recorded in the Secretary's office there; said original papers being entered in the books and records of said office with other original papers relating to lands &c. in that province, so that said original papers cannot be obtained; that the Assembly of this government had procured as many of the orders of Governors, minutes of Council, surveys, patents, deeds, wills and original papers there filed and recorded, as related to lands, tenements and hereditaments within these counties and could there be found, to be transcribed by Thomas McKean esquire: which being authenticated by the oaths of Goldsbrow Banyar &c. and under the great seal of said province, wrote on two hundred and eighty-one sides or pages and certified and signed by the said Thomas McKean—are bound up in one book in folio—

Also that it appeared to the Assembly, that the records of divers proceedings in the several courts within these counties, and of warrants, surveys, patents, deeds and wills registered and recorded

before the year one thousand seven hundred, relating to lands, tenements and hereditaments were greatly defaced and must soon become uninteligible.]

Section 1. The aforesaid book certified and authenticated as aforesaid under the great seal of the province of New York shall be and is hereby declared and made a public record of this government to all intents and purposes whatsoever. 2 declared records

[By section 7 it is enacted, that copies of said book or any particular therein contained, attested under the hand and seal of office of the officer, who may have the custody *(a)* thereof, shall be given in evidence, and shall be considered as good, as copies of the originals.] 3 Copies evidence

Sect. 6. The following books remaining in the several offices in these counties, *to wit*, one book in folio in the prothonotaries office for the county of New-Castle marked *A*, commencing the tenth day of October, one thousand six hundred and seventy-six and ending the twenty-first day of November, one thousand six hundred and ninety-nine and wrote on five hundred and thirty sides or pages, containing entries of orders, grants, surveys, actions and acknowledgments of deeds, &c. for lands in the said county of New-Castle, and one other book in folio remaining in the office for recording of deeds in the said county of New-Castle marked *A*, containing patents and deeds, beginning with a deed dated the thirtieth day of January, one thousand six hundred and seventy-three and ending with a patent dated the twenty-third day of May, one thousand six hundred and eighty-four and wrote on one hundred and eighty-five sides or pages, and one other small book in folio remaining in the office of the Register for the probate of wills and granting letters of administration for the said county of New-Castle, marked *A*, beginning with a will dated the sixteenth day of February, one thousand six hundred and seventy-nine, and ending November the fourteenth, one thousand six hundred and eighty-seven, and wrote on one hundred and five sides or pages; [the said books respectively being certified under the hands of Evan Rice and Thomas M'Kean esquires a committee of the said Assembly appointed for that service, to have been by them carefully compared with the original records and to be true copies thereof], and one other book in folio remaining in the office for recording of deeds in the county of Kent, marked *A*, beginning in June, one thousand six hundred and eighty, and ending the twelfth day of December, one thousand six hundred and ninety-four, wrote on fifty-seven sides or pages, and one other book in folio remaining in the office of the Register for the probate of wills and granting letters of administration for the said county of Kent, marked *A*, and beginning with letters of administration, dated the twenty-first day of December, one thousand six hundred and eighty and ending with such letters dated the fifth day of May, one thousand seven hundred and ten, and wrote on one hundred and seventy-three sides or pages, [the said books being transcribed under the direction of John Brinkle and Cæsar Rodney esquires another committee of said Assembly appointed for that service, and certified by 4 Record in several counties transcribed

(a) By section 14 of the Act of 1793, "for opening and establishing a Land Office," &c. it is provided, that this book shall be deposited in the Recorder's office at Dover.

the said Cæsar Rodney, to have been carefully compared with the original records and to be true copies thereof], and one other book in folio remaining in the office of the prothonotary for the county of Sussex marked *A*, and wrote on three hundred and thirty-five sides or pages, containing entries of grants, surveys, acknowledgments of deeds, &c. for lands in the said county of Sussex, and one other book in folio remaining in the office for recording of deeds in the said county of Sussex, marked *B*, and wrote on one hundred and eighty-one sides or pages, [the said books being respectively certified under the hands of David Hall and Jacob Kollock junior esquires, another committee of the said Assembly appointed for that service, to have been by them carefully compared with the original records, of which they are true copies],—from and after the publication of this Act shall be and are hereby declared and made public records to all intents and purposes whatsoever.

5 Copies evidence

[By section 8, it is enacted, that all copies of said books or any particular therein contained, attested under the hand and seal of the proper officer, ("it being also by him certified that the original record of the same is lost, defaced or unintelligible") shall be given in evidence and considered as good as copies of the originals.]

Passed March 24, 1770.

II.

1801 AN ACT *to procure certain papers, or copies thereof, from the Land Office in Pennsylvania.*

Whereas from the former communication between Delaware and Pennsylvania as to jurisdiction and government, many of the warrants, surveys, patents and grants for lands within the State of Delaware were filed and recorded in the land office of Pennsylvania, whereby the inhabitants of this State have sustained great hardships and expense in procuring authenticated copies of such original papers and records:—

6 Agent to procure papers

Section 1. [By this section the governor is authorized to appoint an agent to procure to be transcribed all such warrants, surveys, patents, grants and other original papers as might be found in the land office or any other office of the State of Pennsylvania, which relate to lands, tenements or hereditaments in this State and which cannot be removed, and to obtain all such original warrants, surveys, patents, grants and original papers, which can be taken—and bring the same into this State and deposit them in the office for recording of deeds in Dover as public records.

Passed at Dover, January 30, 1801.

1803 AN ACT *authorizing the distribution of certain public papers relating to lands in this State.*

7 Papers procured, distributed

Section 1.—[By this section David Lockwood is appointed to divide the public papers lately obtained from the State of Pennsylvania by Samuel White the agent appointed under the preced-

ing Act (II) and deposit the same in the offices for recording of deeds in the counties, which the same concern.]

Sect. 2. The said public papers so divided and deposited shall be deemed and taken as public records; and it shall be lawful for the several Recorders aforesaid to make out and grant exemplifications thereof, which shall be taken and received as evidence, as exemplifications of the papers aforesaid have heretofore been taken and received, while they remained in the several offices of the State of Pennsylvania aforesaid. 8 To be deemed public records

Sect. 3. The patents, copies of patents or other public papers, that may hereafter be obtained from the State of Pennsylvania by the agent aforesaid or his successor, shall be and he is hereby directed and required to transmit and deposit the same in the office of the Recorder for the counties respectively, to which they may relate or belong; and the same being so transmitted and deposited shall be deemed and taken as public records; and it shall be lawful for the Recorders respectively to make out exemplifications thereof, which shall be taken and received as evidence in the same manner as exemplifications from the originals heretofore taken and received, when obtained from the State of Pennsylvania aforesaid. 9 Papers hereafter obtained

Passed at Dover, Jan. 27, 1803.

[By a Supplement of January 23, 1806, to the preceding Act, it is enacted, that the papers mentioned in said Act and deposited pursuant thereto in the several offices for recording of deeds, which shall be deemed necessary or useful by persons appointed to examine them, shall within twelve months [*extended by an additional supplement of Feb.* 6, 1807 *for one year, and by a further additional supplement of February* 4, 1808 *for another year*] be recorded by the Recorder of deeds for the respective counties in one or more well bound books in folio; and that the books, wherein said papers shall be recorded, shall be deemed public records; and that it shall be lawful for the Recorders respectively to make exemplifications thereof, which shall be received as evidence in the same manner, as exemplifications from the originals.] 10 Recorded

[Sect. 2. And the Governor is required to appoint three persons in each county to examine said papers and to report to the Recorder for the county such, as they or a majority of them shall deem necessary, to be recorded, and after recording, they or a majority of them are authorized to compare the record with the originals and certify the same under their hands and seals in said books.]

[By an additional Supplement of February 6, 1807 the persons appointed in Kent county are authorized to examine the papers in the Recorder's office in that county called *Stephenson's Papers* and direct such, as they shall deem necessary, to be recorded, and if they shall find among these papers any belonging to New-Castle or Sussex, to direct them to be sent by the Recorder of Kent to said respective counties to be subject to the examination of the persons there appointed and to be recorded, if thought necessary.]

III.

1810 AN ACT *to procure certain papers or copies thereof from the Land Office of the State of Maryland.*

11 Papers from Maryl'd

[By this Act the Governor is authorized to appoint an agent to procure to be transcribed, under his care and direction, in one or more well bound books in folio, all such warrants, surveys, patents, grants and other original papers, as may be found in the land office or in any other office of the State of Maryland, which relate to any lands, tenements or hereditaments in this State, and cannot be removed, and to compare said copies with the originals, and also to obtain all such original warrants, surveys, patents, grants and other original papers, which can be taken, and to bring said transcripts, and original warrants, surveys, patents, grants and other original papers into this State, that the same being first examined and approved by the Legislature of this State, may be deposited in the office for recording of deeds in Dover, as public records.

The agent, and his assistant or assistants are required before entering on the duties to take an oath or affirmation, that he or they will faithfully and diligently discharge the trust reposed in him or them.]

Passed at Dover, January 9, 1810.

IV.

1812 AN ACT *to authorize the Recorder of Kent county to transcribe certain records belonging to his office, and for other purposes.*

12 Recorder's office—Kent

[By this Act the Governor is authorized to appoint two commissioners to examine the record books belonging to the office of the Recorder of deeds in Kent county and to certify, which and how much of said books it is necessary to transcribe, and which of said books should be newly bound: and the Recorder is required to cause the records certified for that purpose to be transcribed within twelve months; and the said commissioners are required to compare and correct the same by the original records and to certify thereon, that they have collated the same with, and corrected the same by, the original records, and that they are true copies; and it is provided, that the books, wherein said papers are so recorded, shall be deemed public records, and that it shall be lawful for the Recorder to make exemplifications thereof, which shall be received in evidence as exemplifications from the original.]

Passed at Dover, Feb. 10, 1812.

V.

AN ACT *to authorize the commissioners of the Land office for the county of Sussex, to appoint a person to transcribe the Caveat docket, in the county of Sussex.* 1806

[By this Act the commissioners of the Land office in Sussex county are authorized to cause the caveat docket in said county to be transcribed in one or more well bound books in folio.] "And the said caveat docket when so transcribed and copied shall be deposited in the Recorder's office for the said county of Sussex and shall be deemed and taken as a public record; and the Recorder of the said county shall, after the said book or books is or are deposited in his office, enter therein in a fair and legible hand all proceedings of the commissioners of the land office for the said county touching or concerning any caveat that may thereafter be entered before the Recorder of said county." 13 Caveat docket Sussex

Passed at Dover, January 23, 1806.

VI.

AN ACT *making provision for the preservation of some of the records in Sussex county.* 1827

[By this Act Thomas Robinson senior, Matthew Rench and George Rodney are appointed commissioners to examine the records belonging to the office for recording of deeds in Sussex county, which are in danger of being lost; and they or any two of them shall determine what records therein ought to be copied, and the Recorder shall copy or cause to be copied in well bound books the same; the commissioners shall compare and correct said copies by the originals, and after they have certified this, the Recorder shall certify under his hand and seal of office at the end of the book containing the copies, that the same have been compared and corrected and are true and perfect copies; and the said copies and books containing the same shall be and remain of record in said office and the same or duly certified copies of any deed, certificate of survey or other writing therein contained shall have and receive the same credit, as the original records. 13 Recorder's office, Sussex

In case of vacancy in the board of commissioners the other commissioners are empowered to fill the same.]

Passed at Dover, January 23, 1827.

VII.

[By Act of 1810 the Governor was authorized to appoint two commissioners to examine the record books belonging to the office of the Register for the probate of wills and granting letters of administration for Kent county and certify the records it was necessary to transcribe; and the Register was required thereupon to transcribe or cause to be transcribed the said records; and it 14 Register's office—Kent

was thereupon the duty of the commissioners to compare and correct the same by the originals and to certify, that they had collated the same with and corrected them by the original records or the books so transcribed, and that they were true copies thereof; and it was provided, that the book or books, wherein the said papers were so recorded, should thereafter be deemed and taken as public records and it should be lawful for the Register to make out exemplifications thereof.]

VIII.

15 Court of Com. Pleas—Kent

[By Act of 8 February, 1820, the Governor was authorized to appoint two commissioners to examine the records of the Court of Common Pleas in Kent county and certify the records it was necessary to transcribe; and the prothonotary was required to transcribe or cause to be transcribed the said records; and it was the duty of the commissioners thereupon to compare and correct the same by the originals, and certify them to be true copies; and it was provided, that said copies so made, examined and certified should "have and receive in all respects the same faith and credit as the originals."]

16 High Ct. of Errors & App.

[By Act of January 20, 1824, the clerk of the High Court of Errors and Appeals was authorized to transcribe or cause to be transcribed the dockets of said court from August term, seventeen hundred and ninety-five to August term eighteen hundred and twenty-four; and it was made the duty of two commissioners to be appointed by the Governor to compare and correct the same by the originals, and to certify the same to be a true copy; and it was provided, that the copy made, examined and certified as aforesaid should "have and receive in all respects the same faith and credit as the originals."]

Court of Chancery—Kent

[By Act of February 7, 1825 the Register of the Courts of Chancery in Kent county was authorized to transcribe or to cause to be transcribed, the docket of said court from August term eighteen hundred and one, to August term eighteen hundred and twenty-four; and it was made the duty of two commissioners to be appointed by the Chancellor to compare and correct the same by the originals and certify the same to be a true copy; and it was provided, that the copy so made, examined and certified should "have and receive in all respects the same faith and credit as the originals."]

—o—

ROADS IN NEW-CASTLE COUNTY.

I.

1762 AN ACT *for the better regulation of the roads in New-Castle county.*

Section 2. A public road or highway shall be laid out, leading through the said county, beginning at the road leading from Ches-

ter at the line between the counties of Chester and New-Castle, and from thence over Naaman's creek to Brandywine creek, and from thence two public roads or highways shall be laid out—the one over *(a)* Christiana ferry near the house of Thomas Jaquet, and from thence to New-Castle, and from thence to the inn called the Red Lion, where John Rankin now dwells, and from the said Red Lion to the village called St. George's, and from thence to Appoquiniminik bridge, and from thence over Blackbird bridge to the town of Salisbury commonly called Duck creek,—and the other from Brandywine aforesaid to Wilmington, and from thence to Newport, and from thence *(b)* to Christiana bridge, and from thence to the Red Lion aforesaid, and from thence to the inn now kept by Walter Crow, and from thence to the inn now kept by Joseph Jaquet, and from thence to Blackbird bridge aforesaid: and also a public road or highway shall be laid out from New-Castle to Christiana bridge aforesaid.

1 Over Naaman's creek, Christiana ferry, N. Castle, Red-Lion St. Georges, Black bird—to Duck creek (5)

2 Brandywine, Newport, Christiana bridge, Red-Lion *b* (9)

3 N. Castle to Christiana bridge (5)

Sect. 3. The said roads shall be of the breadth of sixty feet, forty feet whereof shall be grubbed and cleared.

4 Breadth of the said highways (Roads and Bridges 1)

[By section 4, commissioners are appointed to lay out the roads, &c.]

Passed November 2, 1762.

A SUPPLEMENTARY ACT *for the amendment of An Act of General Assembly of this government, intituled, An Act for the better regulation of the roads in New-Castle county.* 1764

Whereas the proceedings of a majority of the commissioners appointed by an Act of Assembly of this government intituled *An Act for the better regulation of the roads in New-Castle county*, in laying out the two King's roads therein particularly mentioned, and returned into the office of the clerk of the peace at New-Castle, have occasioned some discontent and dissatisfaction to divers of the inhabitants of the said county; For remedy whereof:— (1.)

Section 2. John Stapler and Thomas Tobin, esquires, David Stewart, George Monro, and John M'Kinly gentlemen or any three of them are hereby authorized, empowered and required to review the King's roads aforesaid and lay out the same through the county of New-Castle, touching at the several places mentioned and set down in the said Act in such manner, as they shall judge to be most advantageous to the public and least injurious to the owners of the adjoining lands, without favor or respect to any person or persons whatsoever, and to employ such surveyor or surveyors, laborers and workmen, as they shall think necessary in platting and lay-

5 Review (1—4)

(*a*) By Act of the General Assembly of January 29, 1791, reciting that this road had been represented "as destructive to the regularity of the streets and squares of the borough of Wilmington," &c. Thomas Evans, Matthew Aiken, Robert Wallace, George Gillespie junior, and Jacob Fearing are appointed commissioners and they or a majority of them authorized to view the said road from Brandywine creek to the intersection of High street near Christiana ferry and determine what part thereof, if any, should be vacated, and what other road substituted, &c and make return to the clerk of the Court of Quarter Sessions, who should record the same: and it is provided, that such parts of said road, as should thus be directed to be vacated might be shut up, after any new road, which might be directed by them to be laid out in lieu of the parts vacated, should be opened, &c.

6 Return to Supreme Ct.

ing out the same: *And* the persons herein named or any three of them shall make a return thereof to the Justices of the next Supreme Court to be held at New-Castle for the county of New-Castle aforesaid, describing the said roads in writing under their hands, with courses and distances with a fair map or plat of the same.

7 Confirmat'n

Sect. 3. The map of the aforesaid roads and the return thereof made by three of the persons named in the said law into the office of the clerk of the peace for the said county shall by the said clerk be delivered to the Justices of the Supreme Court aforesaid at the time aforesaid; *And* the same Justices shall and may then and there take both the aforesaid returns into their consideration and establish, ratify and confirm either of them or such parts of both of them, as will make a complete road or roads through the said county in such manner and form, as to them shall seem best, and shall order the same to be entered upon the records of the same court without delay, describing by course and distance the roads so established and confirmed, and shall cause the maps and returns aforesaid or one of them to be *(b)* altered agreeable to the opinion and judgment of the same court, and filed with the clerk thereof: *And* the same roads so established and recorded shall from thenceforth be deemed, taken and allowed to be King's roads.

b (9)

8 the roads to be King's roads

Passed March 31, 1764.

1769

A FURTHER ADDITIONAL SUPPLEMENTARY ACT *to the Act, entituled, An Act for the better regulation of the roads in New-Castle county.*

Whereas part of the King's road laid out and confirmed by the Justices of the Supreme Court for this government, beginning at the bridge erected over Whiteclay creek, near Finney-terre, in Whiteclay creek hundred in the county of New-Castle; to Christiana bridge, in the same hundred, hath been found to be upon bad ground, and likely to prove very expensive to the inhabitants of the said hundred to make, and keep in good order and repair. *And whereas* there is ground very suitable for a road within a few perches of place where the present road is established:—

9 From White clay creek bridge to Christiana bridge

Section 2. The King's road from the bridge over Whiteclay creek aforesaid to the bridge over Christiana creek shall be opened and is hereby declared to be laid out, established and confirmed upon the courses and distances following; *That is to say,* Beginning at Whiteclay creek bridge aforesaid and running from thence south eleven degrees east one hundred and fifty-seven perches, thence south seventeen degrees west four hundred and thirty-five perches, 'till it intersects the King's road aforesaid as heretofore confirmed and now opened, then along the said confirmed road south eight and a half degrees west three hundred and twenty perches to the meeting-house on the hill above the village of Christiana bridge, then along the same confirmed road south twenty-five and one quarter degrees east thirty-six perches, then south fifty degrees east thirty-three perches to the bridge over Christiana creek aforesaid.

Sect. 3. That part of the King's road leading from the said Whiteclay creek bridge to Christiana bridge aforesaid, as heretofore laid out and confirmed and hereby altered, shall be null and void, any law of this government to the contrary in any wise notwithstanding.

Passed June 16, 1769.

AN ACT *to provide for the opening and improving a road from Christiana bridge to the line between this State and the State of Maryland, where a road leading from Peach Bottom Ferry and Bald Friar Ferry intersects the said line.* 1793

Whereas pursuant to an Act of the State of Pennsylvania, a road hath been laid out, beginning at the river Susquehanna at or near the Ferry commonly called and known by the name of Peach Bottom Ferry, and running towards such part of the navigable water of Christiana creek in the State of Delaware, until it intersects the line of the State of Maryland. *And whereas* the owners of the land, over which the aforesaid road will run, continuing the same from the Pennsylvania line through part of the State of Maryland three miles and forty-four perches, until it intersects the Bald Friar road at or near the west side of Big Elk, have signed an agreement for the purpose of opening the same road as aforesaid. *And whereas* the aforesaid road called the Bald Friar road from the west side of Big Elk where it is intersected by the Peach Bottom Ferry road aforesaid, running from thence to the line of the State of Delaware, about thirty perches northward of the place where the Nottingham road leading from Christiana bridge through Newark crosses the said line, hath been laid out pursuant to an Act of the State of Maryland. *And whereas* the road at present used leading from the intersection of the aforesaid Bald Friar Ferry road with the Delaware line aforesaid to Christiana bridge aforesaid, does not run in a direct course nor on good ground, and it would be conducive to the convenience and ease of the transportation of the produce of the country generally and be co-operating with the plans of the States of Pennsylvania and Maryland for straightening of the roads from Peach Bottom Ferry and Bald Friar Ferry to the navigable water of Christiana creek in the State of Delaware, to lay out a good and convenient road for the purpose aforesaid:— 10 From Peach bottom ferry road to Newark

Section 1. Jacob Broom, William Cooch, William Armor, James M'Cullough and Peter Williams be and they are hereby appointed commissioners and they or a majority of them are hereby authorized and required to view and lay out a road beginning at the Maryland line, where the road leading from Peach Bottom Ferry and Bald Friar Ferry intersects the same, and running the most direct course consistent with the most level and otherwise eligible ground to the intersection of a road called the Nottingham road and the New London road, in the village of Newark, and from thence to Christiana bridge, as in the opinion of the said commissioners or a majority of them shall be most conducive to the convenience and ease of the transportation of the produce of the country generally, and in such manner, as they shall judge to 11 Authority to lay out road 12 its location

be most advantageous to the public and least injurious to any person or persons whatsoever, and to employ such surveyor or surveyors, laborers and workmen, as they shall think necessary, in platting and laying out the same; and the said commissioners or any three of them shall make a return thereof to the Justices of the Supreme Court to be held at New-Castle for the county of New-Castle aforesaid, describing the said road in writing, under their hands, with courses and distances, with a fair map or plan of the same.

12 return to Supreme Ct.

13 Confirmation (7)

Sect. 2. The Justices of the Supreme Court shall and they are hereby required to receive the return of the commissioners and take the same into their consideration, to exercise the same power, and to proceed in like manner, as is directed by an Act intituled, *A supplementary Act for the amendment of an Act of the General Assembly of this government, intituled, An Act for the better regulation of the roads in New-Castle county.*

14 State road

Sect. 3. The same road when so established and recorded shall from thenceforth be deemed, taken and allowed to be a State road.

15 Present road vacated

Sect. 7. The road now leading from Christiana bridge to Newark and from thence to the State line shall after the said new road is laid out and made proper for the transportation of grain and other burthens be no longer supported as heretofore by the said hundred.

Passed February 2, 1793.

1806

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

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

16 Over Appoquinimink bridge, &c.

Section 1. On application to the Judges of the Court of General Quarter Sessions of the Peace for the county of New-Castle by any person or persons, the said Judges are hereby empowered and required to nominate and appoint five good and substantial freeholders to review the said road proposed by the commissioners aforesaid and to ascertain and determine whether the same shall be finally confirmed and established; and if the said freeholders or a majority of them upon reviewing the premises shall not think, that the same ought to be finally confirmed and established, then they or a majority of them are hereby authorized and empowered to make such alterations and changes in the road leading from Drawyer's bridge to Blackbird over Appoquinimink bridge and causeway and to ascertain and determine where a new bridge and causeway shall be erected, as they may think proper and necessary, so as to be most advantageous to the public and least injurious to individuals, and to employ such surveyor or sur-

17 Review

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

18 return

19 confirmed

Sect. 3. After the said road, so to be laid out, shall be opened and put in good order, that part of the present road, in lieu of which the said road shall be so laid out by the said commissioners, shall be vacated.

20 Old road to be vacated

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

21 Levy Ct. to provide a bridge

22 draw

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

23 Old road may be established

24 bridge to be free

Passed at Dover, Jan. 31, 1806.

AN ACT *to enable the owners and possessors of the marsh, cripple and low grounds lying upon Blackbird creek in New-Castle county, to bank and drain the same.* 1822

Section 20. 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 Blackbird creek aforesaid at and adjoining to the dam, which shall be made across said creek, and to lay out a public

25 Land for public purposes mouth of Black-bird creek

road through the fast land and marsh upon each side of the said creek from the present roads to the said dam; and all persons shall have the liberty to cross the said bank with lumber, grain, cordwood 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 Gaol Delivery within New-Castle 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.

26 roads, public privileges

27 return to Com Pleas New-Castle

Passed February, 1822.

II.

[Roads vacated in New-Castle county, by Acts of the General Assembly.

1796 Post 2 K By Act of February 8, 1796, such part of the Kennet road as extended from Market street to Orange street in the borough of Wilmington, was vacated.

1801 By Act of January 29, 1801, so much of the road leading from Ellis' tavern in Cecil county, Maryland, to the Buck tavern in New-Castle county, as crosses the land of James A. Bayard, and runs from the road, leading from Bohemia ferry to the Buck tavern, to the road which runs from Ellis's tavern to Elkton—was vacated; and it was made lawful for the said James A. Bayard, his heirs and assigns to enclose said road.

1814 By Act of February 1, 1814, such part of the old Kennet road, as left the Wilmington and Kennet turnpike road, at or near the house of James Hill, passing by lands of James Tilton, Thomas Braden, James Brindley and others and united with said turnpike at or near the Buck tavern, was vacated.

1815 By Act of January 20, 1815, the old road lying between the village of Glasgow in the hundred of Pencader and the line of the State of Maryland intersecting said road on the farm of Oliver R. Howell, theretofore used as a public road between New-Castle and Frenchtown—(the same being unnecessary in consequence of the artificial road from New-Castle to Frenchtown)—was vacated.

1818 By Act of January 15, 1818, so much of the old road from the village of Christiana in this State to Elkton in Maryland, lying between said village of Christiana and the Maryland line as had been supplied by the artificial road made by the Elkton and Christiana turnpike company, was vacated.

1818 By Act of 27, January 1818 such part of the Kennet road in the borough of Wilmington as extended from Orange street westwardly to Chesnut street was vacated.

1820 By Act of 10 February 1820 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 to the point where it intersects the road leading to the Kennet turnpike, also that part of a new road laid out, tho not opened, leading to the bridge at said Mills south fifty degrees and one half west about fourteen perches from its intersection with the old road aforesaid, were vacated—Provided the commissioners of roads for Brandywine hundred for the time being or a majority of them should approve of and allow the said roads to be vacated,—otherwise this Act to be void.

By Act of February 2, 1821, the road theretofore laid out thro the escheated land at Cantwell's Bridge, is vacated. 1821

By the first section of the Act of February 4, 1822, such part of the road from Milltown to Wilmington, as lies between the Newport and Gap turnpike road and Philips' 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, was vacated—Provided, that if at any time the managers and company of the Gap and Newport turnpike company should erect a toll gate on said turnpike between the junction of said vacated road and the road from the turnpike to the aforesaid Philips' factory, or in any other way stop the free passing and repassing of travellers on said turnpike, then the said section should be void, and provided further, that the commissioners of roads for Millcreek hundred for the time being or a majority of them should approve of and allow the said road to be vacated as aforesaid, or otherwise the said Act to be void and of no effect. 1822

By Act of February 8, 1822, such part of the old Concord road, as is situate between the lands then belonging to Francis Jeandelle and Joseph W. Day and was occupied as a turnpike by the Wilmington and Great Valley turnpike company, was vacated; provided the commissioners of roads for Brandywine hundred for the time being or a majority of them should approve of and allow the said road to be vacated, otherwise this Act to be void and of no effect.] 1822

—o—

ROADS IN KENT COUNTY.

I.

AN ACT *for the better regulation of the roads in the county of Kent.* 1796

Section 1. The following roads in the said county of Kent shall be laid out and straightened, *to wit;* the road running from the line dividing New-Castle county from Kent, through Duck creek cross roads, Dover, and Frederica to Milford; the road from Passey one mile below Dover, to begin above or below Puncheon run, as may be thought best by the commissioners, running through Camden and Canterbury and by Richard Dalliner's to the line dividing Sussex and Kent; the road leading from the line dividing 1 Laid out & straightened (5, 6)

this State from Maryland, by Blackiston's chapel, through Duck-creek Cross roads to *(a)* Holliday's landing; the road leading from the last mentioned line by James Scotten's through Lewis's Cross roads to Duckcreek Cross roads; the road running from the last mentioned line near the Cypress Branch through Lewis's
[27] Cross roads and by Peter Miller's mill to Dover; the road leading from the Horse-head over Carbine's bridge to the Fast landing; the road running from the Fast landing by John Hamm's to
[12] Dover; the road leading from Little-creek landing to Dover; the road leading from the said line of Maryland near Samuel Mil-
[30] bourne's by the Horse-head to Dover; the road leading from the last mentioned line near the River bridges by Thomas's chapel through the White-oak swamp to Dover; the road running from the said line by Thomas's chapel through Camden to the Forest landing; the road running from the said line near Furtad's mill to Camden; the road running from the said line near Samuel Willoughby's to Camden; the road running from the said line at or near Whiteleysburgh through Berrytown to Frederica; the road running from Berry-town to intersect the upper State road
[14] at or near Bedwell Maxwell's; the road running from the said
[25, 26] line over Vincent's causeway by Stephen Lewis's to Milford; the road running from the said line through land late of Jonathan
[7] Emerson deceased by Waitman Booth's to Milford; the road run-
[29] ning from the said line across Gum Island by Major Anderson's to Milford; the road running from the said line by Marshy Hope bridge to Milford; the road from Marshy Hope bridge near Punch
[28] Hall to Whiteleysburgh; the road from Marshy Hope bridge to intersect to upper State road near Jacob Biddle's.

2 Breadth

Sect. 2. The said roads shall be of the breadth of forty feet, thirty feet whereof shall be grubbed and cleared; and after the said roads shall be laid out as aforesaid the persons hereinafter appointed or a majority of them, in the several hundreds respec-
3 returns recorded tively, shall make a return thereof into the office of the clerk of the peace for the said county of Kent with a fair map or plot of the same and the several courses and distances of the said roads; which shall be entered on record in the said office; and from
4 State roads [13] thenceforth the said roads shall be deemed and taken to be the State roads. *Passed February* 9, 1796.

(a) By an additional supplement of January 22, 1817, to this Act, it is recited, that in the return of the road laid out under this Act and the supplement of Jan. 20, 1797, from Holliday's landing thro' Smyrna to Jim-town, some mistake had been made and the overseers were unable to lay it out, and great inconvenience had been experienced by the public from the narrowness of the road in certain parts of it near Smyrna; and it is enacted, that Thomas Rothwell, John Raymond and Timothy Cummins should be commissioners to correct any errors that had been made in the original location of said road, or if they deemed it necessary to lay it out anew; and that they or a majority of them should make return thereof into the office of the clerk of the peace of Kent county with a fair map or plot of the same, which should be entered of record in said office and be final; that said road should be of the breadth of forty feet, thirty feet whereof should be grubbed and cleared; and that the same should be deemed a State road. And by a further supplement of 3 February, 1818, Henry M. Ridgely, Jacob Stout and John Moody were appointed commissioners to examine said road from Holliday's landing through Smyrna to Jim-town and make any alteration in said road as laid out by the commissioners above named; and if they or a majority of them should think fit to make any such alteration, they should make return thereof into the office of the clerk of the peace for Kent county with a fair map or plot of the same to be entered of record in said office; the said road to be of the width of forty feet; said return to be made within one year after the passing of said Act.

A SUPPLEMENT *to the Act, entitled, "An Act for the better regulation of the roads in th county of Kent."* 1797

Whereas the duties required of the commissioners of the roads in some of the hundreds of Kent county have not been performed agreeably to the directions of the act of the General Assembly entitled "An Act for the better regulation of the roads in the county of Kent. 5 Preceding Act not fully executed

Section 1. William Denny, John Cowgill, and Daniel David commissioners for Duck creek hundred, and Jonathan Needham, Clayton Cowgill and Thomas Lamb commissioners for Little creek and Dover hundreds, and the commissioners of the roads named in the said Act, and appointed by the Levy Court and Court of Appeal for Murderkill hundred, shall forthwith proceed to perform the duties required of the commissioners of the roads for the several hundreds aforesaid agreeably to the true intent and meaning of this Act and of the said Act of Assembly to which this is a supplement, who shall have as full and ample powers to lay out, and do and perform every act and service required of the commisioners of the roads in the several hundreds in Kent county, and to be compensated in the same manner as the commissioners named in this Act, to which this is a supplement, had and shall be liable to the pains and penalties prescribed in the said Act for neglecting or refusing to perform the same. 6 Commiss'rs

Sect. 2. *And whereas* it has been represented to this General Assembly, that the commissioners of the roads of Mispillion hundred have reviewed the roads in the said hundred and laid the same out as required by the said Act of the General Assembly, and that many of the citizens in that hundred are much dissatisfied with the proceedings of the said commissioners: Richard Dalliner, William Burrowes and Isaac Jones are hereby authorized, empowered and required to review the roads laid out by the commissioners aforesaid in Mispillion hundred and lay out the same through the said hundred, touching at the several places in the said hundred named in the said Act in such manner, as shall be advantageous to the public and least injurious to individuals without favor or respect to any person or persons whatsoever, and to employ such surveyor or surveyors, laborers and workmen, as they think necessary in plotting and laying out the same; and the persons herein last named or any two of them shall make a return thereof to the Judges of the Court of Common Pleas at the next court to be held at Dover for the county aforesaid, describing the said roads in writing under their hands with courses and distances, with a fair map or plot of the same. 7 Review in Mispillion hundred 8 & return to Com. Pleas

Sect. 3. The clerk of the peace for the said county of Kent shall at the next Court of General Quarter Sessions of the Peace and Gaol Delivery to be holden at Dover as aforesaid deliver to the Judges of the said court the map or plot, which hath already been or may be made by the commissioners of the roads for Mispillion hundred named in the said Act, to which this is a supplement; and the said Judges shall and may then and there take both of the aforesaid returns into their consideration, and establish, ratify and confirm either of them or such parts of both of them, as will make 9 Maps to be laid before the court 10 continuation

complete roads through the said hundred in such manner and form as to them shall seem best; and shall cause the maps and returns aforesaid, or one of them to be altered, and the courses and distances of the roads so established and confirmed to be described agreeably to the opinion and judgment of the said court; and the map of the said roads so confirmed and established shall be then delivered to the clerk of the peace for the said county of Kent, which shall be entered on record in his office together with the returns, maps and plots of the roads laid out by the commissioners in the other hundreds of the said county: And the commissioners and reviewers in the several hundreds aforesaid are hereby enjoined to regard the convenience of individuals as much, as the nature of the case and the public advantage will admit.

11 recorded

12 Road from Little-creek to Dover

Sect. 4. It shall and may be lawful for the commissioners of the roads for Little creek and Dover hundreds to lay the road leading from Little creek to Dover, so as to avoid and not touch at the place where the landing upon the said creek is now situate; but to continue the road leading from the Fast Landing, from the place where the road leading from Dover shall intersect it, until the said Fast Landing road shall reach Little creek, if it shall appear expedient and of public advantage so to lay out said road.

13 State roads

Sect. 5. The roads so recorded, established, ratified and confirmed as aforesaid shall from thenceforth be deemed and taken to be the State roads.

14 Road from Berry-town continued

Sect. 16. The commissioners of the roads for Murderkill hundred are hereby authorized and required, in laying out the road from Berry-town to Bedwell Maxwell's, to continue the said road to Joseph Baker's landing in such manner, as they may think best for the public interest and with the least damage to the owners of the lands, throughout which the same may run.

Passed January 20, 1797.

1825

AN ACT *to straigthen and improve the roads from the banked marshes on Simon's creek in Kent county, to the village of Seaford in Sussex county.*

15 Simon's creek to Seaford

Section 1. 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 damages 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 all the road or roads which shall be laid out as aforesaid, so that it shall be seen what is new road and what is old road, and shall make a certificate under hand of their proceedings in the premises and deliver the same with the map aforesaid to the Recorder of deeds in and for Kent county and to the Recorder of deeds in and for Sussex county, who shall respectively record the same certificate and map in their respective offices for the recording of deeds in said counties: and either of said records or a certified copy thereof shall be competent evidence: and the proceedings of the said commissioners or a majority of them in the premises shall be conclusive; and after such certificate and map shall be recorded as aforesaid, and compensation assessed shall be paid or tendered, the road or roads, which the said commissioners or a majority of them shall lay out as aforesaid, shall be public roads or common highways, and may be opened and made by any person or persons; and any person or persons, who shall obstruct any such road or roads or commit any nuisance therein, shall be liable to be indicted in the Court of General Quarter Sessions of the Peace and Gaol Delivery in either Kent or Sussex county, and shall on conviction incur the same penalty and suffer the same punishment, which by law is or at the time shall be provided against nuisances in any public road or common highway.

16 map

17 recorded

18 conclusive

19 when road may be opened

20 penalty for obstructing

Sect. 2. The road or roads to be laid out as aforesaid shall be of the breadth of forty feet.

21 Breadth

Sect. 3. The commissioners aforesaid or a majority of them may appoint a surveyor to assist them in the premises; and said commissioners and such surveyor shall before acting be sworn or affirmed before some Judge or Justice of the Peace, to perform all the duties incumbent on them respectively by virtue of this Act, with diligence, impartiality and according to the best of their respective skill and judgment.

22 Surveyor

23 oath

Sect. 5. 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 Norfolk 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.

24 Expenses & damages

Passed at Dover, February 9, 1825.

1825 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.*

John Bowers' toll gate

[By section 1, 2, 3, John Bowers, his heirs, executors, administrators or assigns are authorized to erect a gate across the road running to the Delaware bay through his land, at such place as he should choose, not further from the bay than the bridge over a ditch passing thro said road from Murderkill creek to St. Jones' creek—said gate to be a toll-gate, while he, his heirs, executors, administrators or assigns should at his or their own cost keep the said ditch properly cleaned and said bridge in good repair; and he, his heirs, or assigns or their agent are authorized to take toll as follows; for a single horse with or without a rider, four cents; for every horse and chaise, sulky or chair ten cents; for every four wheels 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, the rate of two cents for every mule, horse or ox, and the same rate for every mule or ox whether attached to any cart, wagon or carriage or not—which rates shall be taken for passing through said gate toward the bay; but nothing shall be taken for their repassing on their return home, and no foot passenger shall be subjected to toll for passing and repassing said gate.]

toll

Penalties

Sect. 4. If any person or persons shall pass through the said gate, with any horse, chaise, sulky, 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 receive said toll, or if any person or persons shall wilfully 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 the 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.

indictment

[By section 6, this Act is limited to March 1, 1739.]

Passed at Dover, January 26, 1825.

II.

[Roads vacated in Kent county by Act of the General Assembly.]

[By Act of January 24, 1805, Major Anderson, his heirs or assigns were authorized to alter the road leading from Vincent's causeway, by Stephen Lewis's, to Milford :—the alteration to begin at its intersection with the road below Stephen Lewis's and running thence south eighty-seven degrees and three fourths of a degree west one hundred and twenty perches until it comes into the first aforesaid road from Vincent's causeway by Stephen Lewis's to Milford.] 25 Major Anderson's

[It was provided that said Major Anderson, his heirs or assigns at his or their own cost should lay out and make said road, as wide and good as other public roads in this State were by law required to be, and build all necessary bridges and causeways ; and that he or they, as soon as the alteration was made, might shut up so much of said road from Vincent's causeway by Stephen Lewis's to Milford as ran through his land between the places of intersection.]

[By Act of February 9, 1819, the parts of the road from Milford to Punch Hall—supplied by two new roads made by Philip D. Fiddeman on his own land at his own expense, to wit ; the one from the foot of the Wading place causeway to within about twenty yards of the gate leading to the mansion house on the farm of the said Philip D. Fiddeman, and the other from a point in said road from Milford to Punch Hall at the end of that part known by the name of "the straight road" to another point at the distance of about three hundred yards,—were vacated; and said new roads established as parts of said road from Milford to Punch Hall.] 26 Wading place

[By Act of January 5, 1805, Joseph Harper, John Clarke and John Miller were appointed commissioners to view the State road from the Horse-head road to Peter Miller's mill, and lay out and survey the road as then used, and cause a correct plot of the courses and distances to be made, and return the same under their hands and seals to the Court of General Quarter Sessions of the Peace for Kent county—and it was provided that the road so returned should be established as part of said State road, and that the part of said State road laid out pursuant to the Act of the 9th February 1796, lying between Peter Miller's mill and the Horse-head road, should be vacated.] 27 By Miller's mill

[By Act of January 23, 1810, James Wroten was authorized to alter the road from Marshy Hope to the State line at Punch Hall —the alteration to begin at the north-west end of the Horse-pond causeway and run thence north sixty-two and a quarter degrees west, eighty three perches till it intersects the old road near a road of Thomas Saulsberry's on the road from Marshy Hope bridge to Punch Hall—: he at his proper cost to lay out and make said road of the width required by law. And he was authorized to shut up the old road beginning at the northwest end of the Horse-pond causeway on the road leading from Marshy Hope bridge to Punch Hall and to run thence north sixty-two and a quarter degrees west eighty-three perches till it intersects the old road near a line of Thomas Saulsberry's on the last mentioned road.] 28 From Marshy Hope bridge to Punch Hall

[By Act of January 27, 1815, so much of the road from the Ma-

29 Across Gum Island by Major Anderson's

ryland line across Gum Island by Major Anderson's to Milford as lies between the upper and lower mills of David Riggs was vacated, to be enclosed by said David Riggs as soon as he should cause to be laid out, cleared and rendered passable in as good order as the road vacated, a road forty feet wide beginning at or near the said upper mill and running thence north sixty-nine degrees east one hundred and four perches, thence north fifty-six degrees east one hundred and sixty-four perches and thence north seventy-four and a third degrees east ninety-two perches to the old road near the lower mill.]

St. Jones' Neck

[By Act of January 23, 1816, the old road between these points, to wit; the intersection of the road laid out from Dover through St. Jones's neck to Patten's dyke—and the road leading by Joshua Nickerson's to the Methodist meeting house—is vacated.]

30 Horsehead road

[By Act of 9 February, 1819, the Reverend John Durborow is authorized to alter the State road from the Maryland line near Samuel Milbourne's by the Horse-head to Dover—the alteration to begin next to Dover, in Murderkill hundred, in the middle of said road at a stone to be settled or sunk in the said road and leaving the old road to run thro lands of said Durborow south-west twenty-one perches, then south sixty eight and a half degrees west eight perches, then south eighty three degrees west fifty-seven perches to another stone to be settled or sunk in the middle of said road; which said new part of said road to be forty feet wide, thirty feet whereof should be grubbed and cleared. It is provided, that he at his own cost should settle the stones and make the road altered and put the same in good order, and then that the part of the State road aforesaid beginning at the first mentioned stone and running thence south sixty-five degrees west twelve perches and south eighty-five degrees west sixty-eight perches to the second mentioned stone, should be vacated, and that he might appropriate the same to his own use: and that the said new road should be deemed part of said State road.]

31 Levin Charles

[By Act of 9 February, 1820, Levin Charles was authorized to alter part of the road from Milford to the Maryland line, passing through his lands—: the alteration to begin at a point, where he had begun clearing the new road, and leaving the old road and running on his land south sixty-five degrees west seventeen perches, south eighty and one half degrees west one hundred and thirty-eight perches, thence north seventy and one half degrees west three perches to said old road; the altered part to be of the same width as the old road and to be laid out and put in good order by said Levin Charles at his own cost; and it was provided that when said altered part should be so laid out and put in good order, the part of the old road beginning at the point first mentioned and running north eighty-one and a half degrees west fifty-eight perches and south sixty-nine and a half degrees west one hundred and four perches to the point where the alteration ended, should be vacated; and he might appropriate the same to his own use; and that said altered part should be taken to be part of the road aforesaid.]

32 Prospect Hill to Milf'd

[By Act of February 1821, authority was given to lay out and make a road commencing at a point easterly of Ezekiel Anderson's house on the road from Prospect Hill to Milford and running

thence south eleven degrees east one hundred and twenty perches to the said old road intersecting it near the north end of the old causeway near which Covington Messick lived—to be made of lawful breadth, cleared and good and passable at the expense of the petitioners, and when so made the road thereby supplied was vacated.]

[By Act of January 31, 1824, Purnel Johnson was authorized to vacate and stop so much of the State road from the Maryland line over Marshy Hope bridge, and through his premises to Milford, as lies between the south end of a causeway on said road about one hundred and eighty-five perches below or southward of his dwelling house and a point in said road about three and one half perches above or northward from a bridge thereon called Saw-pit bridge near the residence of Daniel Allen, being a distance of about one hundred and eighty-seven perches, as soon as he should have laid out and made at his own cost another road beginning near the south end of said causeway at or opposite the north end of a new road then lately cleared by him and running south twenty-seven degrees west one hundred and sixty perches more or less to the said point about three and half perches above said bridge.] 33 Purnel Johnson

—o—

ROADS IN KENT AND SUSSEX.

AN ACT *for the better regulation of King's roads within the counties of Kent and Sussex.* 1761

Section 2. The following roads within the counties of Kent and Sussex being heretofore deemed and taken to be King's roads, although no sufficient proof appears that the same were laid out by lawful authority, *to wit*: In Kent county, the roads beginning at a run near Duck-creek or Salisbury town, that divides New-Castle from Kent county, and running from thence the several courses of the said road through Dover town, until it comes to where the said road separates and divides about one mile to the southward of the said town of Dover, near to the place, where Thomas Nixon now dwells; and from thence the roads known by the name of the Drawbridge or lower and upper King's roads shall severally continue their respective courses, until they intersect each other near to a branch called the Three runs, and from thence on the several courses of the said road to the Three runs; and in Sussex county, the road beginning at the Three runs and running from thence on the several courses thereof, until it comes to the place where John Clows, jun. now dwells, and running from thence on the several courses thereof to the Court House in the town of Lewes and so along the bank of Lewestown creek to the Canary Kiln, and beginning at the said Court House and running on the several courses to a mill known by the name of Frame's saw-mill being at this time the utmost limits of the said county of Sussex next to Maryland, thence running from the said mill on the several courses to the said John Clow's where the said King's roads meet, as is herein described, shall from

From Duck creek thro Dover—upper & lower roads—to Lewes, &c.

40 feet wide (Roads & Bridges 55)

henceforth be deemed, taken and allowed to be public or King's roads within the said counties.

Passed October 31, 1761.

—o—

ROADS IN SUSSEX COUNTY.

1796

AN ACT *for the better regulation of the roads in the county of Sussex.*

1 Roads laid out &straightened

Section 1. The following roads in the said county of Sussex, shall be laid out and straightened, *to wit;* a road to begin at Milford bridge, and to run thence through Georgetown and Dagsborough, until it intersects the west line, that divides the said county of Sussex from the State of Maryland; a road to begin at Lewestown, and to run thence through Georgetown until it intersects the north line, that divides the county aforesaid from Maryland; and a road to begin at Georgetown, and to run thence to the west line that divides the hundred of Little-creek in the said county from Maryland.

2 Their breadth

3 recorded

4 State roads

Sect. 2. The said roads shall be of the breadth of forty feet, thirty feet thereof shall be grubbed and cleared; and after the said roads shall be laid out as aforesaid, the persons herein after appointed *(a)* or a majority of them, shall make a return thereof into the office of the clerk of the peace for the said county of Sussex with a fair map or plat of the same and the several courses and distances of the said roads, which shall be entered on record in the said office; and from thenceforth the said roads shall be deemed and taken to be the State roads.

Passed February 9, 1796.

5 From St. John's-town to Redden's cross roads

[By Act of February 1, 1813, Samuel Laws, Joseph Vickers, Charles Polk junior, Doctor John Cary and Colonel John Wilson were appointed commissioners, with authority to them or a majority of them to lay out a State road from St. John's-town or near said town, to the State road from Milford to Georgetown at or near Redden's cross roads in Sussex county—and the Levy Court were authorized to supply any vacancy of said commissioners:—the return to be made into the office of the clerk of the peace for Sussex county and entered on record in said office; and the said road to be a State road.]

6 Changing road from Stone line to John Bradley's forge

[By Act of 28 January, 1819, Peter R. Jackson and William Meloney were authorized to make a road of lawful breadth from the west end of John Bradley's mill dam, thence north sixty-four degrees west, twenty-eight perches, north seventy-five and one half degrees west seventy-seven perches, south fifty-four and one half degrees west one hundred and fourteen perches, or until the said new road intersect the old one at or near William Meloney's gate; which said road should be deemed a State road; and after it should be completed, the said Peter R. Jackson and William Meloney

(*a*) Richard Hayes, Nathaniel Mitchell, Woolsey Burton, Rhoads Shankland, Isaac Cooper, Thomas Laws and Abraham Harris junior.

were authorized to enclose the old road between said mill-dam and the place where the new road intersects the old one.]

[By Act of January 14, 1814, the Justices of the Court of Quarter Sessions of the Peace in Sussex county were required on application to direct the freeholders theretofore appointed to lay out a road from the head of Cedar creek in Cedar creek hundred to the Delaware bay to set forth with the return of said road at what place or places on said road it would be most convenient to erect a gate or gates across the same; and if said return should be approved by the court, it should be lawful to erect a gate or gates across said road at such place or places as should be designated for that purpose. 7 Gate across road from St. of Cedar creek to bay

It is provided, that said road be deemed a public highway and that said road and gates should be kept in repair by the inhabitants of Cedar creek hundred, as other public roads in said hundred.]

AN ACT *to authorize a gate to be erected across a public road therein mentioned.* 1824

Section 1. 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 highway, 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 shillings are recoverable, by and in the name of any person or persons, who will sue for the same. 8 Gate in road to Fenwick's Island 9 injuring—penalty

Passed at Dover, January 26, 1824.

—o—

SMYRNA.

AN ACT *to survey, lay out and regulate the streets of Smyrna, and for other purposes.* 1817

Whereas the inhabitants of the town of Smyrna have prayed, that this General Assembly would pass a law appointing five commissioners with full power and authority to regulate the present streets, lanes and alleys within the said town, and to lay out such new ones as they should deem to be proper and necessary, and that the said street in the said town, commonly called and known by the name of the Methodist street should be comprehended within the authority of the said commissioners, and also that provision should be made in the said law for the perpetual regulation of all the streets, lanes and alleys now established or which may be hereafter laid out and established in the said town:— Smyrna

Section 1. The bounds and limits of the town of Smyrna aforesaid shall be ascertained, fixed and established in the following manner, that is to say; the point shall be ascertained where the 1 Limits of the town

middle of the main street or road leading from Dover through Smyrna to Wilmington crosses the middle of the landing street or road leading from the Head of Chester in Maryland, through Smyrna to the landing on Duck creek; which point being ascertained, four lines shall be drawn therefrom at right angles, and each line shall extend one-quarter of a mile from the said point, running as near as may be with the four principal streets of Smyrna, as the same now run, from the said point; so nevertheless that the said lines shall be at right angles with each other, let the courses of the streets be as they may; after the said four lines are drawn as aforesaid from the aforesaid point, the limits and bounds of the said town of Smyrna shall be laid out as follows, to wit; beginning at the end of the line drawn one-quarter of a mile from the point aforesaid towards Gravelly run or Israel Peterson's mill pond, and running thence at right angles with the said last mentioned line one quarter of a mile, thence running at right angles with the line last mentioned one quarter of a mile, where it will strike the end of the quarter of a mile line drawn from the central point aforesaid towards the Head of Chester aforesaid, thence the same line continued one quarter of a mile; thence running at right angles with the line last mentioned one quarter of a mile, where it will strike the end of the quarter of a mile line drawn from the central point aforesaid towards Wilmington, thence the same line continued one quarter of a mile; thence running at right angles with the last mentioned line one quarter of a mile, where it will strike the end of the quarter of a mile line drawn from the central point aforesaid towards the landing on Duck creek, thence the same line continued one quarter of a mile, thence running at right angles with the line last mentioned one quarter of a mile to the place of beginning; so that the town of Smyrna aforesaid shall be included and comprehended within four lines running at right angles with each other as aforesaid, and each being one half mile long as aforesaid, and touching in the middle thereof the extremity of one of the quarter of a mile lines drawn from the central point as aforesaid.

2 Commiss's to establish limits & lay out streets (25)

[By sections 2 and 3 Henry M. Ridgely, Willard Hall, Jacob Stout, Jonathan Jenkins and Alexander M'Clyment, or the survivors or majority of them are authorized to ascertain and establish the limits and bounds of Smyrna in manner aforesaid and to cause the streets, lanes and alleys, and additional streets, lanes and alleys, as they may deem proper, to be surveyed, laid out and opened, and to take to their assistance a skilful surveyor and to cause to be fixed stones in such places as they shall deem proper for marking the lines, bounds, streets, lanes and alleys and to cause the surveyor to make a map of said town, on which shall be marked the boundaries of the town, and the courses, width and names of the streets lanes and alleys; with authority to annex to said map such additional lines surveys, observations and explanatory notes, as they may deem proper, and they together with the surveyor are required to sign the same when completed and cause it to be recorded in the office for recording of deeds in Kent county; and the record or any copy thereof when duly certified under the hand and seal of the Recorder is made evidence.]

3 Commiss'rs assessor, treasurer

Sect. 5.—[By this section as amended by section 1 of the ad-

ditional supplement of 8 Feb. 1826, every free white male person being above the age of twenty-one years and owner of real estate within the town of Smyrna may attend at the house occupied [*viz. on* 29 *Jan.* 1817.] by Comfort Lockwood in said town or at such other convenient place as may be appointed by any commissioners of said town, on the first Monday of March in every year between the hours of ten o'clock in the forenoon and six o'clock in the afternoon, and vote by ballot for three commissioners, an assessor and a treasurer of said town, each of whom must be above the age of twenty-one years and owner of real estate within said town; immediately after the election is closed, the votes shall be read and counted; and the persons having the highest number of votes shall be elected, and continue in office for one year and until successors to them respectively are duly elected. Every election, (after the first,) shall be held under the superintendence of three substantial freeholders to be appointed for that purpose by the commissioners; but if in any year on the first Monday of March at ten o'clock in the forenoon there shall not be present at the place of holding the election three substantial freeholders duly appointed by said commissioners and willing and ready to hold said election, in such case the persons entitled to vote in 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 said judge is appointed, under his superintendence choose without ballot some substantial freeholder entitled to vote at the said election to be inspector to hold the same. Immediately after each election, as soon as it is ascertained who are chosen commissioners, assessor and treasurer, the persons or person under whose superintendence the election is held shall enter in a book to be provided for that purpose a minute of such election, containing the names of the persons chosen commissioners, assessor and treasurer, and shall subscribe their or his name to said minute and shall give to the commissioners, assessor and treasurer elect certificates of their election; the book containing such minutes shall be preserved by the commissioners and shall be evidence.]

Election

6 how held

7 certificate of

[By section 6, the style of the commissioners is the *Commissioners of the town of Smyrna*, that of the assessor is, the *Assessor of the town of Smyrna* and that of the treasurer is, the *Treasurer of the town of Smyrna.*]

8 Style of officers

Sect. 7. It shall be the duty of the commissioners of the town of Smyrna for the time being or the survivors of them or a majority of them or the survivors of them, and they are hereby invested with full and ample power therefor, to cause all the streets, lanes and alleys of the said town, both those now being therein and such new ones as may be laid out and located under the provisions of this Act, to be repaired, supported, opened, regulated and amended, and all obstructions and nuisances at any time therein being to be removed or abated in such manner as they may deem most proper and conducive to the convenience and interest of the citizens of the said town, and in conformity to the survey and plot of the said town so to be made as aforesaid by virtue and in pursu-

9 Commiss'rs their duties & powers

ance of this Act, and for these purposes, and also to defray all expenses, costs and charges arising and accruing in consequence of any thing contained in or to be done under this Act, to cause such sum or sums to be raised annually by way of tax to be assessed, levied and raised on the real property within the said town, as to them shall appear to be right and proper: *provided always*, that the said commissioners shall not be compelled to support, repair or amend the streets in the said town now deemed public highways and supported by the county of Kent, except only so far as they may consider it to be for the particular convenience and accommodation of the inhabitants of the said town.

10 Nuisances

Sect. 8. The said commissioners of the town of Smyrna for the time being and the survivors of them or a majority of them or the survivors of them shall be, and they are hereby authorized and empowered, required and directed to cause all obstructions and nuisances, that may at any time be in any of the streets, lanes and alleys of the said town, to be removed or abated: and in case any person or persons, who shall occasion such obstruction or nuisance, shall neglect or refuse to remove the same within three days after being required so to do in writing by the said commissioners or the survivors of them or a majority of them or the survivors of them, he, she or they so refusing or neglecting to remove such obstruction or nuisance as aforesaid shall forfeit and pay to the treasurer of the said town, for the use of the said town, the sum of five dollars to be recovered in the name of the treasurer of the town of Smyrna, as debts under forty shillings are now recoverable by the laws of this State: and the said commissioners may moreover cause such obstruction or nuisance to be removed or abated as aforesaid.

11 Penalty for not removing

12 Commis'rs conservators of the Peace in the town

Sect. 9. Each of the commissioners of the town of Smyrna for the time being, during his continuance in office as such, shall be a conservator of the peace within the limits of the said town, with full power and authority to do all things, for the preservation of the peace within the limits of the said town, that any other conservator of the peace of this State may or can do by the laws of this State.

13 Oath of commission'rs

And each of the said commissioners, before entering upon the duties of his office as such, shall take an oath or affirmation faithfully and impartially to discharge the duties of his office as commissioner of the town of Smyrna to the best of his skill and judgment; which oath or affirmation shall be administered by any Judge or Justice of the Peace of this State: and a certificate of the administration of such oath or affirmation shall be made by the person administering the same, in the record book of the election of such commissioners.

14 Assessor, his duties & powers

Sect. 10. The assessor of the town of Smyrna for the time being shall annually during the month of June make a true, just and impartial valuation and assessment of all the real estate within the said town: and the said assessor shall forthwith after making such assessment deliver to the commissioners aforesaid for the time being a duplicate thereof, containing the names of all persons being owners of real estate within the said town and the amount of the assessment or valuation of the real estate of each person respectively within the said town: which duplicate in the hands of

Communication [illegible] to
property = Dow Section 14 = 640

the commissioners shall be and remain open and free for the inspection of all persons concerned. And if any person or persons, shall conceive him, her or themselves aggrieved or overrated by the said assessor, it shall and may be lawful for him, her or them, at any time before the twentieth day of July after making such assessment, to appeal to the said commissioners for the time being, whose decision thereupon shall be final and conclusive. And in case one of the commissioners appeals, he shall not sit in judgment upon his own appeal; but it shall be decided by the other two or the survivor if one be dead: and the said commissioners or the survivors of them or a majority of them shall assess and value the real estate of the said assessor within the said town and add such valuation and assessment to the said duplicate. And after the said assessment and valuation shall be examined and adjusted as aforesaid by the said commissioners, all taxes shall be levied, assessed and raised on the property thus valued, in just and equal proportions and rates. And the said assessor, immediately after his election and before entering upon the duties of his office, shall take an oath or affirmation diligently, faithfully and impartially to perform the duties of his office to the best of his ability, knowledge and judgment; which oath or affirmation shall be administered by any Judge or Justice of the Peace of this State; and a certificate thereof shall be made by the person administering the same in the aforesaid record book of the election of the commissioners, assessor and treasurer aforesaid.

15 appeal from

16 his property assessed

17 his oath

Sect. 11. The commissioners aforesaid or the survivors of them or a majority of them or the survivors of them, after having ascertained the sum necessary to be raised on the said town for the purposes of this Act, and having apportioned the same on the assessment and valuation aforesaid, shall yearly in the month of July or as soon thereafter as convenient furnish the treasurer of said town with a list containing the names of every person owning real estate within the said town, and opposite to each name respectively the amount of the real estate of such person within the said town, and the tax to be levied on such assessment from each person as aforesaid: which list shall be signed by the said commissioners for the time being, or the survivors of them or a majority of them, and shall contain a note or minute of the whole tax laid for the year being and the rate per hundred dollars necessary to raise that tax: and the treasurer of the said town immediately after receiving the said list shall proceed to collect the taxes mentioned in the said list, and shall have the same power and authority to collect the said taxes, as are given by law to the collectors of county rates and levies. And the said treasurer, before he enters on the duties of his office, shall give bond with sufficient surety in the penalty of one thousand dollars lawful money of the United States, to the commissioners of the said town, conditioned for the faithful discharge of the trust reposed in him and the payment over to his successor in office of all such sums of money as may remain in his hands upon the settlement of his accounts. And the said treasurer shall pay all orders drawn on him by the said commissioners or the survivors of them or a majority of them and shall settle his accounts with the said commissioners annually in the

18 Treasurer

19 collection

20 bond

22 settlement month of May or as often and at such times as they or the survivors of them or a majority of them shall require him thereto: and the said treasurer and assessor shall each receive for the performance of the duties enjoined on them by this Act a reasonable compensation to be determined by the said commissioners.

Passed at Dover, 29 January, 1817.

23 Review [By section 2 of the additional Supplement passed 8 February 1826 to the Act aforesaid, Robert Register, James Hoffecker jun. William Ringgold, William Denney and Abraham Moore or a majority of them are authorized to review the proceedings of Henry M. Ridgely, Willard Hall, Jacob Stout, Jonathan Jenkins and Alexander M'Clyment 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 said Henry M. Ridgely, Willard Hall, Jacob Stout, Jonathan Jenkins and Alexander M'Clyment or a majority of them caused to be surveyed, located and laid out and which had not been opened, and to locate and lay out new streets, lanes or alleys—and to appoint a surveyor to assist them &c.: the certificate under the hands of said Robert Register, James Hoffecker jr. William Ringgold, William Denney and Abraham Moore or a majority of them with any map annexed thereto or referred to therein to be recorded in the office for recording of deeds in Kent county and the said record or a copy thereof to be good evidence—and said proceedings to be final and conclusive; provided such proceedings should be so certified and recorded in one year and if not the same should be void and said supplement of no effect.]

Passed at Dover, 8 February, 1826.

ST. GEORGES.

1825 AN ACT *for establishing the boundaries of the town of St. Georges and for other purposes therein mentioned.*

1 Commissioners to fix and lay out streets Section 1.—[By this section George Clark, Philip Reybold, William Guier, John Randall and Jacob Vandegrift are appointed commissioners, with authority to them or any three of them, taking with them a skillful surveyor, to make a survey of the town of St. Georges, and ascertain and fix the limits and boundaries of the same, and lay out, open and regulate the streets, lanes and alleys; a map of the survey, containing the boundaries of the town and the courses, width and names of the streets, lanes and alleys, to be made, and to be signed by the surveyor and commissioners and lodged in the Recorder's office in New-Castle and there recorded: the map or the record thereof is made evidence.]

2 Stones &c. land marks Sect. 2. The said commissioners shall fix posts and stones in the earth in the center 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. Georges, to be employed in and towards defraying the expenses of carrying this law into execution.

3 Penalty for removing

Sect. 4. 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. Georges, 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 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 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 extend to abrogate, annul or alter any contract, that hath heretofore been, or may be made by the owners of adjoining lands.

4 Commiss'rs elected

5 pavements & gutters

6 party walls

Sect. 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:—When such houses or buildings as aforesaid shall fall down by reason of decay or otherwise be destroyed, 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 em-

7 Penalty for building without, or contrary to direction

ployer as a master builder, 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.

8 Fees (10) Sect. 6. 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.

9 Partition fences Sect. 7. 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 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, 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 New-Castle, as debts of like amount are recovered by the laws of this State; and

10 Fees 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.

11 Encroachment on streets Sect. 8. 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 the 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 inclosures or otherwise, except so far as is excepted or reserved in respect to dwelling houses and other buildings that

12 penalty for not removing 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.

13 Taxes—assessment Sect. 9. 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 adjusting any matters of controversy relative to the bounds of said town, streets, lanes and alleys, for setting up and fixing land marks &c., 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, 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 qualified faithfully to perform the said duty: *provided* that those persons, who are not liable to be taxed for the relief of the poor, shall not be taxed or assessed by virtue of this Act.

Sect. 10. The said commissioners or a majority of them shall cause to be set up in two or more public places in the said town of St. Georges a duplicate of the assessment made in virtue of this Act; and every person and owner or 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 appointed by the said commissioners, their respective quotas 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 the said commissioners shall settle their account annually before a committee to be appointed by the inhabitants of the said town at a town meeting.

14 Taxes—collection

15 treasurer (17)

16 settlement of commiss'rs

Sect. 11. 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.

17 Treasurer, payments & accounts

Passed at Dover, February 7, 1825.

1791
1 Light-house

[By Act of January 29, 1791, the Senators of this State were required to execute a deed or deeds conveying to the United States all the title of this State to the Light-house, in Sussex county near the entrance of the Delaware bay, and the public piers opposite to Rheeden-Island and near the town of Port Penn, together with all the lands, tenements and appurtenances thereunto belonging, and all necessary jurisdiction over the same.]

1803

AN ACT *ceding to the United States of America, the sites of piers and piers in the river Delaware off the town of New-Castle, and jurisdiction in and over the same.*

2 Piers at N. Castle

Whereas by an Act of the Congress of the United States of America, passed the sixth day of April, in the year of our Lord, one thousand eight hundred and two, entitled An Act authorizing the erection of certain light-houses, and for other purposes," it was among other things enacted, that it should be lawful, for the Secretary of the Treasury under the direction of the President of the United States to cause to to be expended in repairing and erecting public piers in the river Delaware, a sum not exceeding thirty thousand dollars, and that the same be paid out of any monies in the Treasury not otherwise appropriated : *Provided*, that the jurisdiction of the site, where any such piers may be erected, shall be first ceded to the United States according to the conditions in such case by law provided ; and whereas it is proposed that part of the said sum of money shall be expended and laid out pursuant to the said recited provision in the erection of certain piers in the river Delaware at the port of New-Castle, provided that the Legislature of the State of Delaware shall by law cede to the United States the sites, where any such piers may be erected, according to the conditions in such case by law provided :—

Section 1. The sites of all piers, that may hereafter be erected under the herein before recited provision of the Act of Congress aforesaid off the town of New-Castle in the river Delaware aforesaid, and the lands and tenements thereunto belonging, together with the jurisdiction of, in and over the same, and the said piers, when erected, are declared to be and are hereby ceded to and vested in the United States of America fully and absolutely.

Sect. 2. The public piers heretofore erected off the said town in the river Delaware aforesaid and the sites thereof and of whatsoever additions that may be made thereto and the lands and tenements thereunto belonging, together with the jurisdiction of, in and over the same, are declared to be and are hereby ceded to and vested in the United States aforesaid fully and absolutely.

Sect. 3. The Senators of this State in the Congress of the United States are hereby authorized, empowered and required (if the President of the United States should deem it necessary) to execute any deed or deeds of confirmation or of other nature, conveying to the United States of America all the right, title and interest of the State of Delaware of, in and to the sites of piers and piers in the river Delaware off the town of New-Castle, together with all the lands, tenements and appurtenances thereto belonging, with full jurisdiction in and over the same, as granted and ceded,

or declared or intended so to be, by the provisions contained in the two preceding sections of this Act, to have and to hold to the said United States fully and absolutely.

Passed at Dover, Jan. 11, 1803.

AN ACT *ceding to the United States the sites for piers at New-Castle.* 1827

Section 1. All the jurisdiction, right and title of this State unto and over so much of the river Delaware at New-Castle as may be necessary to carry the above object into effect, be and the same is hereby ceded to the United States of America, *reserving always* the jurisdiction of this State as to the service of civil or criminal process over the premises hereby ceded; *and provided,* that the erection of the said piers be completed within six years from the passing of this Act, and that the said United States will forever thereafter keep the said piers in good repair: otherwise the cession made by this Act to be null and void. Sites for piers ceded to U. S. reservation & proviso

Passed at Dover, February 1, 1827.

[By Act of January 25, 1809, the senators and representatives of this State in Congress are authorized to cede to the United States all the title of this State to the jurisdiction and soil of such places, as the government of the United States may choose, at or near Wilmington, New-Castle, Port Penn or Lewes or elsewhere on the bay or river Delaware for the purpose of erecting forts, batteries and fortifications for the protection of the bay or river Delaware and the adjacent country, upon these express conditions, that the said forts, batteries or fortifications should be erected at the expense of the United States within three years from the date of said Act, and be continued and kept up forever thereafter for public use, and that all process, civil and criminal of this State might be executed in said places in the same manner as if the cession had not been made.] 3 Sites for forts, &c.

AN ACT *ceding to the United States of America the jurisdiction which this State has over the Pea Patch, on certain conditions therein mentioned.* 1813

Section 1. All the right, title and claim, which this State has to the jurisdiction and soil of the island in the Delaware commonly called the Pea Patch, be and the same is hereby ceded to the United States of America, for the purpose of erecting forts, batteries and fortifications for the protection of the river Delaware and the adjacent country; upon the condition nevertheless, that the said forts, batteries and fortifications shall be erected and kept up at the expense of the United States, and also that all process, civil and criminal, issuing under the authority of this State may be executed and served within the place, the jurisdiction of which is hereby ceded as aforesaid, in the same manner, as if no such cession had been made. 4 Pea Patch

Passed May 27, 1813.

1827 AN ACT *ceding to the United States of America the jurisdiction which this State now has over certain parts of the shore, bed and waters of the Delaware bay, with a reservation therein named.*

5 Break-water

Section 1. All the jurisdiction and title of the State of Delaware over and to so much of the shore, bed and waters of the Delaware bay, as are necessary for the erection of a breakwater or other harbor, and for the construction of such defences as may be thought proper at or near the mouth of said bay, be and the same is hereby ceded to the United States of America, for the purpose of erecting and keeping up such breakwater or other harbor or such defences, and for no other uses and purposes whatsoever:—*Upon condition nevertheless,* that such harbor and defences as may be there erected shall be constructed and kept up at the sole expense of the United States of America; *and upon the further condition,* that all process, both civil and criminal, under the authority of this State, may be executed and served within the place or places the jurisdiction of which is hereby ceded, in the same manner as if no such cession had been made: *Provided nevertheless, and it is hereby expressly understood and enacted,* That if the erection of such breakwater or other harbor shall not have been commenced at or before the expiration of ten years from the passing of this Act, all the jurisdiction, right and powers hereby ceded to or vested in the United States of America shall revert to and remain in the State of Delaware to as full an extent as if this Act had not been passed.

Conditions

Passed at Dover, January 26, 1827.

1829 AN ACT *to cede to the United States the jurisdiction over a piece of land and marsh therein mentioned.*

Light-house between Duck creek & Mahan's ditch

Section 1. For the purpose of erecting a light house, five acres of land and marsh at any place between the mouth of Duck creek and Mahans' ditch, adjoining low water mark of the Delaware bay, are hereby ceded and granted to the United States; upon this condition, that a light-house shall thereon be erected at the expense of the United States within ten years from the date of this Act and be continued and kept lighted thereafter; and provided said five acres shall be located at any time within said term of ten years, and a good and sufficient plot thereof be made and recorded at the expense of the United States in the office for the recording of deeds in Kent county.

Sect. 2. This State shall and hereby doth retain concurrent jurisdiction with the United States over the said tract or piece of land and marsh so far, that process, civil and criminal, issuing under the authority of said State, may be executed in any part of the said tract or piece of land and marsh or in any building thereon to be erected.

Passed at Dover, February 11, 1829.

I.

AN ACT *to alter and re-establish the charter of the borough of Wilmington.* 1809

Whereas the corporate officers and other inhabitants of the borough of Wilmington in the county of New-Castle have by their memorial represented, that the charter incorporating the said borough and granted in the year one thousand seven hundred and thirty-nine, hath from the increased population of the said borough and from various other causes been found incompetent to the good government and well being of the same, and by their petition prayed for redress in the premises :— 1 Charter

Section 1. From and after the organization of the powers and authorities hereinafter specified, the powers, rights and privileges granted by or arising from the said charter, otherwise than hereinafter reserved, shall cease and determine, and the said borough of Wilmington be governed as follows.

Sect. 2. The said borough shall be bounded as follows, viz. Beginning at the mouth of Brandywine creek on the easterly side of the same, thence along the eastern and north-eastern side thereof, about two miles and a half to the old ford above the head of the tide water, thence crossing the Brandywine westwardly, and passing along the old king's road, according to the several courses thereof, to the present State road leading from Wilmington to Lancaster, thence in a direct line south easterly, passing over the mouth of the rivulet called Stalcup's gut, to the opposite side of Christiana river, thence down that side of the same until southwest of the lower point of the mouth of Brandywine, thence northeast to the place of beginning. 2 Limits

Sect. 3. All free white male citizens of this State of the age of twenty-one years and upwards residing within the borough assessed for and having paid a borough tax, shall be taken and deemed citizens thereof and shall enjoy all the rights and privileges arising under this Act. 3 Citizens

Sect. 4. The officers of the borough shall consist of two burgesses, viz. a first and second burgess, thirteen members of council, one high constable, one treasurer and one assessor, and such other officers as may be deemed necessary by the corporation to carry into effect the powers hereby granted : *provided* that no person shall be capable of serving as burgess, member of council, high constable, treasurer or assessor, who shall, not at the time of his election be a citizen of this State and a freeholder and resident in said borough. 4 Officers

Sect. 5. The said burgesses and borough council of the said borough and their successors forever hereafter shall be one body politic and corporate, in deed and in law, by the name and style of *The Burgesses and Borough Council of the Borough of Wilmington* and by that name shall be and are hereby made able and capable in law to have, take, purchase, receive, possess, enjoy and retain, to them and their successors, lands, tenements, hereditaments, goods, chattels and effects, of what kind, nature or quality soever, and the same to sell, grant, demise, alien or dispose of, to sue and 5 incorporated 6 name

be sued, plead and be impleaded, answer and be answered, defend and be defended in all courts of law and equity or any other place whatsoever, and also to make, have and use a common seal, and the same to break, alter and renew at their pleasure, and generally shall have all the privileges and franchises incident to a corporation or body politic.

7 Election

Sect. 6. The burgesses, members of council, high constable, treasurer and assessor shall be elected annually by ballot on the first Tuesday of May.

8 Elected—not serving—penalty

Sect. 7. Any person duly elected to the office of burgess as aforesaid, who shall neglect or refuse to serve as such within the said borough, shall forfeit and pay any sum not exceeding twenty dollars: and each and every person elected as aforesaid to the office of a member of council, who shall neglect or refuse to serve as such, shall forfeit and pay any sum not exceeding fifteen dollars: and each and every person elected as aforesaid to serve as high constable or as treasurer or assessor to the said borough, who shall neglect or refuse to perform the duties of the said respective offices, shall forfeit and pay any sum not exceeding ten dollars: and the amount of all fines accruing hereby shall be recovered for the use of the said borough, as other debts of like amount are recoverable in this State: *Provided* that no person or persons shall be liable to a fine or fines, for any two years in succession, for neglect or refusal to serve in any of the offices aforesaid.

9 Borough Council [38]

Sect. 8. The burgesses and members of council shall constitute the legislative body for the said borough of Wilmington, and shall be denominated, when assembled, the borough council. The settings of this council shall be public. In this assembly, the first burgess, or in case of his absence the second burgess, shall preside and keep order, subject to such rules and regulations, as may be established by ordinance of the borough council: nine members shall constitute a quorum to do all manner of business arising under this Act: *provided* that no ordinance shall pass the council, unless the same shall have the concurrence of a majority of all the members of the borough council, and have had at least two readings at a previous stated meeting or meetings thereof. Nor shall any ordinance, that may hereafter be passed by the said borough council, be repealed, unless notice shall have been given and entered upon the minutes of the council at a stated meeting thereof, that at the next succeeding stated meeting a motion would be made for the repeal aforesaid.

10 Quorum

11 manner of passing or repealing ordinances

12 Majority

Sect. 9. A majority of voices in the council shall determine and decide upon all cases that may come before it; and when it is required by two members, the question shall be taken by ayes and nays, which shall be entered in the minutes: and all elections for any officer or officers to be appointed by the same, shall be by ballot and by a majority of all the votes of the members of the council.

13 election by Council

14 Burgesses their powers

Sect. 10. The burgesses of the said borough shall constitute the executive power thereof, and shall be and they are hereby constituted conservators of the peace within the same and authorized, empowered and required to do and to execute all those matters and things in the said borough of Wilmington, which Justices of the

Peace for the said county of New-Castle may and can lawfully do; and shall further be invested with authority, in all lawful cases of commitment, to commit persons guilty of a breach of the peace, to such place or places as may be provided by the borough, until they can be conveniently removed to the common gaol of the county; and in like manner on complaint made by any two housekeepers they shall have power to disperse or commit as aforesaid any assemblage of minors, who may be collected by night or by day in any of the streets, lanes or alleys, unless they have with them the written permission of their parents, masters or guardians; but such permission shall in no wise protect them from commitment and prosecution for any overt act charged on them. And the said first burgess shall have the custody of the seal of the borough and the right of affixing the same.

Sect. 11. The borough council constituted as aforesaid, shall have power to enact ordinances to preserve the health of the borough and prevent the introduction of infectious or contagious diseases, (and for this purpose their jurisdiction shall extend to any distance within one mile of the boundaries of the same), and in such ordinances may organize a board of health for the said borough; which board shall be vested with all the powers and authorities which the council might or could exercise relative to the object of their institution. Of this board, or of the borough council when sitting as a board of health, the health officer of Wilmington shall always be a member, but shall enjoy no other right in the decision of any case that may come before the said board or council, than any other member thereof, any law, usage or custom to the contrary notwithstanding; and the said borough council may pass ordinances to define and remove nuisances, whether in the public streets, lanes or alleys or elsewhere within the borough, to provide night watches and erect lamps, to ascertain the boundaries of streets, lanes and alleys, and establish new ones, or alter streets, lanes and alleys, and repair and amend all streets, lanes and alleys within the said borough, making adequate compensation to the party injured, to be ascertained by three men or the majority of them, to be appointed by the Court of Common Pleas upon the application of the corporation or of the party complaining, (*provided* that nothing in this Act shall be construed to extend to those who may conceive themselves injured by the completion of the ground plan of the streets, as already established by law, or of any other ground plan which may hereafter be legally established), to provide for the regulation of auctions and auctioneers, for cleaning the docks and regulating the wharves, to provide for the safe keeping of standards of weights and measures and for the infliction of penalties on those who use false weights or measures, to regulate public amusements, to fix and declare the weight of bread, and size of brick, to regulate the cordage of wood and bark, and to determine what may be esteemed merchantable, to appoint wood-corders and establish their fees, to regulate party walls, to erect market-houses, and to regulate the markets, to regulate the sweeping of chimnies, and establish the rates, to erect pumps or any other apparatus for supplying the citizens with good and wholesome water, to repair and amend the same, and to assess and receive a tax therefor,

15 Borough Council.—their powers in respect to contagious diseases

Nuisances

lamps

streets

auctions

wharves

weights, &c.

amusements

wood-corders

party walls

markets, &c.

(*provided* no interference be made with any of the property, works or emoluments of the Wilmington spring water company, without their consent being first had and obtained thereto), to appoint gaugers, inspectors of flour, inspectors of salted provisions and inspectors and measurers of lumber, and to establish their fees, to provide for the weighing of hay, and for the measuring or weighing of coal, lime, grain or any other matter sold in the said borough, to regulate the storage of gunpowder, or any other dangerously combustible matter. And the said council shall have the power of fining illegal venders of spirituous liquors within the borough; they shall have power to lay and collect fines on the owners or harborers of any dog or hog, which may be found at large in any of the streets, lanes or alleys of the borough aforesaid; which fines, when collected, shall be paid and applied as by the laws of this State the like fines are now paid and applied; they shall have the power to appoint and commission constables, who shall possess like powers within the said borough, as are possessed by the constables of the aforesaid county of New-Castle, and in general shall have power to do all those matters and things, for the well being of the said borough, which shall not be in contravention of any existing laws of this State or the constitution thereof.

inspectors of flour

illegally vending liquors

(38)

Sect. 12. The said borough council shall meet on the first Tuesday in June in each year or within ten days of the same, and estimate and fix the sum and sums of money necessary to be raised on the persons and estates in the said borough, for the public uses of the year ensuing; and thereupon the first burgess, or in case of his absence the second burgess shall issue his precept countersigned by the clerk of the council, directed to the assessor of the said borough, requiring him within sixty days from the date thereof to make out a true and impartial list of all the persons and estates within the same, together with the sum and sums of money in dollars, which it shall appear to him the said persons or property ought to be rated at: assessment on property shall be made according to the annual interest at six per centum, the several properties would probably produce on the amounts, or on the estimated value thereof, if sold for ready money; and the said list and assessment shall be laid before the council to be examined; and being approved, a fair copy or copies thereof shall be made out by the clerk of the council and published for the information of all concerned for at least two weeks previous to the time then to be appointed, for holding a court of appeals (of which notice shall be given, as aforesaid:) and the said council shall be, and they are hereby constituted a court of appeals for the hearing and redressing of such, as may appear to be aggrieved, with power in concurrence with the assessor to assess such as may have been left off the list: *provided* notice thereof shall be given to the person, or the representative of an estate so assessed, so that he, she or they may have an opportunity of appearing before the court of appeals; and after the said council shall have held a court of appeals as aforesaid, they shall estimate and fix how many cents to the dollar will be necessary to raise the sum or sums of money required as aforesaid, and the clerk shall thereupon make out or cause to be made out a true list agreeably to the proceedings afore-

16 Annual meeting of Council

17 Taxes

18 assessm'ts

19 rate thereof

20 notice

21 appeal

said, certify the same under his hand and seal of the borough, and deliver the same into the hands of the collector within ten days from the time the dollarage was laid as aforesaid, with an order under the hands of at least one of the said burgesses and two of the said council, (which they are hereby authorized to make) requiring the said collector forthwith to collect and receive from the persons and estates assessed, the several sums in the said list mentioned; and in case any person or persons so rated or assessed by virtue of this Act shall neglect or refuse to pay the sum or sums so assessed for the space of six days after demand made, the said collector shall, by a warrant under the hand and seal of one of the burgesses for that purpose (which is hereby authorized to grant), levy the same by distress and sale of the delinquent's goods and chattels, rendering the overplus, if any, after reasonable charges deducted, to the owner or owners thereof; but if no distress can be found by the collector, and the party refuses or neglects to show him goods or chattels of his own forthwith to satisfy the money due with reasonable charges, then the said collector shall make return on oath or affirmation of such want of goods, to the person who may have issued such warrant, and the person to whom such return shall be made, shall and may by warrant under his hand and seal commit the said delinquent to the common gaol of the county there to remain until discharged by due course of the law; or the same may be levied on the goods and chattels of any of his tenants, if such there be, and the delinquent shall be obliged to discount it out of the first rent that shall afterwards accrue from the estate rented; and in case any grounds, buildings or estate belong to a minor or minors or absent person or persons, then the same shall be recovered from the person or persons having the care of such grounds, buildings or estate, and the receipt of the said collector shall be a good voucher to all executors, administrators, guardians, trustees or attorneys against their principal; and when any owner or owners of any grounds, buildings or estate, or their executors, administrators, guardians, trustees or attorneys cannot be found, and they shall neglect to pay the assessment as aforesaid, then it shall and may be lawful for either of the said burgesses to issue his warrant, authorizing the said collector to levy the same on the grounds, buildings or estate of such absent owner or owners, or minor or minors, and the said collector is hereby authorized to sell the same at public auction for the shortest space of time in which the rents and profits will satisfy the said debt and costs; all which said several sums of money when collected, the said collector shall pay over without delay to the treasurer of the borough.

22 order to collector

23 his powers

Sect. 13. The high constable and the officers appointed by the council shall assist the burgesses in carrying into effect the ordinances of the borough, and shall perform such duties as are hereinafter mentioned, or may be prescribed by ordinance.

24 High-constable & officers

Sect. 14. The treasurer of the borough shall give security in double the amount that may probably come into his hands, for the true and faithful performance of such duties as may be ordained. And all constables and collectors appointed under and by virtue of this charter shall give bond and security, to be approved by the burgesses of the borough, for the faithful discharge of their duty.

25 Treasurer's bond

[37]

26 Assessor

Sect. 15. The assessor shall perform such duties, other than those before mentioned, as may be ordained for the better performance of the duties of his office.

27 Oaths of office [33]

Sect. 16. Every officer elected or appointed under this Act of incorporation, before he enters upon the duties of his office, shall take an oath or affirmation to support the constitution of the United States, and the constitution of the State of Delaware, and that he will perform the duties of the office unto which he hath been elected or appointed, with fidelity.

28 Salaries fees, &c.

Sect. 17. The salaries, fees or emoluments of the officers of this corporation shall be established by ordinance; provided no salary fee or emolument, of any officer shall be reduced or augmented, for and during the period of service, for which he may have been elected or appointed: but no ordinance, establishing the salaries, fees or emoluments of any elective officer, shall at any time take place, previous to the annual election then next ensuing, and unless it shall have been published, with the ayes and nays thereon, at least two weeks before the said election.

29 Meetings of council

Sect. 18. The council shall meet at least once in every month at such time and place, as may be from time to time agreed upon. Special meetings may be called by the first burgess upon his own motion, or shall be called, when five members may request or demand a meeting.

30 Vacancies

Sect. 19. In case of the death, absence, resignation or refusal to act of either of the burgesses, any member of the council, high constable, treasurer or assessor, or either or any of them, the members of council, who meet, shall have the right to appoint a president, pro tempore; and the presiding member, at a stated or special meeting of the council, shall issue his writ, by order of the council, to the high constable, or in case of his death, absence, resignation or refusal to act, to a high constable to be appointed by

31 election

the council to act pro tempore, requiring him to hold an election on the day therein specified, to fill up the vacancy or vacancies occasioned by such absence, death or deaths, resignation or resignations, refusal or refusals: and the said high constable shall give public notice for at least two weeks previous to the time in the said writ appointed, that an election will be held at a certain time and place mentioned in the said writ, for the purpose of filling up the vacancy or vacancies occasioned as aforesaid: which election, the said high constable shall conduct, together with all other elections, and make returns thereof, as may be established by ordinance: provided that all elections shall be opened between the hours of ten and twelve o'clock in the forenoon and closed at six o'clock in the afternoon of the same day.

32 Absence of first burgess or both

Sect. 20. In all cases, wherein the presence or act of the first burgess is demanded or required to any act or duty or duties or otherwise; when he shall neglect or refuse or be incapable to attend to the same, his place shall be supplied by the second burgess, or in case of his neglect, refusal or incapacity, by one of the members selected for that purpose by the council to act pro tempore, who shall exercise all and every the duties and powers of the first burgess, until one of the burgesses first elected shall be able and willing to act, or a new election can be held as aforesaid.

Sect. 21. The first burgess shall be qualified into office by any Justice of the Peace for the county of New-Castle, and when thus qualified shall within ten days of the time of such qualification issue his writ under his hand and seal directed to the high constable, requiring him to summon the second burgess, the members of council, high constable, treasurer and assessor chosen at the late election, to be and appear at a certain time and place therein mentioned for the purpose of being qualified into their several offices, and upon failure thereof shall forfeit and pay such penalties, as may be established by ordinance: and the said burgesses or either of them being qualified shall administer the necessary oath or oaths, affirmation or affirmations, upon being required thereunto by the council, to any of the other officers of this corporation. 33 Oath of office administered [27]

Sect. 22. All fines and forfeitures accruing under this Act, or by any ordinance of the said borough of Wilmington, may be recovered before either of the burgesses, in the name of the said borough, as other debts of like amount are recoverable in this State, and when recovered, shall be and remain for the use of the borough, except fines for the illegal vending of spirituous liquors, as before excepted in section the eleventh. 34 Fines recovered—

Sect. 23. In case it should happen, that the election day should pass over without an election being held, or in case of the omission of the execution of any authority delegated by this Act, the powers of this corporation shall not cease; but the authority of each and every the officers thereof, shall continue, until a new election can be legally held by resolve of the council and notice as aforesaid, and the officers chosen thereat duly qualified: provided at the first meeting of the council, a writ shall be issued, as in the case of vacancies, as aforesaid; but if it shall happen that the first burgess chosen as aforesaid shall fail to present himself to a proper officer, to be duly qualified into the said office for a longer period of time than five days after this election as aforesaid, the governor of the State may appoint another person in his room, who shall be invested with all the power and authority, which the said first burgess duly elected might or could have exercised. 35 Omission to elect, &c.

Sect. 24. All the powers, privileges, rights or jurisdictions granted to the borough of Wilmington under its former charter, not hereby supplied, shall be and remain in full force and virtue, as they regard the said borough of Wilmington; and also all debts and obligations binding on, or due, or property or other things of value, belonging to the said borough, under its former charter, shall be equally binding on, or due to, and be the property and right of, and be vested in, the said borough, under its present charter; and all and every part of the laws of this State, as it regards the said borough, hereby amended or supplied and no more shall be, and they are hereby repealed, made null and void. 36 Debts & obligations under former charter

Sect. 25. All the powers and authorities granted by the Acts of the General Assembly of this State to the burgesses under the former charter, are hereby transferred to the burgesses under the present charter. Authority of burgesses under the former charter

Sect. 28. This Act shall be deemed and taken to be a public Act and shall be judicially taken notice of as such by all Judges and Justices, and all other persons whatsoever, without the same Public Act

being specially pleaded; and every matter and thing herein contained shall be construed and taken most favorably and beneficially for the said corporation.

Passed at Dover, January 31, 1809.

1823 A SUPPLEMENT *to said Act.*

37 High constable's bond 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 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.

1825 AN ACT *for the relief of the borough of Wilmington and for other purposes.*

38 Power to borrow money Section 1. The burgesses and borough council of the borough of Wilmington may have full power and authority to borrow such sum or sums of money, as may be necessary to enable the said burgesses and borough council to discharge a debt or debts now due from the borough;—*provided* that every such loan or loans shall be made by an ordinance, which shall be adopted by the votes of two-thirds of all the members of the council.

Sect. 2. The burgesses and borough council of the borough of Wilmington may have further power and authority 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.

II.

1772 AN ACT *for the better regulating the wharves, public streets, buildings, party walls and partition fences in the borough of Wilmington, in the county of New-Castle, upon Delaware and for raising money on the inhabitants of the said borough for the public use and benefit thereof.*

Whereas the honorable George Thomas, esq. Lieutenant Governor of the counties of New-Castle, Kent and Sussex, upon Delaware, and province of Pennsylvania, by letters patent, under the great seal of the said government, bearing date the sixteenth day of November, in the year of our Lord one thousand seven hundred and thirty-nine, did erect the town of Wilmington aforesaid into a borough, &c. &c.

[Sect. 3. Among other things contains regulations concerning the streets in said borough afterward supplied.]

39 Landmarks Section 4. The several posts and mark-stones now set and fixed in the earth in the middle of the streets as aforesaid, as well as all

such other posts and mark-stones as shall from time to time hereafter be so set and fixed in the earth by the borough surveyors or regulators, shall in all cases and in all courts of law within this government be deemed, taken, established and allowed as land-marks.

Sect. 5. *And* if any person or persons shall at any time hereafter wilfully pluck up or remove any of the said posts or mark-stones and shall be thereof convicted in the Court of Quarter Sessions of the county of New-Castle, he or they shall severally forfeit the sum of twenty pounds, besides the costs of prosecution, to the use of the burgesses and inhabitants of the said borough, to be employed in and towards the repairing the streets of the said borough; and it shall and may be lawful for the said burgesses to reward the informer out of the said penalty to be incurred, according to their discretion, not exceeding a moiety thereof. 40 Penalty on removing

Sect. 6. *And*, in order that the said streets and such other streets, lanes and alleys as shall be hereafter laid out, may be duly regulated, made, opened, amended and repaired, and irregularities and controversies in relation to party-walls and laying the foundation of buildings in the said borough may be prevented—the burgesses and assistants of the said borough shall and may from time to time elect, nominate and appoint three or more discreet and skilful persons to be surveyors or regulators, who upon application made to them shall have full power and authority, and they are hereby required and directed to regulate and lay out the proper gutters, channels and conduits for carrying off the waters in the said borough, and to enter upon the lands of any person or persons in order to set out the foundation and regulate the walls to be built between party and party within the said borough, as to the breadth or thickness thereof; which foundation shall be laid equally upon the lands of the persons between whom such party wall is to be made; and the first builder shall be reimbursed one moiety of the charge of such party wall, or for so much thereof as the next builder shall have occasion to make use of, before such next builder shall any-ways use or break into the said wall; and the charge or value thereof shall be set by the said regulators or any two of them. 41 Surveyors & regulators (13) 42 party-walls (44)

Sect. 7. If any person or persons shall begin or lay the foundation of any party wall or other building as aforesaid, before the same be viewed and directed by the said regulators or some two of them, or shall build contrary to such directions, every such person, as well employer as master-builder, shall forfeit and pay the sum of twenty pounds each, besides the costs of prosecution, to be recovered in the name of the burgesses and inhabitants of Wilmington, 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 of the said borough for the time being, one moiety for the use of the said borough, and the other moiety for the prosecutor. 43 Penalty on building without directions

Sect. 8. *Provided always*, That if either of the parties, between whom any foundation or party wall is to be made, shall think himself aggrieved by the order or direction of the said regulators, he, 44 Appeal

she or they may appeal to the burgesses and assistants of the said borough at their next meeting, who upon deliberate hearing of both sides shall finally adjust and settle the same, without further or other appeal; and the costs thereof shall be paid as the burgesses and assistants shall direct and order.

45 Fees

Sect. 9. The regulators or surveyors for their pains and trouble in and about the premises shall be paid by the party or parties concerned in such foundation, or erecting such party wall or other building, the sum of three shillings each, and no more.

46 Partition fences

Sect. 10. The surveyors or regulators or any two of them, shall have full power to regulate all partition fences within the said borough; 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 repair at the equal costs of the parties, so that the price for making the same exceed not four pounds for every hundred feet in length, and so in proportion for a greater or lesser quantity, unless the owners or possessors, between whom such fence shall be erected, do agree otherwise.

47 Expenses of fences recoverable before either burgess

Sect. 11. If either party between whom such partition fence is or shall be made, shall neglect or refuse to pay his, her or their share or proportion of the expense of such partition fence, and of keeping the same afterwards in repair, then the party at whose cost the same was made or so repaired, may recover the same before either of the burgesses, as debts under forty shillings or five pounds are recovered before other Justices of the Peace by the laws of this government.

48 New streets, &c.

Sect. 12. It shall and may be lawful to and for the freeholders and persons having a vote at the election, within the said borough, from time to time and as often as occasion shall or may require, further to extend those streets [*laid down in the aforesaid plan*;] and likewise to lay out all other necessary new street or streets within the said borough; *Provided always*, That no streets shall be hereafter extended, or any new streets laid out, but by virtue of or pursuant to an ordinance of the said borough for that purpose made, by the general consent of the freeholders and persons aforesaid in a General Town's-Meeting assembled.

49 Ground valued

(a) (55)

Sect. 13. *Provided also*, That before any of the said streets so extended or laid out shall be opened, the owner or owners of the ground over which the same shall be laid shall be paid or tendered [*the value* (a) *of the said ground*,] to be ascertained by three impartial freeholders of the county of New-Castle not inhabitants of the said borough, or a majority of them, to be summoned by the sheriff of the said county for the time being, in pursuance of a warrant or precept under the hands and seals of the burgesses, who are hereby authorized and required to grant the same, and to which the said sheriff is hereby ordered and required to pay due obedience; and the said freeholders or any two of them are to make and return their inquisition or report in the premises on their respective oaths or affirmations, to be administered by the said sheriff, to the said burgesses, who are to cause the same to be entered by the town clerk upon the books or minutes of the said borough, and the sum or sums mentioned in such inquisition or report shall be assessed and raised, as other public monies are directed by this Act, on the inhabitants and taxables within the same borough.

Sect. 29. *And whereas* the owners of wharves on Christiana river, in the said borough, may and do carry out their wharves into the same river as far as they respectively please, to the prejudice of each other, and of the navigation in said river:—Griffith Minshall, William Poole, Daniel Byrnes, Job Harvey, Joseph Shallcross, Rumford Dawes and Hezekiah Niles, gentlemen, or any four of them, are hereby authorized, empowered and required, to view the river Christiana aforesaid, and consider how far it may be necessary and convenient to build or extend the wharves into the aforesaid river within the said borough, and to fix and determine how far the said wharves at any time hereafter may be built or extended into the said river, by limiting the several distances or extent thereof in feet and inches, to be computed and measured from the southerly side of Water street, or of any other street or streets within the said borough, or from other certain land marks, where such street or streets may not be convenient to determine the said distances or extent from; and also to determine the size, direction and form of all sluice-ways to be left open in the said wharves so hereafter to be built or extended in the aforesaid river within the borough aforesaid, which determination and limitation, made by the aforesaid viewers, or any four of them, shall be recorded in the town books, with the particular distances and limitations from the said street or streets or other certain land marks, at large expressed, that all persons may govern themselves accordingly. And if any person or persons whatsoever, at any time after such determination and limitation shall be made and recorded as aforesaid, shall build or extend any wharf, wharves or landing places, filled up with mud, earth or other materials solid from the foundation, into the aforesaid river, further than by such determination and limitation they shall be allowed to do, or shall neglect or refuse to put or leave such sluice-way in the said wharves or landing places in the proper place thereof, according to such determination and limitation aforesaid, then every such person or persons, builder or builders being thereof convicted in any Court of General Quarter Sessions within this government, shall for every such offence severally forfeit and pay the sum of one hundred pounds, besides the costs of prosecution, one moiety thereof for the use of the said borough, and the other moiety for the use of the person or persons that shall sue for the same; and the same wharf, extended beyond the limitation aforesaid, may and shall be abated and removed by the burgesses and assistants for the time being.

50 Regulat'n of wharves, &c.

51 penalty for building contrary to regulation

Sect. 30. *Provided always*, that nothing herein contained shall prevent or hinder, or be construed to prevent or hinder, any person or persons whatsoever being the owners of ground bounded on Christiana river, within the said borough, from building, making, erecting and carrying out a wharf or wharves thereupon, constructed in the following manner; *That is to say*, to be raised on piles of wood to be placed in rows, in the same direction with the sluice-ways, at the distance of ten feet the one row from the other; so always, that the same wharves do not extend into the said river so far as to obstruct the navigation thereof, but leave the channel of the same in all places one hundred feet in breadth at the least.

52 Wharves erected on piers

53 Public Act

Sect. 32. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all Judges and Justices and other persons whatsoever, without specially pleading the same.

Passed June 13, 1772.

1799

AN ACT *for the better regulation of the borough of Wilmington.*

Whereas in and by an Act of Assembly, passed the thirteenth day of June in the year of our Lord, one thousand seven hundred and seventy-two, entitled "An Act for the better regulating the wharves, public streets, buildings, party walls and partition fences, in the borough of Wilmington in the county of New-Castle, upon Delaware, and for raising money on the inhabitants of the said borough for the public use and benefit thereof," it is among other things enacted, "that all the streets and squares of said borough, shall be and remain as they are now laid out and regulated, agreeably to a map or plan of said borough, made from an actual re-survey thereof, and signed by order of the burgesses and assistants of said borough, by John Stapler esq. Griffith Minshall and William Poole, gentlemen," which is hereto annexed: *And whereas* the said map or plan of the said borough of Wilmington therein referred to, by some accident hath been lost or destroyed, so that the same by the most diligent search cannot now be found or obtained; and as it is of great importance to the inhabitants of the said borough, that some certain map or plan should be established, to which they may have referrence, in laying out, extending and regulating the streets, lanes and alleys of the said borough. *And whereas* a new map or plan of the said borough has been prepared under the direction of the burgesses and assistants, and with the assent of the inhabitants of the said borough in town meeting expressed; which said map or plan is now produced, and from the best evidence that can be obtained, is conformable and agreeable to the said map or plan referred to, in the before recited Act; therefore,

54 Map of Wilmington (67)

Section 1. 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 all the streets and squares, lanes and alleys of the said borough shall be and remain, as they are now laid out by the said map or plan, *(a)* with such extensions and alterations, as may hereafter be made in virtue and by the authority of the before recited Act.

(a) subsequent map (67)

And whereas in and by the thirteenth section of the before recited Act it is further provided "that before any of the said streets so extended or laid out shall be opened, the owner or owners of the ground, over which the same shall be laid, shall be paid or tendered the value of the said ground," to be ascertained in the manner therein directed: *And whereas* the value of the ground, through which a street is extended or laid out, is generally very much advanced by opening a street through the same, it appears more just and equitable, that the owner or owners of such ground should be

compensated in damages according to the real injury they may sustain, rather than by receiving the value of the said ground.

Sect. 2. Before any of the said streets so extended or laid out by virtue of the said recited Act shall be opened, the owner or owners of the ground, over which the same shall be laid, shall be paid or tendered such damages, as they shall respectively be entitled to have, to be adjudged of and determined by three impartial freeholders of the county in the same manner as is prescribed by the said recited Act for the ascertaining the value of such ground. *And whereas* the keeping of pumps and wells in good repair will be of great use and service in extinguishing fires which may happen within the said borough, and many of the pumps and wells in the streets and alleys have greatly neglected and suffered to lie long out of repair by their respective owners;— 55 Damages before opening streets (49)

Sect. 3. The corporation of the said borough are hereby further empowered, when they shall think proper to agree with the owner or owners of all or any of such pump or pumps and wells, as are already fixed in the streets and alleys of the said borough, which pump or pumps and wells after such agreement made with the owner or owners thereof, shall forever after become the property of and belong to the said corporation, to be maintained and kept in repair at the public charge. And the said corporation are further empowered and directed to inquire into the condition and take care of the repair of the several pumps and wells within the streets and alleys of the said borough; and if after due inquiry it shall appear that any of the said pumps or wells have been out of repair for the space of three months next after notice thereof given, by one of the burgesses to the owner or owners of such pump or well, then and in such case every such pump or pumps and well or wells shall forever after become and be the property of the said corporation, to be maintained and repaired at the public charge. 56 Purchase of pumps 57 forfeiture of pumps

Sect. 4. It shall and may be lawful for the burgesses and assistants of the said borough, and they are hereby authorized and required on complaint made by any two or more inhabitants thereof, that any nuisance or nuisances have been erected or are continued within the said borough, which may prove injurious to the health of the inhabitants thereof, to view and examine the same; and if on such view and examination it shall be adjudged by the said burgesses and assistants or a majority of them, that the matters and things so complained of are a nuisance or nuisances, whereby the health of the inhabitants of the said borough is or may be injured, then and in such case it shall be lawful for the said burgesses or either of them, and they are hereby required forthwith to issue a warrant under hand and seal, directed to any constable of the said borough, commanding him forthwith to notify the owner or occupier of the premises, whereon the same may be erected or continued, to abate and remove the same within five days after such notice; and if the said owner or occupier shall not remove the same within the said time, then it shall and may be lawful for the said burgesses or either of them to issue a warrant under hand and seal, directed to any constable of the borough commanding him forthwith to abate and remove the same nuisance or nuisances, whereupon the constable, to whom the said warrant may be delivered, shall 58 Nuisances [15]

forthwith proceed to abate and remove the same, and the costs and charges of such abatement and removal shall be ascertained, determined and adjudged by the said burgesses and assistants or a majority of them, and shall be levied and recovered from the said owner or occupier by distress and sale of his or her goods and chattels, by warrant under hand and seal to be issued by the said burgesses or either of them.

59 Paving of foot-ways

Sect. 5. It shall and may be lawful for the burgesses and assistants of the said borough, and they are hereby authorized and empowered, when in their discretion they shall deem it proper and right so to do, from time to time on the application of any five resident freeholders of the said borough, to issue their precept to any suitable person or persons, authorizing him or them to cause the footways and gutters of any street, lane or alley of the said borough, as applied for, to be paved with bricks or stones, as the case may require, and to fix plank or curb stones to prevent the same from being injured by carriages, agreeably to the true regulations of the streets, lanes and alleys of the said borough.

(65, 67)

Provided always, That the greater part of the space required to be paved, shall be built upon and improved: *And provided also*, That all and every owner or owners shall have the privilege of paving their own fronts as aforesaid, so that they have it completed within two months after notice given by the person or persons authorized to pave as aforesaid, by writing under his or their hands: *And provided further*, That no person or persons shall be obliged to pave any footway to a greater breadth than four feet in front of any lot whereon a dwelling-house shall not be erected: *And provided further*, That the said burgesses and assistants, when in their discretion they shall deem fit and proper, may at any time revoke the authority given by virtue of any such precept or precepts as aforesaid, to any person or persons authorized as aforesaid.

60 Expenses

Sect. 6. The person or persons authorized as aforesaid shall previous to his or their entering on the duties required by this Act make an estimate of the expenses, and apply by written notice to the several owners of lots and buildings within the space required to be paved for their respective proportions; and in case any owner or owners shall neglect or refuse to pay such amount within twenty days after notice as aforesaid, it shall and may be lawful for the person or persons authorized as aforesaid to borrow the same, and the neglecting owner or owners shall be accountable to him or them for the amount so borrowed, with legal interest thereon when and as soon as the duties required of him by this Act, are performed.

61 Persons having care of ground of infants or absent persons to pay

Sect. 7. In case any grounds or buildings belong to a minor or minors or absent person or persons, then the same shall be recovered against any person or persons having the care of such grounds or buildings belonging to such minor or minors, or absent owner or owners; and the receipts of such person or persons authorized to pave as aforesaid shall be good vouchers to all executors, administrators, guardians, trustees or attorneys, against their principal; and where any owner or owners of any grounds or buildings, executors, administrators, guardians, trustees or attorneys

cannot be found, or in case any of them neglect to pave their own fronts, or to pave the proportion respectively allotted to them, then it shall and may be lawful for either of the burgesses of the said borough, or any Justice of the Peace resident in the said borough to issue execution for the same, in the name of the person or persons authorized as aforesaid, to be levied on the grounds or buildings of such absent owner or owners, executors, administrators, trustees, guardians or attornies, and the person or persons so authorized as aforesaid is and are hereby authorized to sell the same at public auction for the shortest space of time in which the rents and profits will satisfy the debt and costs.

Sect. 8. In case any owner or owners of any grounds or buildings, or the person or persons having the care of any grounds or buildings, as executors, administrators, guardians, trustees or attornies shall be in arrear on a final settlement of the accounts, and neglect or refuse to pay the same, it shall and may be lawful for the said person or persons authorized by the burgesses and assistants as aforesaid, to recover the same with costs, as debts of the same amount are by law recoverable. 62 Persons in arrear on settlement

Sect. 9. This Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of as such by all Judges and Justices and all persons whatsoever, without specially pleading the same. 63 Public Act

AN ACT *to vacate and discontinue the street called Water-street in the borough of Wilmington, from Market-street westwardly to the line of the said borough and for other purposes.* 1801

Section 1. [By this section, as modified by Act of Jan. 23, 1806 to repeal part of this Act, the burgesses and assistant burgesses are authorized to vacate and shut up Water street from Orange street westwardly, (compensation being made to the owners of lots as provided in this section). By section 2, the burgesses are authorized to sell the ground of said street so vacated, and the receipt of the treasurer of the borough countersigned by the town clerk and entered in the public books or minutes of the borough, or a copy of such entry, is made sufficient evidence of title.] 64 Part of Water street vacated & to be sold

Sect. 3 *And whereas* by an ordinance of the freemen, resident inhabitants of the borough of Wilmington, in general town meeting legally called and met, entitled, "An ordinance to establish the regulation of the ascents and descents of the streets, lanes and alleys, within the borough of Wilmington, and for other purposes," reciting, that whereas by an Act of the General Assembly of the State of Delaware, passed in the year 1799, entitled "An Act for the better regulation of the borough of Wilmington," amongst other things it is *provided,* "That it shall and may be lawful for the burgesses and assistants of the said borough, and they are hereby authorized and empowered, when in their discretion they shall deem it proper and right so to do, from time to time on application of any five resident freeholders of the said borough, to issue their precept to any suitable person or persons, authorizing him or them to cause the footways and gutters of any street, lane or alley of the said borough, as applied for, to be paved with bricks 65 Ordinance for regulation of ascent & descent of streets page 686

or stones, as the case may require, and to fix plank or curbstones, to prevent the same from being injured by carriages, agreeably to the true regulation of the streets, lanes and alleys of the said borough. *And whereas* no regulation of the streets, lanes and alleys of the said borough, hath as yet been established, showing the ascents and descents of the streets, lanes and alleys and the relative situation thereof one with another, whereby the provisions in the aforesaid recited Act cannot be legally performed or complied with. *And whereas* the regulators of the streets, &c. for the time being have exhibited a ground plan of the said borough, noting the degrees of ascent and descent of the several streets, lanes and alleys, and the relative situation of each of them; which plan and regulation being examined and maturely considered by the present burgesses and assistants, and by them approved: *It was ordained* that from and after the passing of this ordinance, the aforesaid regulation of the streets, &c. beginning at a large stone in the center of Market and Chesnut streets, and from thence to the center of the several streets, &c. where they cross each other at right angles, showing the degrees of elevation and descent of the several streets, &c. and their relative situation to each other, a plan whereof together with explanatory notes of the particular ascents and descents of the several streets, &c. from the said large stone in Market and Chesnut streets, is deposited in the archives of this borough, and a copy of the aforesaid explanatory notes is attached to this ordinance, the same shall be, and is hereby declared to be the true regulation of the streets, lanes and alleys of the borough of Wilmington, and at all times hereafter shall be deemed and taken as such."

And whereas it was further ordained by the authority before recited, "That the footways and pavements of the several streets, lanes and alleys within this borough shall be, when paved, of the following width from the true range and extreme limits of each street to the outside of the curb, that is to say, King street, from the south side of Second street, Wood street and Water street shall have their pavements of the width of six feet, and no more; and all those streets, lanes and alleys which are forty-nine feet in width, shall have their pavements twelve feet wide and no more; and all those streets, lanes and alleys which are of greater width than forty-nine feet shall have their pavements twelve feet and nine inches wide and no more, except High street from Market to Pasture street, the pavement whereof shall be twelve feet wide and no more, in order to accommodate the market-house, whenever it may be necessary to extend it; and all footways and pavements twelve feet wide and upward, shall ascend from the curb stones to the true line for building at the ratio of half an inch to each foot and no more."

And it was further ordained by the authority before recited, "That the bottom of the gutters in all the streets, lanes and alleys within the borough, of forty-nine and a half feet wide and under, shall be ten inches below the center of said streets, lanes and alleys, and that the bottom of the gutters in all the streets, lanes and alleys within the said borough, which exceed forty-nine feet and six inches in width, shall be twelve inches below the center of said streets,

&c. and no more, *provided* that this rule be not considered to be rigidly observed in the several streets running eastwardly and westwardly which are necessarily, by the plan of regulation, higher on one side than the other, but that the regulators for the time being be enjoined to conform to it as nearly as circumstances may admit."

And it was further ordained by the authority before recited, "That the curbs of wood or stone, placed to support the edges of footways or pavements from the gutters, and to protect the same from carriages, &c. in the several streets leading from Chesnut street to High street shall be of the height of eight inches from the bottom of the gutter, and in the same streets from High street to Water street, the curbs shall be of the height of ten inches from the bottom of the gutter and no more; and all the streets running at right angles and crossing the aforesaid streets leading from Chesnut to Water street, shall have their curbs elevated six inches above the bottom of the gutter and no more."

And it was further ordained by the authority before recited, "That no stoop or step to ascend into any buildings now erected or hereafter to be erected adjoining any of the streets, lanes or alleys of this borough, nor any doors or other inlets into cellars now erected or hereafter to be erected, shall extend further from the front or line of building and erecting houses than three feet and three inches on Water street, Wood street and King street, to the south side of Second street, and in all the other streets, lanes and alleys within the borough, the said steps, porches, cellar doors, or other inlets to the respective buildings thereon erected or hereafter to be erected, shall not extend on the pavement from the true line for building further than four feet."

Be it therefore enacted by the authority aforesaid, That so much of the said ordinance as herein recited, shall be and remain unalterable; and that it shall not be lawful for the burgesses and assistants of the said borough to repeal the said ordinance; and that the said regulations of the streets, lanes and alleys of the said borough shall not be subject to any alteration by any future surveyors or regulators, any thing in any Act of Assembly to the contrary in any wise notwithstanding. 66 Established

Passed at Dover, January 24, 1801.

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.* 1822

Whereas in and by an Act of Assembly passed in the year of our Lord one thousand seven hundred 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 (54)

borough, and that all the streets and squares, lanes and alleys 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 decents 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—

67 Map of the borough

Section 1. 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 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.

68 Powers of burgesses & council, as to streets

Sect. 2. 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.

69 Map recorded

Sect. 3. 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 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 New-Castle; which, when recorded, shall be deemed and taken to be a public record.

Passed at Dover, January 24, 1822.

INDEX.

[*The figures in the index are of the pages. The numbers of the marginal notes are not in the index; but the numbers in the margin included in parenthesis or brackets refer to the numbers of marginal notes; viz. if* number *merely be included in a parenthesis or bracket, the reference is to the given number under the same title; when the reference is to a number under a different title, the name of the title, as well as the number, is included in the parenthesis or bracket.*]

ABATEMENT, - - - 24, 225, 326
ACCESSORIES, } ACCOMPLICES, } - - 141
ACCOUNTS, executors, administrators, - 25, 227, 235
guardian, - - - 25, 423
ACKNOWLEDGMENT, of deeds - - 24, 89, 90
acquittances, - 236
ACTION, survivency, - - 24, 224–5, 326
ACTS *of Assembly*,
expressions in, - - - 31
custody of originals and publication, 497
when bound, - - - 497
new edition, - - - 31
private, recorded, - - 32
ADMINISTRATION } ADMINISTRATORS } [see *Executors & Administrators.*]
ADJOURNMENT of courts - - 24, 105, 123
Orphans Court, - - 420
AFFIRMATION, - - - 135
AGREEMENT, in writing, - - - 88
ALIENS, purchases, conveyances, &c., - 32, 33, 202
descents thro, - - - 33
personal estate of deceased, - - 33
AMENDING PLEADINGS, 24
ANIMALS, dead, dying, not to be left in streets, &c. 330
APPEAL, from *Chancery*, - - - 27
Common Pleas, in equity, - - 25
security, - - - 24
original papers, - 396
limitation, - - 395
Common Pleas, petition for freedom, 409
Justices of the Peace, - - 342, 360
entered in court, - - 343
abated dismissed, - 344, 345
Bastardy, - - 71

APPEAL from *Orphans Court*, 30, 231, 235, 326, 420
testimony written, if required, 420
if not written, 420
security, 422
limitation, 421
Register to *Orphans Court*, 25, 30, 223
limitation, 398
to *Supreme Court*, 26, 221
in *Levy Court*, 376
APPRENTICES & SERVANTS, 34—42
power to bind, 34, 41, 42
(Justices or Trustees must be together), 38
duty of constable, 35
Deed of binding, 35
how executed, stipulations, &c. 36
note of Justices, 36
recorded, 36
assignable, when, how, 37, 42
certificate of Justices, &c. 38
assignment recorded, 38
not to be bound or assigned to non-resident, 38
exception 38
penalty, 39
transmissible, when, 37, 42
right of widow, 37, 42
bound to several. survivency, 42
right of assignees, executors, &c. 37
right of master, 38
runaway, 38
convicted and fined, 38
adjudication extending term, 39
recorded, 39
relief against master, 40, 41
annulling indenture, 41
binding or assignment void, 41
kidnapping, 40
dealing with, or harboring, &c. 41
female having bastard, 74
ARMORY, in Kent, Sussex, 565
ARSON, 130
ASSAULT & BATTERY—
before Justice, on submission, 360, 361
ASSESSMENT—
questioned only on appeal, 376
duration of, 376
yearly addition, 377
property assessable, 386
manner, &c. and return, 387, 390
personal rate, 390
property, real, 386, 388
personal, 387, 388–9
slaves 388

ASSESSMENT, *plate*, - - - 389
duty of persons to give statement of property, 389
neglect or refusal, - 389
giving partial account, - - 390
removing property to escape taxation, 390
State, - - - 502–505
ASSESSORS—
elected, - - 171
capable, - - 171
vacancy, - - - 172
refusal to serve or neglect, - - 172
to appear before Levy Court, - 374
oath, &c. - - 374
to attend Levy Court, - - 376
excluded from certain offices, - - 419
ASSIGNMENT—
OF BILLS AND SPECIALTIES, - - 42
assignee may sue, - - - 43
assignor cannot release, - - 43
to surety or joint debtor, - - 43
OF JUDGMENT, to surety or joint debtor, or bail, 44, 45
form and effect, - - 44–5
OF REVERSIONS OR REMAINDERS, - 370
RENT IN ARREAR, not assignable, - 370
demands on county, assigned before allowed, forfeited, 451
for benefit of creditors, preferring creditors prohibited, 140
ASSUMPSIT, for legacy or distributive share of deceased's estate, - - - 228
ASSUMPTIONS, - - - 88
ATTACHMENT, - - - 46—53
AGAINST RESIDENT, - - 46, 52
no second writ, - - - 47
on death of plaintiff, another creditor substituted, 47
service, - - - 46
garnishee to deliver effects or give security, 46
dissolved on bail, - - - 46–7
SALES, - - - 49
of perishable goods, 47, 52
GARNISHEE, - - - 47, 48
held to bail, when, - - 48
may plead attachment, - 51
AUDITORS, - - - 48, 49
sureties may prove debts, - - 50
dividends, - - 49
creditors receiving, to give security, - 51
unpaid balance of debts, - - 50
overplus, - - - 49
JUDGMENT, - 49, 52
against NON-RESIDENT, - - 50, 52
attachment for execution, - - 51
OF STOCK IN CORPORATIONS, - - 99
how attachment served, - - 99

ATTACHMENT, no order of sale till final judgment, 99
tolls of the Chesapeake and Delaware Canal, 98
duty of cashier, &c. on service of writ, 100
of rent, 369
BETTER SECURITY, 51
before Justice, 348, 351
ATTORNEY AT LAW, 103, 104, 105 (n)
ATTORNEY GENERAL—
duty in indictment for second offence,
differing in punishment from first, 147
deputy appointed, &c. 157–8
advice to escheators, 203
duty in prosecuting retailers without license, 464
duty in respect to road commissioners, New-Castle, 478
duty on appeal, in bastardy, 72
salary, 484
ATTORNEY, *Letter of*, concerning lands, &c.
acknowledged, proved, &c. 90
recorded, 90
ATTORNMENT, 53
AUDITOR OF ACCOUNTS, 53—61
bond, 60
failure to give, 61
oath, 61
salary, 53
appointment and term, 54
accounts to be settled by, 54, 55–6, 492
notice to accountants, 55, 492
to certify neglect, 55, 492–3
attachment, 492
witnesses before, 56
State tax, 56, 58
lists and certificates sent to, 58, 60, 148
seal, 60
his office, 565
AWARDS—
available as verdict, 112
judgment on, what not error, 112

B.

BACK-BAY CANAL—
penalty for obstructing, 429
a common highway, 589
BAIL—
IN CIVIL SUITS, 61
on attachment for contempt, 61
bond and assignment, 61
action on, 62
insufficient, 62
judgment assigned to, 45
IN CRIMINAL CASES, 62, 63, 17

BAIL, *bond*, recognizance, - - 62–3
before coroner, - 95
capital cases, - - 64, 94
recognizances sent to court, - 64
scire facias on recognizance, - - 101
BANKING COMPANIES, UNINCORPORATED,
PROHIBITED, - 64, 65
penalty for receiving subscriptions, 65
for subscribing, - 65
issuing or passing notes, - 65
receiving deposits, - - 65
common partnerships excepted, 65
BANK NOTES—
penalty for paying, receiving, exchanging, &c.
AT DISCOUNT, - , - 66
LESS THAN ONE DOLLAR,
penalty for issuing, passing, &c. 65, 66
BANKS—
not paying specie, penalty, - - 66, 67
issuing notes less than one dollar, penalty, - 66
BANK OF DELAWARE, - - - 67
FARMER'S BANK, - - - 68, 69, 70
BANK OF WILMINGTON & BRANDYWINE, 69
BANK OF SMYRNA, - - - 69, 70
BARRATRY, - - - - - 138
BASTARDY, - - - 70, 74
proceedings before Justice, 70, 71
in either county - 73
process, directed to constable of either county, 73
mother a witness, - - 72
her deposition, - - 74
dying declaration, - - 72
remedy for Trustees of the Poor, 73
appeal, - - 72
fees, - - 74
BAUCUMBRIG MARSH, - - - 430
BETTER SECURITY, - - - 51
BIGAMY, - - - 138
BILL OF EXCEPTIONS, - - 445–6
BILL OF EXCHANGE, on Europe,
damages on return protested, - 74–5
BILLS OF SALE, - - - 75
BLACK-BIRD CREEK, *marshes*, - - 426
BLASPHEMY, - - - 142
BOATS AND CANOES, - - 75–6
taking up, - - 75
setting adrift, penalty, 76
BONDS & PENAL SUMS, - 76, 78
breaches assigned, 77
judgment for damages, 76
not beyond penalty, 77–8
how determined, - 77

BONDS & PENAL SUMS, priority, if penalty insufficient, 76
actions, consolidated, 77
when judgment for penalty, 78
judgment bonds not affected, 78
TO THE STATE, { on trust, 76
suits on, 76
BOOK ACCOUNT, 89
BOUNDARIES—
evidence perpetuated, 79
marking and establishing, 80
notice and petition, 80–1
commission, 81
no surveyor a commissioner, 81
proceedings, 81
return and its effect, 82
rights of infants, &c. saved, 82
bounds fixed by agreement, 82
older and younger surveys, 83
Fees, 82–3
BOWERS, JOHN, &c. authorized to erect gate and take toll on road to Bowers' beach, 658
BRIBERY AT ELECTIONS, 189
BRIDGE, *Brandywine*, 585
keeping to the right, 585
index board, 585
lamps, 585
Broad Creek, 566
Broadkiln, 568
Cedar Creek, 566
Forest Landing, 567
Frederica, over Murderkill creek, 568
Lewes Creek, 569, 572
tolls, 569, 572, 573
exempt, 570, 572
draw, 569, 572
may be purchased by Trustees of Lewes, 617
Little Creek, 574, 575
Naaman's Creek, 575, 577
tolls, 576
when to cease, 577
accounts for General Assembly, 577
Newport, 578, 581
draw, 578
draw out of repair or unattended penalty, 580
lamps, 579
tolls, 578
penalty for injuring, 579
may be vested in New-Castle county, 581
over Spring Creek near Frederica, 624
Summit, 586
keeping to the right and in a walk, 586
penalty for injuring, 586
index boards, 586

BRIDGE—
SUMMIT—*lamps*, 586
Wilmington, 581
draw, 582
draw out of repair or not attended, 583
tolls, 582
penalty for injuring, 583
lamps, 583
excess over ten per cent. to School Fund, 584
BRIDGES, in public roads—charges of, 465
traveling in a walk over bridges in New-Castle built at expense of county, 585
in New-Castle county, 465
between counties or hundreds, 471
assigned by Levy Court, 471, 385
BROADKILN CREEK CANAL—
obstructing, 428
bridge at head of Broadkiln, 568
BURGLARY, 129
BURNING BUILDINGS, &c. 130
attempting, 131

C.

CAMP MEETING—
penalty for disturbing, &c. 126
CANAL—
BACK BAY, 589,429
BROADKILN, 428
CHESAPEAKE & DELAWARE 83, 430
tolls, 84
when lessened, 85
liable to attachment, 98
canal a public highway, 85
regulations concerning 430
injuries to, 430
bridges over, 85
[see *Summit Bridge*], 586
injunctions against corporation, 98
exempt from tax, 85
stock of school fund, 510
CHRISTIANA, 587
tolls, 587, 588
accounts for General Assembly, 588
CANTWELLS BRIDGE, 589
CAPE, on N. E. LEWES CREEK,
penalty for cutting &c. timber &c. on 124, 590
trustees, to lease &c. 589
suits for tresspasses, 590
CA. SA., when unlawful to issue, 215
when void, 216
escape, 216

CASE STATED, - - - - 446
CAUSEYS, - - - - 465, 466
CERTIORARI, in landlord *vs.* tenant no supersedeas, 290
to Justice,
copy of record on, 353
security on, 358
CHALLENGE, [see *Jurors*,]
CHAMPERTY, - - - - 183
CHANCELLOR, his salary, 484
no perquisites, *unless*, 484
to hear apprentices and servants, 40
to deliver to Recorder, recog. of Register, 111
denying writ of habeas corpus, penalty, 295
CHANCERY, COURT, 23, 25, 102, 122
terms, 122
adjournment by Register, 123
process to different counties, 103
no process till bill filed, except injunction, 103
remedy at common law, 103
issue of fact, 103
rules of practice, 105, 106
when defendant cannot be found to be served with process, 106
bill pro confesso & decree, 106-7
who not within this, 109
security for restitution, 107
how defendant may be heard, 107-8
when such decree absolute, 108
defendant refusing to enter appearance, 107
infant trustee, to convey, 109
power to sell lands in execution of decree, 118-9
jurisdiction in *Partition*, 168, 170
Idiots and Lunatics, 305
attendance of Chancellor recorded, 122
Register to give security, 110
proceeding on his recog. 110
recog. recorded, 111
to be attended by sheriff, 243
seal, 110
fees, practice, 264
certain records of in Kent transcribed, 646
CHAIN CARRIERS, fees, 257
on commission to mark and bound, 83
CHEATS, 141
CHESAPEAKE & DELAWARE CANAL, 83, 430
[see *canal*],
CHIMNEYS, FIRING, penalty, 27
CIRCUS SHOWS—
exhibiting, or suffering place to be erected for exhibiting &c. penalty, 417
CITIZENSHIP OF STATES, 11
CLERGY, excluded from civil offices, 28

CLERK OF HIGH COURT OF ERRORS & APPEALS—
dates of judgments, 393
duty of on appeals, 395
seal, 495
CLERK OF THE ORPHANS COURT—
to enter costs in docket or record, 263
and on order issued, 263
penalty for neglect, 263
to record papers and make index, 420
(papers not to be recorded), 420
penalty for neglect, 421
to certify to Register guardian appointed, 423
duty in entering satisfaction of recognizances, 485
his bond, and penalty if not given, 455–6
CLERK OF THE PEACE—
to certify to Auditor abstracts of assessment-lists, 58, 59
any copy, on request, 59
fines, 59
and to *State Treasurer*, 272
penalty for neglect, 59, 272
forfeits office by neglect to pay over, fees received
from constables, 87
on licenses for gill nets, &c. 276
on licenses to retailers 463
fees to State he is to receive, 87, 265, 276, 463
account and payment, 267
duty in respect to Jurors, 117
to record sessions of court and attendance of Judges, 122
and transmit copy to Sec'ry of State, 123
on certifying record to High Court of Errors and Appeals to state names of Judges who sat in the cause, 123
to deliver to sheriff copy of every sentence, 143
and of orders for disposal of persons as servants, 147
to transmit list of orders drawn by him, to Auditor, 148
neglect a contempt of court 148
to enter costs on docket 262
and on execution, 263
penalty for neglect 263
to issue warrants to fence viewers and give notice, 271
duty in respect to *General Election*, 175, 179
in respect to *election of electors of president and vice president*, 190
of *Levy Court Commissioners*, 373
to be *clerk of the Levy Court*, 374
to publish lists, and notice of Court of Appeal, 375
notice to non resident, 376

CLERK OF THE PEACE—
penalty for not stating account of certain receipts, - - - 383
duty to deliver to county treasurer and collector copy of orders in favor of overseers of roads, 355
not to purchase witnesses fees - 451
bond, & penalty for not giving - 455-6
CLERK OF THE SUPREME COURT, his bond 455
penalty for not giving, 456
to enter dates of judgments, 393
to keep indexes, - 394
names to be entered in 24 hours, 394
penalty for neglect, 349
real debts to be entered on judgment and executions, - 395
to enter costs on docket, - 262
and on execution, - 263
penalty for neglect - - 263
to certify to Auditor, - - 59
penalty for neglect, - - 60
duty in respect to jurors, - 117
to record attendance of Judges 122
and send copy, &c. - 123
in record for High Court of Errors and Appeals to insert names of Judges, who sat on the trial, - 123
not to purchase witnesses' fees 451
penalty, - - 451
duty to deliver to sheriff a copy of orders for disposal of persons as servants, - - - 147
list of orders drawn by him sent to Auditor, - - - 148
neglect a contempt of court, 148
to deliver to sheriff or coroner copy of sentence of death, - 143
duty, in entering satisfaction of judgement, - - 485
certificate on execution returned, - 485, 243-4
penalty for neglect, - 485
COCK FIGHTING, - - 141
COLLECTORS—
of State tax, - 57
bond, - - 57
vacancy, - - - 58
executors &c. - 58
powers, - - 58
settlement with State Treasurer, 258
allowed for delinquents, - 258
of Hundreds—
appointed and bond, - 381
proceeded on, 382

COLLECTORS, penalty for neglect of duty, - - 386
warrant to, - - - 377
date of, - - 381
when to pay, - 382
powers, - - 379, 380
delinquencies, when allowed, . 380
liability, and of sureties, - 381
Executors and Administrators, powers, 382
remedy for sureties, - - 382
appointment to fill vacancy, - 382
penalty for not delivering receipt, &c. 383
duty as to *election of Assessors & Inspectors,* 171
neglect, penalty. - - 172
duty to attend *General Election,* - 185
of Representatives to Congress, - 194
of Electors, - 193
duty to deliver to Clerks of Peace lists of retailers, &c. . . 464
not eligible to certain offices, . 419
penalty for buying, &c. public demands, *at discount,* . . . 125
fees, ... 257, 258
COLLEGE, DELAWARE, fund, . . 507
COMMISSIONS, ... 21
COMMITMENT, proceeding, if insufficient, . . 64
COMMON PLEAS, [see *Court.*]
COMPENSATION—
Gaol Commissioners, . 448, 451
Levy Court Commissioners . 257
[See *General Assembly* and *Salary.*]
CONGRESS, ... 5
meeting, ... , 6
powers, ... 7
restrictions, ... 8
Representative, qualifications, . . 5, 6
from this State, election, . . 193
CONSPIRACIES, ... 141
CONSTABLES—
number and residence, . . 85, 87, 88
vacancy, ... 86, 88
appointed, ... 88
who cannot be, ... 86
bond, ... 86
recorded, ... 87
not given in five days, office vacated, 87
powers and duties, ... 87
in serving warrant on slave for larceny, 152
fee to State, ... 87
not paid, office forfeited, . . 87
duty, *for binding negro or mulatto children,* 35
to settle with Auditor for fines, . 55
penalty for neglect, . . 55

CONSTABLES—
duplicate receipts for payments to State Treasurer, one for Auditor, 60
power on warrant in bastardy, 73
fees in bastardy, 74
warrant from Coroner, 94, 95
offending against Act concerning prisoners, penalty, 449
penalty for purchasing goods sold by him on execution, 214
attending Levy Court, 386
fees, 255, 356, 100
CONSTITUTION, OF UNITED STATES, 4–15
House of Representatives, 5
Senate, 5
election of Senators and Representatives, 6
powers of Houses, 6
members excluded from certain offices, 6
particular disqualifications, 6
revenue bills, 7
negative of President, 7
powers of *Congress*, 7
restriction, on Congress, 8
on the States, 8, 9
President, 9, 15
Judiciary, 11
Jury trial, 11, 14
citizenship, 11
fugitives from Justice, 11
new States, 12
Territories, 12
oath of office, 12
religious liberty, 12, 14
warrants of arrest and search, 14
privileges of accused, 14
Militia, 14
CONSTITUTION OF THE STATE—
religious liberty, 16
liberty of the press, 16
warrants of arrest and search, 16
rights of accused, 17
General Assembly, 18
vacancies, 20
Representatives, 18
Senators, 18
compensation and privileges, 19
Governor, 20
incompatible offices, 21
power of pardon, 21
convening or adjourning General Assembly 22
Secretary of State, 22
Electors, 22

CONSTITUTION OF THE STATE—
privilege of electors, - - 22
Judiciary, - - - - 23
High Court of Errors and Appeals, - 26
tenure of offices, - - 23, 28
oath of office, - - - 29
amendment, - - - 29
convention - - - 29
Orphans Court, - - - 30
CONTRACTS—
under forty shillings - - 88
of executor or administrator to answer out of his own estate, - - - 88
to answer for another, - - 88
certain must be in writing, - 88, 408
by several, joint and several, unless otherwise stipulated, - - - 225
CONTRIBUTION, between joint debtors or sureties, 43, 44
CONVEYANCES, - - - - 89–93
acknowledged or proved, - 89
of married woman, - - 89
made out of the State, - - 90
recorded, - - 90
failure to record, - - 90, 91
CONVICT—
not wearing badge, - - 143
not able to pay costs, - - - 147
kept at labor, - - - 148
supplying with liquor, &c. penalty, - 142
disability, - - - 144
CORONER—
election and appointment, - - 27, 181
his bond, - - - - 455
inquisition of death, - - - 93–97
deposition of witnesses, - - 94
form of inquisition, - - - 94
power to arrest, - - - 94
to issue attachment, - - 96, 94
to commit, - - - 95
to take bail, - - - 95
to take recognizances of witnesses, - 95
to what court, - - - - 96
requiring surety of witnesses, - - 96
to deliver inquisition to Attorney General, 96
body buried without inquisition, *unless permitted by Justice, penalty,* - - 96
discretion of Justice, - - 96
disinterring body, - - 96
to execute office of sheriff in certain cases, 97
office of coroner vacant, how inquisition held, 96
to summon juries in certain cases, - 116, 118

CORPORATIONS, - - - 97–100
suits against, - - 97
process served, - - - 97
when president, &c. reside out of State, 98
notice of rules, - - 98
stock attached, - - 99
sold on execution, - - 99
no order for sale till final judgment, 99
effect of sale, - - - 99
duty of cashier, &c. to give certificate to officer serving attachment, - - 100
money applied - - - 100
COSTS, taxed by court, - - - 263
on questions of bail in criminal cases, - 64
bastardy, - - - 74
perpetuating evidence of bounds, - 80
on commission to mark and bound, - 82–3
in civil cases, - - - 100, 51
in error, - - - 100, 358
before Judge, &c. out of court, - - 100
to be entered on docket, indorsed on execution, 262–3
before justice, - - - 336
discretion, in forcible entry and detainer, & landlord *vs.* tenant, - - - 289
in criminal cases,
acquitted, not liable, - - 101
convict unable to pay, disposed of as servant, 147
raised by Levy Court, - - 147
to be paid by convict, - - 261–2
order of payment and execution, - - 262
lien, - - - - 262
when payable by county, - - 254, 262
entered on docket, - - 262
indorsed on process, - - 263
in surety of the peace, discretion of court, 262
COUNTERFEITING, [see *Crimes and Misdemeanors,*] 135–137
COUNTY LINES, - - 590, 591
COUNTY TREASURER, [see *Treasurer,*] 23, 101
COURTS—
adjournment, power, - - 105
attornies, - - 103, 105
power to make rules, - 105, 106
to issue commissions for depositions, 24
duty to tax costs on application, - 263
to frame writ of elegit, 209
places of holding, - - 121
Terms, - - - 122
Chancery, [see *Chancery Court of,*]
Common Pleas, - - 23, 102
jurisdiction in equity, - 25
for relief of apprentices, &c. - 40

COURTS—
Common Pleas,
on petition for commission to mark and bound lands, - - 80
for draining low ground, - - 158
on petitions for freedom, - - 499
permit to export slaves, - - 154, 501
to bring in, - 501
appellate jurisdiction, - - 342
to take Sheriffs recognizances - 453
bonds of other officers, - - 455
delivered under direction of court to Recorder, 456
in Kent, certain records transcribed, - 646
attendance of Judges recorded, - - 122
High Court of Errors and Appeals, 26, 409, 548
Sheriff of Kent to attend, - - 501
certain record transcribed, - - 646
Oyer and Terminer, - - - 17, 23
jurisdiction, - - - 157
to assign counsel for prisoner, - 157
Jury, grand and petit, to, - - 113
when grand jury omitted, - - 113, 114
Quarter Sessions, - 23, 26, 88, 101, 112
criminal jurisdiction, - - 157, 150
paragraph to be read to certain convicts, - 143
recognizances, - - 101
proceedings on, - - 101
process, - - - 101
Jury, grand and petit, to, - - 112, 115
may assign counsel for prisoner, - 157
duty to give in charge to grand jury, "*Act relating to fugitives from labor,*" (291 page) - 292
and Act (IV. title *Negroes & Mulattoes*) 412
to appoint constables, - - 88
to appoint *Fence Viewers,* - - 268
to appoint pound keeper, New-Castle, - 626
jurisdiction, *in case of children or wife deserted,* 442
to lay out, change and vacate roads, - 468, 473
appellate jurisdiction—
in bastardy, - 71
from Trustees of Poor, 442
to grant recommendation—
for *tavern licenses,* - 518, 265
power in respect to certain mills, 402, 404
attendance of Judges recorded, 123
Supreme Court, - - 23, 104
jurisdiction for relief of apprentices &c. 40
permit to export slaves, - 154, 501
to bring in, - - 501
Appellate jurisdiction, [see *Appeals.*
attendance of Judges recorded, 123

COW MARSH, ditches, &c. 428
CRIMES & MISDEMEANORS, 14, 16, 17, 62, 64, 123
Warrant, for arrest, 62, 16, 94
examination of accused, 63, 94
bail, 63, 64, 95
paragraph to be read to certain convicts, 143
insufficient commitment, 64
Abuse of infant female under ten, 129
Accessories—accomplices, 141
Arson, 130
Assault, intent to *murder*, 128
ravish, 128
rob, 132
Assault & battery, 141
by slaves, 153
Barratry, 138
Bigamy, 138
cohabiting after conviction, 139
Blasphemy, 142
Bribery at elections, 189, 501
Burglary, 129
Breaking into office by night, intent to destroy, &c. records, 129
Burning buildings, &c. 130
attempting, 131
Camp-Meeting, disturbing, 126
Cape, N. E. Lewes creek—
cutting wood or timber on, 124, 125
Challenges, peremptory, 145, 146
Champerty, 138
Cheats, 141
Circus shows and sports, 417
suffering place for, &c. to be erected, &c. 417
Clergy, benefit of, abolished, 147
Cock-fighting, 141
Compounding felony, 142
Conjuration, 139
Conspiracies, 141
Convicts not wearing badge, 143
disabilities of, 144
not able to pay costs, disposed of as servants, 147
Corporal punishment—
sentence of, 143
Counterfeiting, 135, 136
seals, 137
Costs, on acquittal, 101
on conviction, 262
Death, punishment of, 143
Duelling, 138
Election, 185, 188, 193, 195
assault and battery, 187

CRIMES AND MISDEMEANORS—
Election—receiving illegal votes, - - 185
refusing legal votes, - - 185
illegal voting, - - - 187
false oath, - - - 178
Justices, collectors, constables, not attending, 185
embezzling, altering, &c. certificate of return, 186
person not a freeholder acting as inspector or judge, - - - 183
ordering out militia, - - 187
selling liquor or having place to sell it, 187
Fairs—holding, - - - 237
Fire, setting, - - - - 131
Forgery, - - - 135, 137
bank notes, - - - 135
making or having plates, - - 136
other papers, - - 136
passing, - - - 137
election returns, - - - 186
Horse racing, - - - 141
House breaking, - - 129
Indictment, [see *Indictment*.] - -
Kidnapping, - - - - 131
second offence, - - - 131
Larceny - - - 132, 135
of horse or slave, &c. - - 132
disposing or offering to dispose of, - 133
of other things, - - 133
second offence, - - 134
by free negro, - - - 134–5
second offence, - - - 135
restitution money, order for payment, 262
knowingly receiving stolen things, &c. } 133, 134, 135, 142
by slave, - - - 152
Liquor, selling by small measure without license, 519
supplying to convicts, - - 142
Lotteries, - - 138
Manslaughter, - - - 127, 156
Stroke in, death out of, State, - - 128
Maintenance, - - - - 138
Marshes, firing unseasonably, - - 273
Mayhem, - - - 128
Months computed, - - - 143
Murder, - - - 127
act in, death out of, State, - - 128
Nuisances, - - - 141
in roads, - - - 472, 549
Perjury and subornation, 135, 178, 185, 314, 350
Poisoning, - - - 128
Prisoner not removable from prison to prison without habeas corpus, - - 296

CRIMES AND MISDEMEANORS—
Public claims, officer to pay, buying at discount, 125
Puppet shows, 417
Rape, 128
Receiving stolen goods, &c. 133, 135, 142
Records, forging, &c. 137
Breaking into office, intent to purloin, &c. 129
Religious meeting, disturbing, 141
Riot, 138
by slaves, 153
Robbery, 131, 132
attempting, 132
Rope dancing, 417
Servant, notice of disposal of a person as, 143-4, 147
proceeds applied, 144, 147
rights of master, 144, 147
such disposal not to exempt property, 148
penalty for exporting, 148
Sheriff's election, promoting by bribery, 501
Shooting matches, 141
Slaves, crimes of, capital, 149
other crimes, 149, 150, 152, 153
sentenced to be exported, 150
returning, 151
bond for exporting, 150
when not exported, 151
penalty for obstructing exportation, 151, 152
right to redeem, 153
master liable for costs, 152, 153
unlawfully exporting, 153
vessel or boat for that purpose, 155
Sodomy, 139
Standing mute, 145
Tavern-keeper—
penalty for disorderly house, 519
permitting gaming, 519
Tavern, victualling house, &c.—
keeping without license, penalty, 519
Tippling house, penalty, 519
Treason, 23, 127
Trial in criminal cases, 144, 145
within what time, 295
Verdict, on indictment for murder, highway robbery, &c. 146
general or special, 446
must find value of slave convicted of capital crime, 149
Vessels, forcibly or fraudulently removing from State, 123, 124
Whisky, wine,
selling by small measure without license, 519

CRIMES AND MISDEMEANORS—
Witchcraft, ... 139
Woodland—
firing, ... 273
Wrecks—
showing false lights, plundering, &c. 561
CURTESY, tenant by, ... 316

D.

DEATH, punishment of, - - 143
DECLARATION OF INDEPENDENCE, - 1
DEEDS—
acknowledged or proved, - - 89
of married woman, - - 89
form of acknowledgment, - - 93
made out of State, - - - 90
recorded in one year, - - - 90
if not recorded, - - - 91
absolute on face, but subject to defeasance or contract, *such defeasance or contract* to be noted on deed and recorded, - - 91, 92
words *grant, bargain sell,* - - 93
effect to bar entail, &c. - - - 197
by executor or administrator, for lands contracted for, - - - - 229
when lands are in several counties, - 230
on sale by sheriff, - - 205, 211, 213
on sale by executor or administrator, - 232-3
DEFALCATION, - - - 111
DELAWARE COLLEGE, fund, - - 507
DEPUTIES OF PUBLIC OFFICERS, 452
DESCENT, - - 315
computation of degrees, - - 316
whole and half blood, - - - 316
Distributive share of deceased's estate, assumpsit for, - - - - 228
DITCHES, - - - - 158, 163
[see *Draining,*]
DISTRESS FOR RENT, - - 361, 367, 369
DOGS *in New-Castle county,* - - 163, 164
killing or worrying sheep, - 163
at large without collar, - - - 164
DOVER—
court house lots, - - 591, 593
town regulations, - 594-601
DOVER HUNDRED, - - 601
DOWER, - - - - 167, 316
action at law, - 164
service of writ, - - 164
damages, - - 164

DOWER—
trial at 2nd term, - - - 164
assignment of, - - - 165
costs, - - - 165
bar, - - - 165, 168
election, - - - 168
forfeiture, - - - 165, 166
proceedings in Orphans Court for, - 168, 165
DRAINING LOW GROUND, - - 158, 163
freeholders appointed by Common Pleas, 158
review, - - - 160
power and duties, - - 158, 162
taxes, - - - 159, 161, 162
damages, - - - 158, 161
managers, - - 162, 163
treasurer, - - - 163
meeting, - - - 163
DRUNKENNESS, - - - 328
abusive behavior of offender under arrest, 328
DUCK CREEK HUNDRED, - - - 602
DUELLING, - - - - - 138

E.

EJECTMENT, ... 170
rights of landlord, . . . 368
penalty on tenant not notifying him of service, 368
ELECTIONS, ... 16, 22
qualified voters, . . . 22
ELECTION—
of *Inspectors & Assessors,* . . . 171
Road-Commissioners, New-Castle, 475
Levy Court Commissioner not eligible as Road Commissioner, . . . 477
casting vote, . . . 171
elected, not capable. . . 172
Collector's duty, . . . 171
penalty for neglect, . . 172
when absent, . . . 171
illegal votes, &c. . . . 173
ELECTION, *General,* . . . 173–190
places, . . . 178–4
necessarily changed, . . 174
Justices, Collectors, Constables, to attend, 185
Electors must vote in their hundreds, 174
preparatory duty of *Sheriff,* . . 174
Clerk of Peace, . 175
Inspector, . . 175
time of opening and closing, . . 175
in Christiana hundred, . . . 189
when no inspector present, . . 175

ELECTION, *General*—
matters preparatory to opening, 175, 177
Judges & their oath, 175, 176
Clerks & their oath, 177
manner of conducting, 177, 183
Oaths of voters, 177
receiving illegal or rejecting legal votes, penalty, 185
reading and tallying votes, 178
ticket, part imperfect rejected, 178
certificate, 178, 179
not rejected, because inspector or judges not freeholders, 183
but they indictable for acting, 183
inspector to deliver to Clerk of Peace, papers, 179
Meeting of Inspectors for canvass, 180
Sheriff to attend, 180
duty of inspector or his executors or administrators, 180
powers of presiding officer of board of canvass, 180
safe keeping of ballot boxes, 183
certificates and return of election, 181, 183
plurality makes a choice, 189
power of Senate and House of Representatives, 186
embezzling, altering &c. a return, penalty, 186
bribery, 189
offering to serve for less than legal compensation, 189
forfeiture of office, 189
negligence and misbehaviour of officers, 186
penalty on master, for his negro or mulatto servant or slave being at place of election &c. 188
on free negroes or mulattoes being at place of election, 188
suits for penalties, 189
Special, 183
writ for, 184
inspectors meet on day following, 184
of Electors of President and Vice President, 9, 190
proclamation by Governor, 190
each voter must vote for whole number of electors, 190
Inspectors, 190
meet day after election for canvass, 191
to deliver papers to clerk of the peace, 193
sheriff to attend board, 191
return, 191
notice to electors, 191
Failure to elect, 192
election by General Assembly 192
certificate, 192
notice to electors, 192
Meeting of electors, 192

ELECTION—
Electors of President and Vice-President,
their power to fill vacancy, 192
list to be delivered to them by Governor, 193
pay, 193
of Representatives in Congress, 5, 6, 27, 193
time and place, 193
Votes canvassed and returns, 194
to fill vacancy, 5, 194
discretion of Governor, 195
penalties, 195
of Senators in Congress, 5, 6, 195
time, place, manner, 195
casting vote, 195
vacancy, 196
certificate, 196
ELEGIT, 208
executing, 208
inquisition not conclusive, 209
ejectment after removal, 209
Justices of the court to frame writ, 209
eviction, 216
EMIGRANTS—
from foreign countries, 305
number in one vessel, dimensions of birth, &c. 299
bound as apprentices, &c. 305
license for landing, 443
landing without license, penalty, 444
ENTAILS—
barred by fine, &c. 196
by deed, 197
EQUITY JURISDICTION, [See *Chancery, Court of*] 25
ERROR, security on writ, 24
limitation, 25
what, no defects in judgment on report, 112
want of veni. fa. ju. no error, 118
Landlord vs. Tenant,—
formal defects no error, 290
reversal, restitution discretionary, 290
certiorari no supersedeas, 290
ESCAPE, *from execution in debt,* 216
remedy against officer, 216, 217
ESCHEATS, 198
Escheator, 198
precept of inquiry, 198
inquisition, 199
seizure, 199
persons in possession, their rights, 199, 200
lands leased, 199
claimant, 200
if no claim in 7 years, 200

ESCHEATS—
sale and deed, 200
claimant, when to receive the money, 201
time, within which claim must be made, 201
saving for infants &c. 201
suits by the State, 201
person informing, his share, 201
on security, 202
Fees, 202
confirmation of conveyances &c. to and of Aliens, 202
costs, when paid by State, 203
seven years absence, evidence of death, 203
ESTATES, tail—
barred, 196, 197
ESTREPEMENT, 167
EVIDENCE—
books of religious societies, 457
perpetuating, of bounds, 79
seven years absence, of death, 203
EXCEPTIONS, to Accounts, 25
limitation, 398
EXCEPTIONS, BILL OF, 445
EXECUTION—
Lien of—*Justice's*, 339
Court, 394
costs indorsed on, 263
real debt *and interest*, 395
satisfied or part paid, fact to be returned, 485
satisfied after return, certified, 485
fees of sheriff to be by him returned on, 242
dollarage after received, certified, 242
forfeiture for neglect, 242, 243
when directed to sheriff in office or predecessor, 211
stock of corporations, liable to, 99
money applied, 100
Goods, not to be purchased by officer selling and penalty, 214
when may be sold, 240, 241
notice of sale, 240
to Landlord, 367
liable for money rent, 366
how subject to other rent, 367
sold when under distress, 367
application of money, 367
Lands liable to, 204
Elegit, 204, 208
[See *Elegit*,]
Inquiry, 204, 207, 210
held by sheriff in office or predecessor, 209, 210
Ven. Ex. 204, 211
notice of sale, 205

EXECUTION—
Land—
sale, 205
in New-Castle, 211
deed, 205, 211, 213
writ of possession, 211, 212
rent, 213
judgment reversed, land not restored, 207
Levari Facias, 204, 206
Liberari Facias, 205, 214
sold in execution of a decree in Chancery, 118, 119
decree reversed, not restored, 119
Testatum, 26, 102
Return of execution, 207
requisites, 207
if subject to prior executions, 208
consequence of neglect, 208
sheriff must indorse his fees, 242
failure, forfeiture, 242
Ca. Sa. 215, 216
[See *Ca. Sa.*]
Execution from Justice of the Peace, 339
binds from inventory, 339
notice of sale, 339
to landlord, 367
officer selling cannot purchase, 214
EXECUTORS AND ADMINISTRATORS, 217
time allowed to settle estate, 228
Letters Testamentary, 218
person not named in Letters, no authority, 218
Administration, 218, 219
with will annexed, 218
during minority, 218
during absence, 219
during litigation, 219
d. b. n. 219
married woman, 218, 219
persons incapable, 219
executor or administrator removed, 219, 222
bond, 219, 220
husband and wife, 221
legacies within condition, 221
remedy for sureties, 421
further security, 221
oath, 222
money loaned under order of Orphans Court, 421
Appraisers, 222
oath, 222
certificate, 222
Assets, 222
inventory, 222
list of debts, 220

EXECUTORS AND ADMINISTRATORS—
affidavit of executor or administrator to, 223
when inventory and list returned, 223–4
power to set aside, 223
debt from executor, 223
growing crop, 224
one of several executors or administrators not joining in inventory, 224
additional inventory, 224
judgment, when not conclusive of assets, 225, 336
rents and profits, 226
Action, survivency, 24, 225, 346
cause of, surviving, 224
process against, 230
costs, when not allowed in administration account, 225
Judgment, for or against, benefit not lost by death, 225
against, 225, 230
when it binds real estate, 225
Debts, probate, 226
order of payment, 225, 226
inferior paid without notice of superior, 226
record, when notice, 226
suit against, before probate, when costs disallowed, 226
Legacies, 228
when satisfaction of debt, 229
refunding bond, 228
Accounts, 227
interest, 228
when not chargeable, 421
when costs not allowed, 225
Distribution of residue, 227
when a Will, 228
refunding bond, 228
Order for notice of Admin'n or Let. Test. 229
Action for legacy or distributive share, 228
payment of dis. share or legacy, after such notice and year, good tho outstanding debt if unknown, 229
power to convey lands, &c. contracted, 229
no suit on such contract till application for conveyance, 229
unless executor or administrator cannot fulfil contract, 230
Letters in another State, 230
bond in this, 230
Power to sell lands to pay debts, 231
petition, &c. 231
order, 232
discretion of court, 235
partition no bar, 232
sale at auction, 232
deed, 232
application of money, 233, 234

EXECUTORS AND ADMINISTRATORS—
Sale of land, &c.
overplus, 234
directions as to, 234
effect of sale as to incumbrances, 233
Bond, 234–5
charges taxed by court, 235
Account, 235
Appeal, 235
power to executors, &c. by Will, survives, 235
no person named in Will to execute power of sale, it belongs to executors, 235
Receipt, to—
proved and recorded, 236

F.

FAIRS suppressed, 236–7
penalty for holding, 237
FEES, for acknowledgment of deeds—
before Chancellor, Judge, 238
Justices, 358
in court, 245
of release to executors, &c. 238
indenture of apprenticeship, &c. 358
manumission; 359
in Bastardy, 74
in bounding lands, 82–3
before Chancellor or Judge, out of court, 100
copies, 252–3
on distress for rent, 369
elections, holding, 259, 260
escheats, 202
Appraisers appointed by Register, 257
Sheriff, 243
Assessors, 257
Attorney General, 239
Attorney at Law, 253, 357, 358
Bailiff in court, 256
Chain carriers, 257, 83
Clerk of High Court of Errors and Appeals, 243
Clerk of the Orphans Court, 251, 252
Clerk of the Peace—in criminal cases, 248, 249
roads and licenses, 249
Clerk of Levy Court, 249
Clerk of the Supreme Court and Prothonotary, 244, 246
on appeals and cases from Justices, 357, 261
Clerk only, 246
appeal from Register and Orphans Court, 246
Oyer and Terminer, 246
on certiorari, 358
Prothonotary only, 247

FEES—
Collectors, 257, 258
Commissioners of Land Office, 548, 551
Constable, 255, 356
Coroner, 254
County Treasurer, 258–9
Cryer, 254, 255
Fence viewers, 260
Freeholders, appointed to make partition, assign dower or value ward's lands, 256
in case of roads, 257
appointed by Justice, 357
General Assembly—
Clerks, 260
Sergeant-at-arms, 260
Bell-ringer, 260
Jurors, 256
Justices of the Peace—
in proceedings under $50 Act, 355, 358
taking acknowledgment of deed, 358
of manumission, 359
for probate, 359
deposition or affidavit, 359
in case of apprentices, &c. 358, 359
for taking acknowledgment of acquittance, &c. to Executors, &c, 238
for marriage license, 238
cases of criminal nature, 238
Landlord *vs.* Tenant, 238
forcible entry, 239
for penalties, 239
in Land office, 544, 548, 551
Levy Court Commissioners, 257
Notary Public 253
Recorder of deeds, 239, 544
Referees, 256
Register in Chancery, 247, 248
Register of wills, 250
Secretary of State, 238
Sheriff, 239, 243, 635
serving writs, &c. 239
Ca. Sa. 239
other executions, 240, 241
expenses of keeping goods, &c. 243
on deed, 242
Landlord *vs.* Tenant, 242
criminal cases, 242
Oyer and Terminer, 243
summoning juries, 243
writ for convening General Assembly, 243
elections, 243

FEES—
Sheriff—
attending Court of Chancery, 243
of High Court of Errors and Appeals, 243
to indorse on all writs, process, &c. his fees & forfeiture for neglect, 242
duty as to dollarage received after return, 242, 243
cases in court, from Justices of the Peace, 261, 357
execution from Justice, 357
State Treasurer, 259
Surveyor, 257
Treasurer of the Poor, 259
Trustees of the Poor, 259
Witness, 256, 357, 358
penalty on prothonotary, clerk of Sup. Court and Clerk of Peace, buying these fees, 451
entered on docket, 262
and indorsed on execution, &c. 263
taxed by court, 263
fee-bill construed strictly, 263
bill and receipt for fees, 263
penalty for taking unlawful fees, 264, 359
to the State—
by constables, 87
to be received by Clerk of the Peace, 265, 266
on tavern licenses, marriage licenses, licenses to pedlers, &c. appropriated, 267
on licenses for gill-nets, 275
on licenses to retailers, 462
appropriated, 462
by Secretary of State, 264, 265
on act for bringing slaves into the State, 32
by Clerk of Supreme Court or Prothonotary on license to export or bring in slave, 501, 502
FELONY, compounding, 142
disabilities of convicts, 144
FENCES, lawful, 268, 269
division, 268, 269, 270
FENCE VIEWERS, 268, 270
warrant to, 271
notice of their appointment, 271
award of damages, 268, 269, 272
three may act, 271
powers, 268, 271
jurisdiction of Justice, 269, 272
FERRY at New-Castle, 602, 605
tolls, 604
at Seaford, 606
FINES AND COMMON RECOVERIES, 196, 197
FINES AND FORFEITURES, 272
appropriation, 272
neglect to pay over, 272

FINES AND FORFEITURES—
list transmitted to State Treasurer, . . 272
to Auditor, ... 59
Justice imposing a fine, can not receive it, . . 361
FIRE ARMS, discharging in towns or within one hundred yards of mill-dam, over which is public road, &c. penalty, ... 329
excepted days of public rejoicing, . . 330
discharging in town of New-Castle, . 635
FIRE, setting, ... 131
FIRE, in public offices, care of, . . . 453
FIRE-WOOD, length, ... 559
measured, ... 558
FIRING CHIMNIES, ... 273
Wood-land and Marsh, . . 273
FISHERIES, - - - - 274–276
non-residents raking for oysters prohibited, except as to Maryland, - - 274–275
gill-nets and gill-seins, penalty for using in the Delaware without license, - - 275
wears in creeks and rivers, - - 552, 556
Lewes creek, - - - 553
St. Jones' creek, - - 553–4
Indian river, - - - 554–5
Spring creek, - - - 555
FLOUR—
Flour-trier appointed, - - 280
deputies, - - - - - 280
inspection, - - - - 276
casks, brands, - - 276, 277, 278
superfine, - - - - 277
common, - - - - 278
middlings, - - - - 278
disputes, - - - - 278, 282
frauds, - - - - 279
inspector & deputies not to trade in flour, - 279
adulterated flour, - - - 282
duty on inspector to go a-board vessels, - 280
rye flour, - - - - 280, 282
indian meal, - - - 280, 282
not to be exported without inspection, - 281
except to Philadelphia, - - 280
and New-York, - - - - 282
Inspector for New-Castle, - - - 634
FORCIBLE ENTRY AND DETAINER, - 283
proceedings, - - - - 283, 284
limitation, - - - - 283
title not in question, - - - 284
landlord's possession by tenant, - - 284
[See *Landlord & Tenant.*]
FORGERY—
bank notes, - - - - 135

FORGERY—
other papers, 137
records, 137
FRAUD against creditors, 139
preferring creditors, 139
FREDERICA, town regulations, 607, 608
FREE NEGROES AND MULATTOES—
Larceny, 134, 135
[See *Negroes & Mulattoes.*]
FUGITIVES FROM LABOR, 12, 291, 292
obstructing arrest, penalty, 291
Act to be given in charge to Grand Jury, 292
FUGITIVES FROM JUSTICE, 11, 295

G.

GAOLER, Sheriff responsible for, 447
penalty, supplying or suffering liquor, for convicts, 142
felons, convicts, imprisoned, to be kept at labor, 148
not to keep tavern, 448
not to sell, &c. liquor to prisoners, 448
liable for escape *on execution*, 216
penalty, not delivering to prisoner copy of warrant of commitment *on demand* 296
disobeying habeas corpus 296
duty as to prisoners committed by authority of United States 447
prohibited from any gratuity &c. for ease or favor 448
GAOLS—care of 447
commissioners of 448
in New-Castle county 449
compensation to commissioners in New-Castle 451
other counties 449
powers in New-Castle 449 450
other counties 448
[See *Prisoners.*]
GENERAL ASSEMBLY—
Annual meeting 19
place of meeting 292
chambers in Court House at Dover 293 565
convened or adjourned by Governor 22
Compensation to members and officers 293
paid on orders drawn by Speakers 484
Journals 19
printed and distributed 498
duty of Clerks 498
Appointment of State Treasurer 27 506
committee to examine his accounts 506
Appointment of Auditor 54
his report 54
Power of Houses as to election returns 186
Election of Senator in Congress 195

GENERAL ASSEMBLY—
copy of record of sessions of court & attendance of Judges to be laid before - - 123
Account of Secretary of State laid before - 267
Account of bridge over Naaman's creek - 577
Christiana canal - - 588
GENERAL ELECTION, [See *Election.*] 173
GEORGETOWN - - - - 609 610
GILL-NETS AND SEINES—
prohibited in the river Delaware, without license 275
under penalty - - - - 275
License, oath, tax, - - 275
duty of Secretary of State and Clerk of Peace 276
GOOD BEHAVIOUR—
surety for - - - - - 328
discretion of court as to costs : : 264
GOVERNOR, - - - - - 20 22
tenure of office - - - - 21
qualification - - - - - 21
disqualification, - - - 21
compensation - - - - 21 484
no fees, daily expenses or &c. - - 484
communications to General Assembly - - 22
convening or adjourning General Assembly 22
vacancy - - - - - 22
to appoint *Justices of the Peace* - - 26
Sheriffs and Coroners - - 27
to consider Sheriff's office vacant and appoint accordingly, unless security certified, &c. 454
general power of appointment - - 21
incompatible offices - - - 21
Appointment of constables in case of vacancy 88
information to Executive of other States - 133
interchange of laws - - - 497
to receive returns of elections of Electors of President and Vice-President - - - 191
proclamation and notice to electors - 191
to deliver Lists - - - 192 *(n)* 193
to convene General Assembly if no choice . 191
election of Representatives in Congress, certificate and proclamation, - - - 194
writs for election to fill vacancy - 5 195
to appoint Physicians, &c. - - 298
Superintendent of Schools, - 494
first Burgess of Wilmington in certain case, 681
to fill vacancy in office of State Treasurer, 506
Auditor, - - - - 54
Inspector of flour, - - - 280
Commissioners of the Land Office, - - 513
GRAND JURY. [See *Jurors.*]
GUAGERS. Wilmington - - - - 678
GUARDIAN, appointed - - - 422

GUARDIAN—
Bond 422
relief for surety 421
further security 423
valuation of ward's land 423
when maintenance and education of ward may exceed income 424
powers 424, 325
money loaned under order of court 421
order upon him to deliver up ward's property 424
not to dispute ward's right 424
no guardian except by appointment 424
Accounts 25, 423
in what case relieved from interest 421
Receipts, &c. acknowledged and recorded 236
GUNS, FOWLING PIECES, &c.—
penalty for discharging in towns or within one hundred yards of road over mill-dam, 329
in New-Castle, 635

H.

HABEAS CORPUS, 17, 24, 294
hearing on, adjourned, 64
commitment in case of criminal nature, 294
in vacation, 294
term time 295
service and return, 294
time of determination, 294, 64
fugitives from justice excepted, 295
also persons imprisoned by authority of U. States, 295
and in civil cases, 295
penalty on Chancellor or Judge not awarding writ, 295
penalty for disobeying writ, 296
penalty on Sheriff or Gaoler not giving copy of warrant, 296
person liberated not imprisoned for same cause, 296
penalty, 296
person committed in criminal case not removed from prison to prison without Habeas Corpus, 296
Habeas Corpus, in cases not of a criminal nature, 297
service and penalty for disobedience, 297
HAWKERS AND PEDLERS, [See *Pedlers.*]
HEALTH, 298
preventing infectious diseases, 298, 304
Physicians appointed, 298
deputy, 302, 303
duty, 298, 299
Vessels having more than 40 passengers, or any infectious disease, or coming from sickly place, 298, 300

HEALTH—
Licenses, - - - - 298
fee for, - - - - 299
penalty for going on board without permit, - 299
regulations as to dimensions of births in vessels, and accommodations. - - - 299
penalty for contravening these regulations, - 299
Physician to inquire and report delinquents, - 299
power to regulate intercourse with places, where are infectious diseases, - - - 300
Quarantine, - - - - 300
land intercourse, - - - - 300
penalty for violating regulations, - 301, 304
Liability and remedy for penalties, - - 301
all civil officers to aid, - - - 303
travellers on foot from infected places, - 304
HIGH COURT OF ERRORS & APPEALS—
[See *Courts.*]
HIGHWAY ROBBERY, - - - 132
indictment for, and conviction of simple robbery, 146
HORSE-RACING, - - - 141
HORSE-STEALING, - - - 132
HORSE STOLEN, DISPOSING OF, - - 133
HORSES, - - - - - - 304
HOUSE-BREAKING, - - - - 129

I.

IDIOTS & LUNATICS, - - - - 305
IMPEACHMENTS, United States officers, - 5, 6, 10
State officers, - - 22, 23
IMPORTED EMIGRANTS, - - 305
INDIAN CORN MEAL, inspected (Philadelphia excepted) - - - - 280
(exception as to New-York,) - - 282
INDIAN RIVER, wears in, - - 554
INDICTMENT - - - 14, 16, 17
where found, - - - 144
change of venue, - - - 145
for manslaughter, forgery, perjury, - - 146
"free negro," "free mulatto," in Larceny, 146
for murder and conviction of manslaughter, 146
for highway robbery and conviction of simple robbery, - - - - 146
for second offence, - - - 147
offences indictable at common law, - 141
INFANCY, no parol demurrer, - - 424
INFANT, unborn, - - - 314, 315
INFECTIOUS DISEASES—
regulations, preventive, - 298, 300, 304
INQUIRY, writ of, - - - - 102

INSOLVENCY—
Frauds in, 139
preferring creditors, fraud, 140
prisoner under civil process, petition for discharge, 306, 355
restriction, 313
proceedings, 307
appearance, one of several joint parties, 313, 314
remanded, 307
adjudged to serve, 307
order to produce money, bonds, &c. 307
oath, 307, 308
false swearing, 314
assignment, 308
effect, 309
exempt property, 309
one years rent, 309
trustees, duties, 309
account and change of, 310
bond may be required, and inventory & appraisement, 310
Adjudication, 308, 311
priority, 311
Discharge, effect of, 310, 313
Lien not affected, 311
sureties not released, 311
proceedings against person discharged, 313
Demands—
exhibited in one year, 310
disputed claims, 310
distribution, 310
in Chancery, proceedings, 308
INDEMNITY TO COUNTY, 312
notice of order when presumed, 312
discontinuance of charge, 313
INSPECTOR OF ELECTION, 171
[See *Election.*]
INSPECTOR OF FLOUR, 280
in town of New-Castle, 634
Wilmington, 678
INTEREST, rate, 314
INTESTACY, 314, 315
children born after Will, 314
Widow, Will made before marriage, 314
INTESTATES, REAL ESTATE, 315
descent, 315, 316
computation of kindred, 316
different blood, 316
Curtesy, 316
Dower, 316
Partition, 316, 317, 318
land in several counties, 324

INTESTATES, REAL ESTATE—
advancement, - - 317
appraisement, - - - - 318
unless all parties minors, - - 319
acceptance, - - - 319
right of acceptance, - - - 320
assignable, - - - - 322
of husband, - - - - - 322
party applying, to whom there are prior rights, 321, 322
prior party incompetent, - - - 322
appraised in parts, acceptance, - - 320
effect of acceptance of part, - - 323, 324
sale, - - - - - 322 323
discretion of court, - - - 323
Title under acceptance, - - - 324
Recognizance, - - - 349, 320
Lien, - - - - 324
satisfaction, - - - 485
limitation as to sureties, - - 397
Freeholders to divide, - 318, 324. 325
majority, - - - - 325
oaths, - - - - - 325
New order, - - - - 321
Minors' guardians, - - - 225
no proceeding except of land in possession, - 325
costs, - - - - - 325
liability for debts not affected, - 326
appeal, - - - 326
proceedings, heretofore in part, - - 326

J.

JOINT ACTIONS, - - - 326, 346
JOINT & SEVERAL OBLIGATIONS & CONTRACTS
of several, are joint & several, unless otherwise stipulated, - - - - 225
JOINT TENANCY, how created, - - 167
JOINT TENANTS & TENANTS IN COMMON—
what a joint tenancy, - - 167
tenancy in common, - 167, 170
Actions, use and occupation, - - 166
waste, - - - 166
[See *Partition*.]
JUDGES, penalty for denying writ of ha. cor. - 295
salaries, - - - - 484
what other perquisites, - - - 484
JUDGMENT, lien, - - - 392, 393
of High Court of Errors and Appeals, - 393
satisfaction of, - - - - 485
against Executor or Administrator, when a lien, 225
when not conclusive of assets, - - 225

JUDGMENT, NOTES & BILLS, 337
JURIES, SPECIAL, 119, 120
expense, 120
Fees, 120, 256
JURORS, GRAND, 112, 113
practising Physicians, exempt, 121
Tales, 113
register of attendance, 117
lists signed by Judges, 117
penalty for non-attendance, 114
at Quarter Sessions, 112
to serve for one year, 113
sworn each session, 113
no person obliged to serve two years in succession, 113, 121
duty in respect to certain convicts not wearing badge, 143
at Court of Oyer and Terminer, 113
when may be omitted, 113
PETIT, 114
not obliged to serve more than one court in same year, 121
practising Physicians exempt, 121
persons having any matter of fact at issue at a court not to be summoned, 256
to Oyer and Terminer, 113
to Supreme Court, Common Pleas and Quarter Sessions, 114
same Jurors in Common Pleas and Quarter Sessions, 115
view, 117
drawn, 115
peremptory challenges, in criminal cases, 145, 146
in civil cases, 120, 121
making default, penalty, 115
general or special verdict, 446
papers they may take from bar, 446
Tales, 116
default, penalty, 116
register, 117
of inquiry, 118
Judgment not reversible for want of writ of veni. fa. ju. 118
Fees, of Jurors—
Grand, Petit, Special, 256
no fee to petit juror having any matter of fact at issue at the court, 256
orders for payment, 117
Lists, 117
[See SHERIFF & CORONER.]
JUSTICES OF THE PEACE, not disqualified, by being a taxable, from acting in respect to the poor, 444
Number, 26, 326

JUSTICES OF THE PEACE—
may permit a dead body to be buried without inquisition, - - - - 96
may hold inquiry of death, in absence, &c. of coroner, 96
Power in binding to the peace, - - 328
to take recognizances, - - 101, 63
in criminal cases, - - - 62
examination of accused, - - - 63
bail, - - - - 63
witnesses bound to appear, - - - 63
required to find surety, in what cases, - 63
convict not wearing badge, duty of Justice, - 143
commitment for want of bail, sum to be indorsed, 63
to deliver recognizances to Attorney General, 64
in case of drunkenness and profane swearing, 628, 329
Fire-arms, discharged in town, - - 329
Nuisances, dead or dying animals left within 100 yards of street. road, &c. - - 330
Assault and Battery, submitted, . - 360
submission in writing and signed, - 360
fine limited, - - - - 361
not to receive fines or costs, - - 361
to certify fines imposed, &c. to Auditor, - 60
penalty for neglect, - - - 60
Power, to bind apprentices and servants, 34, 38, 42
assignment, - - - - 37
when two act, must be together, - - 38
Note or certificate by, - - - 36
duty to transmit indenture to Recorder, - 36
penalty for default, - - - 37
fees, - - - - - 358
in case of run-a-way, - - - 40
to take acknowledgment of Deeds - - 89
certificate, - - - - 93
fees, - - - - 358
of receipts to executors, &c. - - 236
fees, - - - - - 238
of manumissions, - - - 408
fees, - - - - 359
duty to attend elections, - 185, 193, 195
Power in case of infectious diseases, - 300
of desertion of children or wife, - - 443
License for landing passengers, - - 443
duty in respect to Strays, - - 511
fees, - - - - 512
Fences, - - - - 269
Jurisdiction of Bastardy, . - - 70, 74
Proceeding may be in either county, - 73
Process directed to constable of either county, 73
Bond, approved and transmitted to Trustees of Poor, 71
Appeal, - - - - 71

JUSTICES OF THE PEACE—
Bastardy—
Deposition of Mother, 74
fees, 74
incase of inspection of flour, 278, 279, 280
to transmit account to Auditor and penalty for default, 280
JURISDICTION OF, *Forcible Entry & Detainer*, 283
time between issuing warrant and return, 287
Landlord vs. *Tenant holding over*, 285
discretion concerning costs, 289
oath of jurors, 288
trial, 287
verdict 287
damages, 287
entries 290
proceeding in absence of defendant 288
adjournment 288
defect of jurors supplied 288
witnesses 288
certiorari, no supersedeas 290
formal defects 290
OF SMALL DEBTS, 330
jurisdiction defined 330
suits for taxes excluded, except in specified cases 355
Docket of suits 339
service of summons 331
return verified by oath 332
Hearing 332
Adjournment 332
Special Bail 333
entry must be signed 333
how discharged 333
proceeding against 333 346
bail may arrest principal 334
Judgment by default 334
when taken off 334
Non-suit 334
Trial by freeholders 334
summons for freeholders 334 354
penalty for default 334
Set off 335
demand, if not set off, forfeited 335
Costs 336
on appeal 344
Executors & Administrators—
every judgment, of assets 336
give no security on appeal 343
scire facias against 346
survivency of cause of action 346
and executor or administrator made party 346
New Trial 336

JUSTICES OF THE PEACE—
SMALL DEBTS,
Judgment Notes . . . 337
note filed with Justice . . . 337
how a trial may be had . . . 337
Execution . . . 337 340 348
stay of . . . 337
entry of security must be signed . . . 338
superseded on security . . . 338
form . . . 339
venditioni exponas . . . 340 341
when directed to Sheriff . . . 339
binds from inventory and appraisement . . . 339
within what time it may issue . . . 347
Attachment execution . . . 348
return . . . 340
liability of officer . . . 340 341
default in paying over . . . 341 342
commitment . . . 341
Docket of Execution . . . 340
Lien on lands by entry in Common Pleas . . . 342
Appeal . . . 342
time, security, entry . . . 343
signed by surety . . . 343
entry in court . . . 343
proceedings . . . 343 344
abated . . . 344
dismissed . . . 345
stricken off by Justice . . . 344 345
Death of Surety . . . 345
Scire Facias . . . 345
Judgment assigned to surety paying off . . . 345
Scire Facias on Judgment . . . 347
no stay of execution . . . 347

Executor, Administrator or Assignee made plaintiff without Scire Facias . . . 347
but no assignee can become party, except surety . . . 347
Attachment . . . 348
sale of perishable goods . . . 349
when judgment . . . 349
plaintiff must prove demand . . . 349
Garnishees . . . 349 350
answering falsely, perjury . . . 350
may defend suit . . . 350
may deliver over goods . . . 350
protected against defendant . . . 351
constable held for goods . . . 351
attachment dissolved on bail . . . 351
Defendant appearing in one year, trial . . . 351

JUSTICES OF THE PEACE—
SMALL DEBTS—
power of two Commissioners 552
Satisfaction of Judgment 352 340
duty of Justice 340
penalty for neglect 352
Witnesses—
Subpœna 354
Attachment 353
Depositions 354
Docket of Justices 339 340 352
indexes to 340
delivered, on expiration of term, &c. to other Justice 352
penalty for neglect 352
remedy 352
Copies of record, right to demand on payment of fees 353
penalty for neglect 353
for false or fraudulent copies 353
evidence 353
on appeal or certiorari 353
Fees 355 359
officers confined to these fees 359
penalty for unlawful fees 359
List of fees hung up in Justice's office 359
Suit in court, on demand cognizable before Justice, no costs 351
Jurisdiction of Trespasses 359
Statement of injury 360
summons or capias 360
costs payable by Justice in certain cases 360
Freehold claimed and removed to court 360
entry 360
signed by surety 360

K.

KENT & NEW-CASTLE, & Kent & Sussex, lines 590 591
KIDNAPPING 131 40
second offence 131

L.

LANDLORD & TENANT—
What shall be a demise *(or lease)* 368 286
No letting, unless by deed, effectual for more than a year 368
A letting, without a term expressly limited, to be for one year 368
tenancy from year to year 286
at will 286

LANDLORD & TENANT—
Tenancy at will, determined . . . 286
Distress for rent . . . 361
fees, ... 369
[See *Rent.*]
Duty of tenant to give notice of declaration of Ejectment . . . 368
penalty for neglect . . . 368
Tenant liable for taxes and remedy . . . 379
Tenant of Mill, duty as to bridges, concealing wheel, &c. . . . 466
Notice to remove, from landlord to tenant (in writing) . . . 285 368
from tenant to landlord . . . 368
if no notice, term continues . . . 368
if tenant do not remove pursuant to notice, double rent . . . 368
when given by tenant for life, who dies . . . 286
Proceeding against Tenant, holding over, . . . 285
time between issuing and return of warrant . . . 287
service . . . 287 288
Sheriff or Coroner neglecting—to pay costs . . . 288
plaintiff neglecting to deliver warrant, to pay costs 288
Adjournment . . . 288
Jurors, oath . . . 288
refusing to serve, and attachment . . . 289 290
Trial . . . 286
Sheriff, &c. to attend . . . 290
Verdict . . . 287
Judgment . . . 287
Damages not to exceed $50 . . . 287
when waived . . . 287
Costs . . . 287
Witnesses . . . 288
Subpœna and Attachment . . . 288
Certiorari, no supersedeas . . . 290
on reversal, restitution discretionary . . . 290
Proceeding against tenant giving notice and not removing . . . 368
Rights of Landlord in Ejectment . . . 368
Reversioner, Remainder-man, Grantee . . . 370 286
LAND MARKS, removing . . . 79
LAND OFFICE . . . 543
Issuing of further warrants prohibited . . . 552
Warrants and Surveys . . . 546
General Warrant valid . . . 550
preference to Special Warrants . . . 550
Board of Commissioners . . . 543
oath . . . 548
their sittings . . . 548 551
fees . . . 548 551

LAND OFFICE—
Commissioners—
power to adjourn 552 *n*
Appeal 548
Warrants issued between 1 Jan. 1776, and 1792, 544
confirmation of certain titles 545
Proprietary grants before Jan. 1, 1760, 545
Warrants between 1760 and 1792, 546
Effect of certain proprietary warrants 547
Maryland grants for life, &c. 547 549
Patent 548 545 546
Fees, of Recorder 544 239 *n*
papers from New-York, Pennsylvania and Maryland
[See *Papers title*, and *Recorder*.]
LANDS, right of soil of the State 545
[See *Vacant Lands*.]
LARCENY 132 135
by free Negroes and Mulattoes 134 135
by Slaves 152
LAUREL, town regulations 610 614
LAWS, new edition 31
interchange 497
LEASE, what shall be 368 286
notice to end 368 286
unless by deed, not good for more than one year, 368
LEGACIES, when payable 228
action for 228 370 372
when satisfaction of debts 229
LETTERS TESTAMENTARY and Administration 218
Executor not named in Letters has no authority 218
LEVY COURT—
how composed 372
Who eligible and who not 372 419
oath 373
Quorum 373 374
days of meeting 373 374
constables attending 386
to administer oath, and instruct Assessors 374
parts of Acts to be read to Assessors 374 376 386 390
to value property of Assessors 374
statements for this purpose, and penalty for fraud 375
Assessment 386 390
[See *Assessment*.]
property reduced in value, without fault, assessment reduced 391
Returns of Assessors 374
corrections, additions, &c. 375
list published with notice of appeal 375
notice to non-resident 376
Appeal 376
assessment list not otherwise questioned 376

LEVY COURT—
Calculation, &c. of public charges . 377
costs in criminal cases . 254 262
fuel and bedding for gaols . 447
lists of orders for jurors . . 117
list of fees of officers and witnesses . 147
no demand allowed, if assigned or contracted for 451
Taxes . . . 377
when payable . . . 382
earlier payment ordered . . 383
addditional road tax . . 385
Collector appointed . . . 381
bond . . . 381
Warrant and date . . 377 381
Account . . . 384
[See *Collector*.]
County Treasurer, and bond . . 383
who can not be . . 419
Account . . . 385
[See *Treasurer, of County*.]
Overseers of Roads . . . 385
power of Levy Court to assign Bridge to any Overseer . . 471
Account . . . 385
in Sussex county, to receive with warrant a list of road taxables . . 481
and Levy Court to make rules . 482
[See *Roads & Bridges*.]
Forms for accounts . . 386
Power in respect to opening roads . 470
to bridges in New-Castle county 466
Commissioners of Gaols appointed . . 448
in New-Castle county . . 449
Overseer of work-house . . 450
Trustees of the Poor appointed . 435
who cannot be . . 419
their accounts . . 444
Lamps and index board for bridge over Brandywine 585
Bridge over Naaman's creek . . 576
Power to remove Lunatics from Gaol to Poor House . . . 391 392
LEWES—
streets in 549
town regulations . . . 614 618
trustees may contract for bridge over Lewes creek 617
LEWES CREEK, bridge, [See *Bridge*.] 569—574, 617
Wears in - - 553
Cape on north side of, cutting wood on, &c. penalty, &c. - - 124, 589
LICENSES, marriage, tavern, tin venders, pedlers 265, 266
to retailers - - 462, 464
for use of gill-nets and gill-seins in the Delaware 275

LICENSES—
to export slaves, - - 154, 501
servants - - 148
to import - - - 501
tax - - - 501, 502
LIEN OF JUDGMENTS - - 26, 393
when judgment not a lien - - 225
of recognizance in Orphans Court - 324
in criminal cases, orders for payment, &c. - 262
of official recognizance and bond, as to principal 455, 456
of execution on goods - - 394
from Justice of Peace - 339
LIMITATION OF ACTION—
Waste - - - 167
trespass for mesne profits - - 170
of forcible entry and detainer - - 283
action on escheator's bond - - 198
of entries and actions, for lands, &c. - 396
of personal actions - - 397 399
of appeals, from decree of Chancellor - 395
or Common Pleas, in Equity 396
from Orphans Court to Supreme Court 421
of Distress for rent - - 368
of Exceptions to Accounts - - 398, 399
LITTLE CREEK BRIDGE, [See *Bridge.*] - 574
LITTLE CREEK MARSHES, penalty for injury to banks, - - - 427, 639
LITTLE CREEK & DUCK CREEK HUNDREDS, line - - - 602
LIVERY OF SEISIN, not necessary - - 89
LOTTERIES, - - - 138
LUNATICS, removed from Gaol to Poor House 391 392
from Poor House in Kent to Hospital in Philadelphia - - 445
[See *Idiots* and *Lunatics.*] - - 305

M.

MAINTENANCE - . . 138
MANSLAUGHTER . . 127 156
MANUMISSION, requisites . . 408
by Will . . 409
MARINERS, not to be trusted above 10 shillings 399
MARRIAGE—
prohibited degrees . . . 400
unlawful, of pauper in Poor House, and penalty 438
unlawful between white and colored persons 400
how solemnized . . 400
license or bans . - 400
consent of parents or master, when necessary 400
marriage of servant without consent . 400

MARRIAGE—
unlawful—void . . . 401
penalties 401
Fee 401
License, and fees therefor . 496 265 238 249
blanks for, and bond . . . 267
MARRIED WOMAN—
her deed 89
covenants in . . . 89
private examination . . . 89 90
MARSHES, unseasonable firing . . . 273
MAYHEM 128
MEDICAL SOCIETY, powers . . . 431
MESNE PROFITS, action for . . . 170
MILFORD, town regulations . . . 618 620
MILLERS, toll 402
on Christiana and waters emptying into, required to grind grists 402
regulation of Brandywine Mills in this particular 403 404
penalties 403 404
MILLS, proceeding, owner of one mill injured by another's mill-dam, &c. . . . 404
limitation 405
unusual discharge of water by design or accident notice to mill next below on same stream 405
penalty for neglect . . . 406
Owners and Tenants, to maintain bridges, &c. in certain cases . . . 466
to keep wheel covered, &c. . . 467
penalty for neglect . . . 467
tenant's expenses retained, &c. . . 467
MILTON, bounds and survey . . . 622
MISPILLION NAVIGATION COMPANY 622 624
tolls 623
MONTHS, computation of . . . 143
MORTGAGE, date of its lien . . . 91
when for purchase money, preference . 91
satisfaction of, to be entered . . 92
penalty for neglect . . . 92
defeasance or contract in nature of, to be noted on deed and recorded with it . . 91
such defeasance or contract to be recorded . 91
consequence of neglect . . . 91 92
Scire Facias on 205
when 206
Levari Facias 206
title under sale . . . 206
no greater estate than mortgaged . 207
MOUNTEBANKS 417
MURDER 127
MURDERKILL HUNDRED . . . 601

MURDERKILL & SPRING CREEKS 624
penalty for obstructing, or the canals 624

N.

NAAMAN'S CREEK, bridge 575 577
[See *Bridge.*]
NEGROES & MULATTOES, not to be employed to inflict corporal punishment on a white person 157
Servant or slave, if at place of election, penalty on master 188
free, at place of election, penalty 188
Petitioning for freedom 499 500
Licenses to export 154 501
to import 501
Setting free—
indemnity to county 406
dispensed with in certain cases 406 407 414
in all cases 416
Liability of master for maintenance 416
proof of age on master 417
creditors not affected 407
verbal contracts for freedom, void 408
manumission, requisites to validity 408
Will 409
To be free at future day, slaves in the meantime 409
absenting, satisfaction 410
children of such females 409 410
recorded, and penalty for neglect 410
Run-a-way 413
travelling without a pass, deemed so 292
advertised, and when discharged 413
not delivered without authority of Justice 413
on proof 413
and between sun rise and sun set 413
proceeding under Act of Congress 414
Escaping from other States into this 291
proceedings to secure 291
obstructing arrest, penalty 291
Harboring, &c. another's slave or servant, penalty 414
Transporting slaves from this State by water, penalty 291 292
Free, their privileges 407
when witnesses 407
proceeding for binding their children 35
not to be bound, if parent will indemnify county 35
Emigration from other States, prohibited 410
proceeding for removal 411
hiring, harboring, &c. penalty 412
if out of State six months, non-residents 411
[See *Crimes and Misdemeanors* and *Slaves.*]

NEWARK, bounds - - - 625
NEW-CASTLE, town—
Pound - - - - 625
Cattle impounded, and notice - - 625 626
Pound keeper - - - 626
Market - - - 626
days - - - - 627
penalty, buying or selling on market days, except in market, &c. - 627
poor, lean meat forfeited - - 627
penalty for slaughtering in market house 627
false weights and want of weight - 627
Clerk, elected - - - 631
oath and bond - - - 627
perquisites - - - 632
rent of stalls, and renting - 632
Regulations, power of commissioners to make 628
Inspector of flour and corder of wood - 634
penalty for extortion - - 634
compensation to them - - 634
Commissioners elected, - - - 629
survey and maps and marks - - 628
penalty for removing marks - 628
streets opposite piers - - 635
party walls - - 629
penalty for encroaching on streets - 630
Tax - - - 630 631 634
for fire companies - - 635
Treasurer - - - 631
his bond - - - 634
partition fences - - - 630
ground plan - - - 632
recorded - - 633
gutters, pavements - - 629 633
sale of lots, for expenses . . 633
Lamps - - - 634
penalty for destroying . . 634
shooting within the town, muskets, fowling pieces, pistols, &c. penalty . . 635
State House and public lots, &c. vested in Trustees 636
NEW-CASTLE & KENT COUNTIES, line 590 591
NOTICE TO QUIT . . 284 368
must be in writing . . 284 368
NOTICE OF SALES ON EXECUTION, of goods 240, 241, 339
of lands 205
NUISANCES—
Circus shows . . 417 418
in roads . . 472
leaving dead or dying animals in streets, &c. 330

O.

OATH OF OFFICE . . 12, 29

OATHS, up-lifted hand . . . 418
persons authorized to administer . . . 419
affirmation . . . 135
OBLIGATION, of several, joint and several, unless otherwise stipulated . . . 225
OFFENCES indictable at common Law . . . 141
OFFICES INCOMPATIBLE . . . 21 419
OFFICES, PUBLIC . . . 452 453
places . . . 28 121 452 565
to be kept open . . . 452
deputies . . . 452
penalty . . . 452
care against fire . . . 453
penalty and forfeiture . . . 453
ORPHANS COURT . . . 30
Terms . . . 419 420
process . . . 420
depositions . . . 420
issues for Jury . . . 420
testimony in case of appeal . . . 420
duty of clerk in recording papers, &c. . . . 420
penalty for neglect . . . 421
power on complaint of surety for guardian, executor or administrator in danger . . . 421
order for loan of money, by guardians, executors, &c. . . . 421
guardian appointed . . . 422
order to value ward's lands, &c. . . . 423
order as to education &c. of ward . . . 424
person appointed to take charge of minor's property 424
Dower, jurisdiction of . . . 168 165
and partition, of intestate's real estate 318 326
[See *Intestate's real estate*]
Order of sale of real estate of dec'd for payment of debts 231
Petition and notice . . . 231
Devisee, &c. paying his proportion . . . 232
Discretion of court . . . 235
[See *Executors and Administrators.*]
OYER AND TERMINER—
[See *Courts.*]

P.

PAROL DEMURRER, in no case because of infancy . . . 424
PAPERS, concerning land titles from New-York . . . 640
Pennsylvania . . . 642
Maryland . . . 644
PARTITION, by proceeding at law . . . 166
costs . . . 165
in Chancery . . . 168 169
costs . . . 169

PARTITION—
in Orphans Court, of intestate's lands, &c. 316 321
costs - . . - 325
PASSENGERS in vessels from foreign countries 209 305 443
PATENTS. [See *Vacant Lands.*]
PEACE, binding to - - - 328
PEDLERS, Hawkers, &c. licenses to - 265 266
duty to show license on demand - 266
security before license - - 266
if not licensed, penalty - - 266
selling medicines, penalty - - 266
PENALTIES, for injuries to certain works 425 430
On—Whiteclay creek and Redclay creek marshes 425
Muddy branch and Simons creek 425
Marsh granted to T. Clayton and I. Stout esquires - } 639
Black bird creek marshes - 426
Jos. Mauls, in Slaughter Neck 426
Slaughter Neck - 427
Little Creek marshes - 427
Tappahannah marsh - 428
Broadkiln creek canal - 428
Cow marsh - - 428
Back bay, Prime hook - 429
St. Augustine creek marsh - 429
Baucumbrig marsh - 430
Chesapeake & Delaware canal 430
Newport bridge - 579
Summit bridge - - 586
Wilmington bridge - 583
Mispillion navigation company 623
Canals, &c. Murderkill and Spring creeks, and bridge over Spring creek - - - 624
[See *Bridge—Turnpikes.*]
PERJURY & SUBORNATION 135 178 185 314 350
PETITION for freedom - - 499
appeal - - - - - 409
PHYSICIAN of port of Wilmington, &c. - 298
PHYSICIANS, board of examiners - - 431
penalty for practising without license or permit 432
practising, exempt from serving on juries - 121
PILLORY, in Dover and Georgetown - - 640
PILOTS, vessels bound to receive - 433 434
duties enjoined on masters of vessels and penalty for neglect - - - - 433
Collector, bond and account - - 434
PISTOLS, &c. [See *Fire Arms.*]
PLEADING, payment - - - 78
assigning breaches - - 77
avowry and cognizance in rent - - 364

POISONING - - - 128
POOR—
Trustees—
power to bind apprentices &c. - 34 35 38 42
duty as to negro and mulatto children - 35
buying public claims at discount - 125
have charge of the poor &c. - - 436
their compensation - - 259
and their qualification and appointment - 435
penalty on refusal to serve - - 435 436
admitting paupers - - 437
insane persons removed to poor house - 391-2
dismissing paupers - - - 438
removing them to another poor house, State, &c. 440
relief to persons not in poor house - - 439
burial charges - - - 439
in Sussex, boarding poor out of poor house 439
removing from county persons likely to become a charge - - - 440
removing from poor house persons not having settlement - - - 440
Accounts, required by Levy Court - 444
articles not to be furnished for poor house by Treasurer, Overseer or a Trustee - 445
expenditures published - - 444
in Kent, may remove insane to hospital, Philadelphia - - - 445
Incorporated - - - 436
Meetings - - - 436
Officers, chairman, clerk, treasurer - - 436
Treasurer, his bond - - 437
account and vouchers - - 437
fees - - - 259
to settle with Auditor and penalty for neglect - - 55
buying claims at discount, penalty 125
Overseer - - - 437
his bond - - - 437
duties in admitting persons - - 437 391
improperly receiving, penalty - 437
list of paupers, account, &c. - - 437
salary - - - 438
settlement of persons, place of - - 439
Trustees of one county liable to those of another 440
limitation - - - 441
Liability of persons bringing in or retaining non-resident paupers - - 443
of corporations in such case - - 443
Licences for landing foreign emigrants - 443
Fee to Treasurer of the Poor - - 443
duty on granting license - - 444

POOR—
penalty for landing without license - 444
Relations, their liability - - 441
children or wife deserted, power of trustees 441 442
appeal from them - - 442
power of Justice - - - 443
POOR TAX— - - 444 377
Colored female having bastard child in poor house disposed of as servant - - 438
Marriage of paupers in poor house, penalty - 438
Dealing with paupers, penalty - - 439
Judges, Justices, Witnesses, not disqualified from acting because taxables - - 444
POSTHUMOUS CHILDREN - 314 315
PRACTICE, proceeding in case of assignment to joint-debtor, surety or bail - - 44 45
suits on public bonds - - - 76
proceedings on bonds and penal sums - 77
replevin on distress for rent - - 366
rent attached - - - - 369
Bill of exceptions - - - 446
Case stated - - - - 446
Papers, taken by Jury from bar - - 446
Verdict - - - - 446
Writs of Inquiry - - - 77 102
Rules of practice—
power to make, of Sup. Court and Com. Pleas 105
Court of Chancery 105 106
PREFERRING CREDITORS—
In assignments for their benefit, forbidden - 140
PRESIDENT OF THE UNITED STATES—
Election - - - - 9 15
election of Electors - - - 190
PRIME HOOK AND BROADKILN MARSH COMPANY 429
PRIVATE ACTS of Assembly must be recorded 32
PROBATE of debts against deceased persons - 226
PROTHONOTARY, bond - - - - 455
neglect to give bond, penalty and forfeiture 456
certify to Auditor, &c. and penalty for neglect 59 60
duty in respect to Jurors - - - 117
to record the days of the court being in session and the attendance of Judges and certify the same to Secretary of State - - 122–3
in record sent to High Court of Errors & Appeals to state Judges, who sat on hearing - 123
to enter costs on docket and indorse on execution 262–3
and real debt - - - - 395
neglect, penalty - - 263
date of judgments - - - 393–4
indexes - - - - - 394

PROTHONOTARY—
penalty for neglect - - - 394
not to purchase witnesses' fees, and penalty - 451
Satisfaction of Judgments and executions 485 242-3
recording bond of Recorder and list of books, &c. 456
duty in distributing laws - - - 497
journals - - 498
[See *Fees.*]
PUBLIC BONDS - - - 76 78 455
AND RECOGNIZANCES - - 453
Sheriffs - 453 454 635
other officers - - 455 456
Liens on Lands of Principal - - 455 456
PUBLIC CLAIMS—
Penalty on officers buying at discount 125 126
PUBLIC DEMANDS on county, if assigned, &c. before allowed, forfeited - - - 451
PUPPET SHOWS - - - - 417

Q.

QUARTER SESSIONS, [See *Courts.*]
QUARANTINE - - - - - 300

R.

RECEIVING STOLEN GOODS, *knowingly* 133 134 142
RECOGNIZANCE—
when a lien . . 324 455
when satisfaction to be entered . . 485
limitation in certain cases . . 397
RECORDER OF DEEDS . . 36 92 457
penalty . . . 37 456
bond and list of papers, . . 455 456
neglect to give bond, penalty and forfeiture 456-7
office, place of, kept open, . . 28 452
to record certain official bonds, &c. . 456 87 111
certain papers recorded in each county - 643
exemplification of these papers . . 643
to note date of receiving deeds, &c. and *certify recording* . . . 92
and give receipt, if required . . 92
entering satisfaction of mortgage . , 92
[See *Deeds.*]
in Kent, his office . . . 453
certain records transcribed . , 614
in Sussex, caveat docket and also certain records transcribed - - - 645
RECORDS—
Embezzling, forgery, destroying . 137
Breaking into office, &c. in which records are kept, with intent to alter, purloin, &c. - 129

RECORDS—
Burning office, &c. in which records kept 130
Certain copies and papers made records - 640 646
transcribed, &c. - - - 641 646
REFEREES, oath - - - - - 256
who may be required to serve, and penalty for default 257
REFERENCE, rule of - . - - 112
[See *Award*, and *Executors & Administrators.*]
REGISTER, (of Wills, &c.)—
his bond - - - . - 455
penalty and forfeiture, if neglected - 456–7
his court - - - - 25, 26
records transferred from Orphans Court to his office 452
granting Letters Testamentary or of Administration without bond, liability - - 221
Duty, of inventory and list of debts not filed in due time - - - - 224
if accounts not duly rendered by Executor or Administrator - - - - 227
or by Guardian - - - 423
process - - - - 231
to record acquittances to Executors, Administrators or Guardians - - - 236
[See *Executors & Administrators—Appeal* and *Wills.*]
in Kent, certain records transcribed - 645
REGISTER IN CHANCERY—
His recognizance - - 110 111
power and duty to adjourn the court - - 123
to record the days the court is in session, and to transmit copy to Secretary of State - 122–3
to enter on docket, and indorse on execution, order, &c. *costs* - - - 262–3
penalty for neglect - - - 263
in Kent, certain records transcribed - 646
RELIGIOUS LIBERTY - - 12 14 16
RELIGIOUS MEETINGS, penalty for disturbing 141 126
RELIGIOUS SOCIETIES, their books evidence 457
their rights to lands purchased in trust for them 457–8
Manner of incorporating - - 459
if not less than fifteen families - - 462
Notice of Meeting - - - 459
Trustees elected, name and capacity - 459 461
Electing Trustees *in succession* - - 461
notice of the meeting - - 461 459
Power and capacity of Trustees - - 461
chairman and his powers - - 461
majority - - - 462
minutes of their proceedings - - 462
Common Seal - - 461
RENT—
Apportionment, according to time - - 365
Assumpsit, use and occupation - - 365

RENT—
attachment for - - - 365–6
better security, as to one years rent - 366
Debt - - - 365
Distress for - - - 361–2
goods in execution may be distrained (*notice being given to creditor in the execution*) 367
goods followed and distrained, off premises 362
notice of distress - - 362
unreasonable - - - - 362
left on premises or impounded - 363
right to go on property to view, &c. - 363–4
distrainers property in distress - 368
pound breach and rescue - 364
appraised - - - 362
rent not of money, valued - - 362–3
what time distress remains in force - 369
Sale and notice thereof - - 363
fees - - - 369
notice to Landlord - - 367
Landlord's right, if money rent - 366
if rent of grain or other produce 367
Distress and sale, when no rent in arrear, penalty 364
Replevin - - - 362
Bond - - - 364
assignment - - 365
Avowry and cognizance - 364
Rent, found and judgment for 364–5
Second distress - - - 363
not if no sale - - 369
Distress without sale, effect - - 369
Irregularity does not vitiate distress, - 364
Limitation of distress - - 368
Husband's remedy after wife's death - 365
Remedy of one entitled for another's life, after death 365
Executors, administrators - - 365
attached - - - 369
[See *Landlord and Tenant*]
of premises sold on execution, how apportioned or payable - - - 213
in case of insolvency one year's preferred - 309
REPRESENTATIVES IN CONGRESS - 5 6 193
qualifications - - - 5
disqualifications - - - 6
in General Assembly - - 18 20 419
qualifications - - - 18
disqualifications - - 20 419
[See *Election.*]
RESIDUE *of deceased's personal estate distributed* - 227
RETAILERS—
Licenses to - - - 462 464

RETAILERS—
penalty, dealing without license - - 463
or selling by color of license at more than one place - - 463
who liable, who excepted - - 462 464
certificate of stock - - - 464
Tax - - - - 464
List of retailers and wholesale dealers, to be delivered by each collector for his hundred to Clerk of Peace - - 464
RIOT, ROUT - - - 138
ROADS *over Chesapeake and Delaware Canal* - 85
ROADS AND BRIDGES, *public* - - 465 482
Width of roads, causeways, bridges - 465
charges of - - - 465–6
owners and tenants of mills, their duty - 466 467
penalty for neglect - - 467
bridges over ditches, when maintained by owner or tenant of lands - - - 467
Bridges, power of Levy Court to assign to any overseer - - - 471
power of such overseer - - 473
if not assigned, under whose charge - 471
Overseer of roads in Kent and Sussex, appointed and limits assigned - - 385
penalty for not serving - - 386
vacancy - - - 385
duty - - - 471 467
suffering roads or bridges to be obstructed or out of repair or not opening roads, penalty - 471
power to open ditches, take materials, &c. - 472
appraisement thereof, &c. notice &c. - 472–3
hindering overseer, &c. penalty - - 472
Accounts - - - 385–6
fees - - - - 467
form of - - - 386
not to furnish materials - - 386
in Sussex—
oath of office - - 482
account and oath thereon - 481
duty in requiring work - - 480
materials - 480
certificate for work, &c. - 480–1
deduction for unfaithful work - 480
certificate not to exceed tax - 481
fraudulent certificate, penalty - 482
Levy Court, to deliver him list of taxables 481
in New-Castle—
appointed - - 478
refusing to serve, penalty - 477
duty - - 471–2 467

ROADS AND BRIDGES—
Overseer of roads in New-Castle,
directions from commissioners 476 478
penalty, for not executing - 471–2
power to open ditches, take materials, &c. - - 472–3
settlement with commissioners 476 479
neglect, penalty - - 479
limitation of allowance for work, &c. of overseer or *any one* - 479
fees - - - 467
Commissioners of roads, New-Castle - 475 479
[See *Election.*]
refusing to serve, penalty - - 477
oath - - - 477
Meetings - - - 475
road tax - - - - 475
collector and his bond - 475–6
settlement - - 477–8
to deliver over papers 476
directions to overseers - - 476 478
penalty for suffering roads or bridges to be obstructed, or out of repair or not opening roads - - 471
to settle with overseers, draw orders, &c. 476 479
their own accounts - - - 478
sent to Auditor, &c. published, &c. - 478
penalty for neglect - - 479
proceedings recorded - - 476
to receive turnpike dividends - 479
allowance to them - - - 476

OBSTRUCTIONS, &c.
Nuisances in roads, penalty - - 472
injuring bridges - - 472
[See *Bridge.*]
in private roads, &c. - - 474
Jurisdiction to lay out, change or vacate - 468
oath of freeholders and surveyor - 470
majority - - - 471
order and directions - - 468–9
Review - - - 469–70
within what time - - - 470
want of diligence in executing - 470
Confirmation - - - 470
Approbation of Levy Court - - 470
costs and damages, laying out, &c. - 471
opening and making - 471
crops taken before opened - - 470
Private roads - - - 473 474
width - - - - 474

ROADS AND BRIDGES—
overseers - - - 474
penalty for nuisances in - - 474
need not be approved by Levy Court - 474
ROADS IN NEW-CASTLE COUNTY—
certain roads, laid out - - - 646–7
reviewed - - - 647–8
altered - - - 648–9
width - - - 647
Peach-bottom - - - 649
Appoquinimink - - - 650–1
Wilmington Bridge to Clark's Corner, and from said road to New-Castle - 581
Vacated - - - - 652–3
ROADS IN KENT COUNTY—
several State roads laid out, &c. - 653 658
gate in road to Bowers' beach - - 658
Simon's creek to Seaford - - 656–7
Vacated - - - - 659 661
ROADS IN KENT & SUSSEX, certain roads established 661-2
ROADS IN SUSSEX COUNTY, certain roads laid out, &c. - - - 662
gate across road from head of Cedar creek to Bay 663
gates across road to Fenwick's Island - 663
ROBBERY - - - - 132
ROPE DANCING - - - 417
RULES OF PRACTICE - - 105–106
RYE FLOUR INSPECTED, when - 280

S.

SABBATH—
penalty for profaning - - 483
SABBATH-SCHOOLS - - - - 486
SAILORS, not to be trusted above 10*s*. - 399
SALARY, of Auditor of accounts - - - 53
Governor - - - - 484
Chancellor - - - - 484
Judges - - - - - 484
Secretary of State - - - 484
Attorney General - - - 484
Appropriation for salaries of *Chancellors & Judges* 509
& Governor 510
SATISFACTION ENTERED—
of Mortgage and penalty for neglect - 92
of Judgment and Recognizance, and penalty for neglect - - - - 485
SCHOOL FUND—
established - - - 507–8
investment of income - - 509
applicable to salaries of Chancellor and Judges 509
reimbursement - - - 509

SCHOOL FUND—
stock in Bank of Delaware - - 509
stock in Chesapeake and Delaware Canal - 510
Income appropriated to schools - - 491

SCHOOLS— - 486 494
SABBATH, allowance by Levy Court - 486
FREE—
counties divided into school districts - 486 488
incorporated with limited powers - 493
Meeting annual of *School Voters* - 488
Notice by clerk or commissioner, penalty for neglect - - - - 489
who are school voters - 488
adjournment - - 488
officers, *clerk and commissioners*, chosen - 488
occasional meetings - - 489
manner of calling, place, and business - 489
certificate of proceedings of meetings 489
false, penalty - - 489
illegal voting, penalty - - 489 90
Districts not organized in time, how meeting called 490
School committee - - 490
sworn - - - 490
duties and powers - - 490–1
their duties is settling Accounts before Auditor 492
and in meeting of School voters - 493
allowances, &c. - - - 493
Teachers, qualifications - - 490
female - - - - 490
Income of School Funds, appropriated - 491
conditionally - 491–2
orders of school committee - - 491
necessary vouchers 492
certified to Auditor 492
Accounts of School committee settled by Auditor 492
Auditor's duty herein 492
forfeiture by district for default of School committee - - - - 492
liability of school committee - - 493
penalty, for false certificate to draw money - 493
when schools opened - - - 493
free - - - - 493
Superintendent - - - 494
actions before Justice - - - 495

SCIRE FACIAS - - - - 217
on Mortgage - - - 205
on Recognizance - - - 101
party plaintiff admitted, *without*, 225
before Justice - - - 347

SEALS—
counterfeiting or corruptly affixing - 137
OF OFFICE, - - - - 494–5
Great Seal and seal of Secretary's office - 496
of Court of Chancery - - - 109
Clerks of courts - - - 494 496
High Court of Errors and Appeals - - 495
Auditor's office - - - - 495
SECRETARY OF STATE, - - - 22
His bond - - - - 496
to settle with Auditor - - 55, 267
and lay copy of account before General Assembly 267
penalty for neglect - - - 55
to transmit to Auditor copy of certain laws - 60
to lay before General Assembly record of sessions of courts and attendance of Judges - 123
Books of his office open to committees of Senate and House of Representatives - - 496
copies to be furnished to them - 496
to keep Great Seal - - - 496
Seal of his office - - - 496
to keep records of Executive department - 497
Acts of Assembly - - 497
printing of Acts of Assembly - - 497
distribution - - 497
binding in volumes - . 497
report to State Treasurer - - 498
Fees to State, received by him - . 32, 264–5
to furnish blanks for licenses 266 7, 276 463
Accounts to be rendered to him - 267 276 463
His payments - - 267 276 463
SENATORS IN CONGRESS, - - 5, 6
Election of - - - 195
IN GENERAL ASSEMBLY, - - 18, 19, 419
SERVANT—
Convict sentenced to be disposed of - 144
exporting (when to be disposed of to a resident) penalty 148
unless license - . - 148
penalty for harboring or employing, &c. another's servant - - - 41, 414
SERVANTS & SLAVES, persons held as, petitioning for freedom - - 499
action for false imprisonment - 500
[See *Apprentices & Servants.*]
SET OFF - - - - 111
before Justice - - - 335
SETTLEMEMT, PLACE OF - 439
[See *Poor.*]
SIMON'S CREEK MARSHES—
injuring banks &c. penalty - - 425
SHERIEF—
Elected and appointed - - - 27

SHERIFF—
under sheriff, how disqualified to be chosen 500
Assessor, Collector, ineligible - 419
other incompatible offices - 21
Promoting elections by bribery, treating &c. penalty - - 501
His Recognizance - - - 453–4
in case of appointment to fill vacancy 454–5
neglected, office forfeited - - 454 455
[See *Public Recognizances and Bonds*]
duty, in case of *Runaway* apprentice or servant - 40
servant or slave - 413
not delivered without authority, &c. 413
to settle with Auditor and penalty for neglect 55
for payment to State Treasurer, duplicate receipts, one for Auditor - . - 60
duty to read at Quarter Sessions, *Act concerning wrecks* - - - 563
to deliver to court list of prisoners - 64
to send copies of commitment in capital cases to Judges of S. Court - - 97
Grand Jurors, for Quarter Sessions - 112
no person obliged to serve two successive years - - - 113 121
for Oyer and Terminer - 113–4
Petit Jurors, for same - - - 113
for Supreme Court, Common Pleas, and Quarter Sessions - 114
same Jurors for Com. Pleas and Quarter Sessions 115
not obliged to serve more than one court, same year, - - 121
no person, having matter of fact at issue, to be summoned - - 256
Panel and Return - - 115
penalty, for not summoning - 117
for returning Jurors not summoned 117
for default in summoning inquests, jurors or witnesses - 118
remedy for party injured - 118
Oath in respect to summoning jurors 117–8
Arrested person, not to be carried to tavern &c. without consent 448
no reward for ease and favor - 448
Care of Gaol - - - 447
responsible for keeper - 447
boarding prisoners - - 447
not to keep tavern nor dispose of liquor to prisoners . . . 448
penalty . . . 449
receipt to prisoners and penalty for not giving 449
penalty, for supplying or *suffering* liquor to convicts . . . 142

SHERIFF—
Care of Gaol—
convict felons, suffering imprisonment, kept at labor . . . 148
Executing sentence of death . . 143
inflicting corporal punishment on white person, *negro* or *mulatto*, not to be employed . 157
Disposing of persons as Servants, Notice 143–4
return, and application of proceeds 144 147
neglect, contempt of court . . 147
Election, General—
lists, forms, boxes delivered to Inspectors - - 174-5-6, 179
attending *board of canvass* - 180
Returns - - - 181 183
safe keeping of ballot boxes - - 183
Special - - - 183–4
Electors of President and Vice President - 190–1
Representatives in Congress - - 194
Levy Court Commissioners - - 373
Execution—
Return, *what it must contain* - 207
if levy subject to prior executions 208
Neglect, consequence - - 208
satisfaction or part-payment - 485
Fees, (items) indorsed - - 242
default, forfeiture - 242
dollarage received after return, certificate delivered to clerk, &c. 242–3
default, forfeiture - 243
from Justice of the Peace - 341 339
Sheriff in office or predecessor holding inquiry - - 209–210
Venditioni Exponas directed to 211
deed - 211
not to buy goods sold on execution and penalty 214
neglecting to pay over money, *forfeiture* 215 280
to pay over fines, *forfeiture* - 272
liability for escape on execution - - 216
serving replevin of distress for rent - 364
assignment of bond - - 365
Forcible Entry & Detainer—Landlord vs. *Tenant*, serving warrant - - - 288–9
to pay costs, if service not duly made - 288
attend trial - - - 290
Copy of warrant of commitment, not given to prisoner on demand, penalty - 296
Habeas Corpus, disobeying, penalty - 296
Court of Chancery, duty to attend - 243
of Kent, to attend High Court of Errors & Appeals 501
of New-Castle, service in town of New-Castle 635
[See *Bail, Execution, Fees.*]

SHOOTING MATCHES - - 141
SHOOTING in towns or within 100 yards of public road
over mill dam - . 329
in New-Castle (town) . - 635
SLAUGHTER NECK MARSHES—
penalty for injuring banks, &c. . 426–7
SLAVES, manumission - . - 408–9
to be free at future day - - 409
capital and other crimes . - 149 153
value found in capital cases - - 149
Larceny by - . - 152
notice to master of warrant - 152
sold - 152
Notice of sale - - 153
Masters right to redeem - 153
Riots, assaults, &c. - - - 153
Master liable for costs - 153
[See *Crimes & Misdemeanors.*]
Exporting prohibited, and penalty - - 153
exceptions . . . 154
Vessel or boat prepared for exporting - 155
Bringing into State, and penalty - - 154
License to export - - 154 501
to bring in - - 501
tax - 501
Transporting from State by water, penalty - 291–2
Farm, &c. lying on both sides of State line, slave
may be worked on throughout - 154 502
signification of "slave" - - 155–6
[See *Negroes and Mulattoes.*]
SMYRNA—
Limits of town - - - 663
Survey and map - - - 664
review - - 668
Election - - - 664–5
Commissioners, Assessor, Treasurer - 665 667
nuisances - - 666
SPRING CREEK—
wears in - - - 555
drawbridge over - - - 624
obstructing navigation, &c. penalty . 624
ST. AUGUSTINE CREEK MARSHES, penalty for
injuring banks - - - 429
ST. GEORGE'S, town regulations - - 668 671
ST. JONES' CREEK, wears in - - 153–4
draw bridge over . 567
STATE—
not suable by citizens of another State or foreigners 15
STATE ASSESSMENT - - 502 504
State taxes of 1816, &c. adjusted between counties by 504
STATE TAX . . 56–7

STATE TREASURER - 505 510
appointment . . . 27
vacancy . . . 506
Bond 505-6
not given in 7 days, office forfeited . 506
to settle with Auditor and penalty for neglect . 55
to give duplicate receipts . . . 60
Warrant to him for collection of State tax . 56
appointment of Collectors . . . 57
and certify them to Auditor . . 57
responsible for them, and their bond . 57
death, &c. of Collector . . 58
committee to examine his accounts . 506
to receive only specie or notes of specie paying banks 506
to deposit in Farmer's Bank . . 507
Trustee of Delaware College . . 507
of School Fund . . . 507--8
Tax payable to him by Banks . . 70
buying public claims, &c. at discount, penalty 125
Fees 259
STEALING [See *Crimers and Misdemeanors, Larnceny*]
STRAYS 510 512
SUPREME COURT [See *Courts.*]
SURETY OF THE PEACE— 328
costs in discretion of court . 262
SURETY, *paying debt,* assignment . . 43-4
SURGERY, practising without license, penalty 431-2
SURVEYOR, fees 257
on commission to mark and bound . . 83
SWEARING, profane 329
SWINE, restrained from running at large . 512 518
in New-Castle County . . 512
New-Castle (town) . . . 517
general provisions 513
places . . . 514 517

T.

TAPPAHANNAH MARSHES—
penalty for injuring banks, &c. 428
TAVERN KEEPERS, not to trust sailors above 10s. 399
not to trust minors - - 519
penalty for suffering gaming, &c. 519
TAVERNS - - - 518-519
Licenses . . . 518-519 265
keeping without license, penalty . 519
disorderly, &c. . . . 519
TAXES, powers for collecting - - 379 381
Tenant liable for, and his remedy . 379
personal tax . . . 390

TAXES—
proceedings before Justices to collect, prohibited except . . . 355
[See *Levy Court.*]
TENANCY IN COMMON . . 167 170
partition . . 165 168–9
TENANCY FROM YEAR TO YEAR . . 286
at Will . 286
TENDER of Account and balance . . 111
bringing money into court . 24
TERMS OF COURTS . . . 122–3
TIN VENDERS, Licenses . . 265
Security to be given before license 266
Fees . . . 265–6
TIPPLING HOUSE, penalty . . . 519
TITLE PAPERS—
obtained from New-York . 640
Pennsylvania . 642–3
Maryland 644
TOLL, *at mills* 402
penalty for unlawful toll . . 402
[See *Canal, Bridge, Turnpikes.*]
TREASON—
against United States . . 11
against this State . . . 23 127
TREASURER OF COUNTY—
appointed, and bond . . . 383
duty 384
his accounts 384
settlement before *Auditor* . . 55 384
penalty for neglect . . 55
penalty for not giving two receipts, &c. . . 383
buying claims &c. *at discount* penalty, 125
to pay orders of gaol commissioners . 448
Fees 258-9
OF THE POOR, [See *Poor.*]
STATE, [See *State Treasurer.*]
TRUSTEES OF THE POOR—
power for binding apprentices and servants 34 35 38 42
duty, as to negro and mulatto children . 35
penalty for non-performance of certain duties 37
penalty, buying public claims, &c. *at discount* . 125
bond, in case of Bastardy . . . 71–2
Remedy in Bastardy, when no bond . . 73-4
powers for preventing infectious diseases . 300
duty to recover from estates of insane paupers, &c. 392
not to furnish articles for poor-house . 445
Fees 259
[See *Poor.*]
TRUSTEE OF SCHOOL FUND— . 507 510
duty in respect to School districts . . 488

TRUSTEE OF SCHOOL FUND—
Accounts of *income of School Fund* - 491
orders of School committees and vouchers - 492
certified to Auditor - - 492
TURNPIKES, ... 520 542
Wilmington & Lancaster . . 520
Toll gates . . . 520-2-4
Tolls 520-1
no toll in certain cases . . 520
or if road out of repair . . 522
commutation . . . 524-5
unlawful toll, penalty . . 523
frauds to evade toll . . 521 525
Repairs how inquired of . . 521-2
Index posts, mile-stones, printed rates, penalty for injuring . . . 522-3
Keeping to the right . . . 523
Vexatious suits and limitation . . 523-4
Gap & Newport . . . 526 527
New-Castle & Frenchtown . . 527 530
Kennet 530-1
West-Chester . . . 531 533
New-Castle & Clark's Corner . . 534 536
Philadelphia 536 538
Elkton 538 540
Christiana . . . 540 542

U.

UNITED STATES, *Cession to* - - 672 674
Breakwater - - - 674
Light House - - - 672
between Duck Creek and Mahan's ditch 674
Pea Patch - - - - 673
Piers at New-Castle - - 672 673
Prisoners committed by their authority 446-7 295
USE, passes with legal estate - - - 89
USE AND OCCUPATION, action - - 365
for purchaser at sheriff's sale 213
joint tenant and tenant in common against companion - 166

V.

VACANT LANDS— - - - 542 553
Warrants or grants not under the State, unlawful 542-3
issued under this State - - 543 550
Further Warrants, prohibited - - 552
Return of surveys - - - 551
Lewes streets - - - - 549
confirmation of title under warrants &c. 545 546-7

VACANT LANDS—
Maryland grants - - - 549 545
[See *Land Office.*]
VALUATION OF PROPERTY - 386 390 502
[See *Assessment.*]
VENTRE SA MERE - - - 314 315
VERDICT, general or special - - 446
VESSELS, forcibly or fraudulently removing from State 123-4
Dimensions of births, when passengers imported 299

W.

WARRANT—
for vacant land, except under State, penalty
for taking - - 543
issuing of, prohibited - 552
issued between 1776 and 1792 - 545
before 1760 and between
1760 and 1792, confirmed - 546
General, valid - - - 550
WARRANTY—
collateral - - - 53
the words *grant, bargain and sell* - 93
WASTE - - - - 166-167
WEARS—
in creeks and rivers, prohibited - - 552
in Indian river - - 554
South side Lewes creek - 553
Spring creek - - 555
St. Jones creek - - 553-4
WHIPPING POST & PILLORY—
Dover and Georgetown - - 640
WHITECLAY & REDCLAY CREEK MARSHES—
penalty for injuring banks, &c. - 425
WILL—
Who can make - - - 556
Requisites to validity - - 556
(of non-resident as to personal estate) - 558
Revocation - - - 556
implied - - 315 556
child born, wife married, after will - 315
proved in another State, copy - - 557
Nuncupative - - - 557
Proved 217
recorded, and record evidence . . 217
Review, and within what time . . 217-8
Caveat 218
issues for Jury . . . 218
manumitting slaves . . 409
WILMINGTON . . . 675 692
charter . . . 675

WILMINGTON—
Limits . . . 675
Citizens . . . 675
Officers . . . 675
oaths of office . . 680
administered . 681
Treasurer's bond . . 679–80
High Constable's bond . . 682
Assessor . . . 680
Salaries, fees, &c. . . 680
Vacancies . . . 680
Absence or inability of first burgess . 680
Election 676
elected not serving, penalty . . 676
omission of election . . 681
Governor may appoint first burgess, when . 681
Borough Council . . . 676
annual meeting . . 678
other meetings . . 680
Quorum . . . 676
manner of passing repealing ordinances 676
yeas and nays . . 676
appointing officers . . 676
Inspectors of flour, guagers, &c. . 678
Powers 677 678 692
Taxes . . . 678
to borrow money . . 682
as to Nuisances . . . 677 687
Streets 682–3–4
damages to owners of ground . 684 687
paving foot ways . . 688
owners may pave their own foot ways . 688
expenses 688
ascents and descents regulated . 689 692
part of Water street vacated . . 689
Map 686 692
recorded . . . 692
Wharves regulated . . . 685
WITCHCRAFT, pretences to . . . 139
WITNESS—
When may be required to give surety for appearance
and committed for default . . 63 96
Fees in such case . . . 63 96
Liability for non-attendance . . . 558
Freed negro or mulatto against white person 407
In case relating to *the Poor*, not disqualified because
a taxable 444
to *a Will* . . . 556
Fees, in Bastardy . . . 74
on comission to mark and bound . 83
before Chancellor or Judge, out of Court . 100

WITNESS—
before Justice - - - 357
on appeal - - - - 358
in courts, &c. - - - 256
WOOD-CORDERS - - - - 558 559
penalty, buying or selling wood not measured 559
length of wood - - - 559
WOODLAND, penalty for firing - - 273
WORKHOUSE, - - - 447
in New-Castle County - - 449 451
overseer, removal - - 450 451
WRECKS - - - - - 559 563
Authority to summon men to aid vessels in distress 559
penalty on neglect of persons summoned - 559
to require ships, &c. to assist - - 560
Right to give orders - - - 560
Pressers on board, repelled - - - 560
Goods if not claimed in a year - 561
concealed, search warrant - 561
Abuse of authority - - - 562-3
showing false lights - - - 561
Salvage - - - - 562
Sheriff's duty to read this Act, at Quarter Sessions 563

END

OF

VOLUME